

AMENDED IN SENATE JUNE 29, 2015
AMENDED IN ASSEMBLY MAY 28, 2015
AMENDED IN ASSEMBLY APRIL 23, 2015
AMENDED IN ASSEMBLY APRIL 14, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 617

Introduced by Assembly Member Perea

February 24, 2015

An act to amend Sections *10540*, *10720.5*, *10720.8*, *10721*, *10723.6*, *10723.8*, *10724*, *10725*, *10726.8*, *10727*, *10727.2*, *10727.4*, *10727.6*, *10728*, *10728.6*, *10733.4*, *10735*, ~~and *10735.2*~~ *10735.2*, and *10735.4* of, and to add Section *10726.5* to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 617, as amended, Perea. Groundwater.

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

This bill would revise the definition of “groundwater recharge” for the purposes of the act to permit the inclusion of in-lieu recharge through delivery of water to persons that otherwise extract groundwater, leaving groundwater in the basin.

The act requires a groundwater sustainability agency to inform the department, as prescribed, of its election or formation and its intent to undertake sustainable groundwater management within 30 days of electing to be or forming a groundwater sustainability agency.

This bill would require the department to evaluate the proposed boundaries of the basin or portion of the basin that a local agency or combination of local agencies intends to manage and determine whether there is an area within the basin that is not within the management area of a groundwater sustainability agency. This bill would require the department, in the event that there is an area within a basin that is not within the management area of a groundwater sustainability agency, to notify the county within which that unmanaged area lies that the county will be presumed to be the groundwater sustainability agency for that area.

The act requires a county within which an unmanaged area lies, that will be presumed to be the groundwater sustainability agency for that area, to provide notification to the department of its intent to undertake sustainable groundwater management, unless the county notifies the department that it will not be the groundwater sustainability agency for the area.

This bill would require the department to notify the State Water Resources Control Board when a county provides the above-described notice to the department.

The act authorizes a combination of local agencies to form a groundwater sustainability agency by a joint powers agreement, memorandum of agreement, or other legal agreement, and authorizes a water corporation regulated by the Public Utilities Commission to participate.

This bill would authorize a combination of one or more local agencies and one or more mutual water companies to enter into an agreement to form a groundwater sustainability agency and would authorize a groundwater sustainability agency formed by a joint powers agreement to exercise the powers granted in the act.

The act authorizes a groundwater sustainability plan to be a single plan covering the entire basin developed and implemented by one or multiple groundwater sustainability agencies or multiple plans

implemented by multiple groundwater sustainability agencies and coordinated pursuant to a single coordination agreement that covers the entire basin.

This bill would authorize, if the basin has been designated as a probationary basin by the board, the groundwater sustainability plans covering portions of a basin that have been excluded from probationary status by the board to be submitted to the department.

The act authorizes a groundwater sustainability agency to exercise certain powers in implementing the act, in addition to, and not as a limitation on, any existing authority, if the groundwater sustainability agency adopts and submits to the Department of Water Resources a groundwater sustainability plan or prescribed alternative documentation.

This bill would, in addition to any other authorities granted to a groundwater sustainability agency, authorize a groundwater sustainability agency to enter into written agreements and funding with private parties that assist in or facilitate the implementation of groundwater sustainability plans or elements of a groundwater sustainability plan. This bill would eliminate the condition that a groundwater sustainability agency submit its groundwater sustainability plan to the department to authorize a groundwater sustainability agency to exercise its powers to implement the act.

The act, with a specified exception, does not authorize a local agency to impose any requirement on the state or any agency, department, or officer of the state.

This bill, if a groundwater sustainability agency finds that a state entity is not working cooperatively regarding implementation of a groundwater sustainability plan, would permit the groundwater sustainability agency to file notice with the board and require the board to notice proceedings to investigate the finding of the groundwater sustainability agency. This bill would authorize the board to direct the state entity to cooperate in the implementation of the groundwater sustainability plan if the board determines that the failure of the state entity to work cooperatively regarding implementation of a groundwater sustainability plan compromises the ability of the groundwater sustainability agency to implement the plan in a manner that will likely achieve the sustainability goal unless the state entity indicates its authority for not complying with the groundwater sustainability plan.

The act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the board makes a certain determination. The act authorizes the board to develop an interim plan

for a probationary basin if the board, in consultation with the department, determines that a local agency has not remedied a deficiency that resulted in designating the basin as a probationary basin within a certain timeframe. The act prohibits the board from designating a basin as a probationary basin for a period of time equal to a delay caused by certain litigation, including litigation that prevented a groundwater sustainability plan or program from being implemented in a manner likely to achieve the sustainability goal.

The act requires a groundwater sustainability plan to include measurable objectives to achieve the sustainability goal within the basin within 20 years of the implementation of the plan. The act authorizes the Department of Water Resources to grant an extension of up to 5 years beyond the 20-year sustainability timeframe upon a showing of good cause and to grant a 2nd extension of up to 5 years upon a showing of good cause if the groundwater sustainability agency has begun implementation of a prescribed work plan.

This bill would provide that good cause includes certain litigation that prevented a groundwater sustainability plan or program from being implemented in a manner likely to achieve the sustainability goal.

The act requires the board to exclude from probationary status any portion of a basin for which a groundwater sustainability agency demonstrates compliance with the sustainability goal.

This bill would require the board to exclude from probationary status any portion of a basin for which a groundwater sustainability agency demonstrates that it has adopted a groundwater sustainability plan and that it is being implemented in a manner that will likely achieve the sustainability goal. *This bill would require the board to notify the department if it will develop an interim plan for the probationary basin and to identify that portion of a basin that has been excluded.*

Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group to prepare and adopt an integrated regional water management plan with specified components relating to water supply and water quality. Existing law authorizes a regional water management group to coordinate its planning activities to address or incorporate all or part of certain actions of its members into its plan, including groundwater management planning.

This bill would specify that groundwater sustainability planning is an action of regional water management group members that may be addressed or incorporated into a regional water management plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10540 of the Water Code is amended to
2 read:

3 10540. (a) A regional water management group may prepare
4 and adopt an integrated regional water management plan in
5 accordance with this part.

6 (b) A regional water management group may coordinate its
7 planning activities to address or incorporate all or part of any of
8 the following actions of its members into its plan:

9 (1) Groundwater management planning pursuant to Part 2.75
10 (commencing with Section ~~10750~~ 10750), groundwater
11 sustainability planning pursuant to Part 2.74 (commencing with
12 Section 10720), or other specific groundwater management
13 authority.

14 (2) Urban water management planning pursuant to Part 2.6
15 (commencing with Section 10610).

16 (3) The preparation of a water supply assessment required
17 pursuant to Part 2.10 (commencing with Section 10910).

18 (4) Agricultural water management planning pursuant to Part
19 2.8 (commencing with Section 10800).

20 (5) City and county general planning pursuant to Section 65350
21 of the Government Code.

22 (6) Stormwater resource planning that is undertaken pursuant
23 to Part 2.3 (commencing with Section 10560).

24 (7) Other water resource management planning, including flood
25 protection, watershed management planning, and multipurpose
26 program planning.

27 (c) At a minimum, all plans shall address all of the following:

28 (1) Protection and improvement of water supply reliability,
29 including identification of feasible agricultural and urban water
30 use efficiency strategies.

31 (2) Identification and consideration of the drinking water quality
32 of communities within the area of the plan.

33 (3) Protection and improvement of water quality within the area
34 of the plan, consistent with the relevant basin plan.

1 (4) Identification of any significant threats to groundwater
2 resources from overdrafting.

3 (5) Protection, restoration, and improvement of stewardship of
4 aquatic, riparian, and watershed resources within the region.

5 (6) Protection of groundwater resources from contamination.

6 (7) Identification and consideration of the water-related needs
7 of disadvantaged communities in the area within the boundaries
8 of the plan.

9 (d) This section does not obligate a local agency to fund the
10 implementation of any project or program.

11 ~~SECTION 1.~~

12 *SEC. 2.* Section 10720.5 of the Water Code is amended to read:

13 10720.5. (a) Groundwater management pursuant to this part
14 shall be consistent with Section 2 of Article X of the California
15 Constitution. Nothing in this part modifies rights or priorities to
16 use or store groundwater consistent with Section 2 of Article X of
17 the California Constitution, except that in basins designated
18 medium- or high-priority basins by the department, no extraction
19 of groundwater between January 1, 2015, and the date of adoption
20 of a groundwater sustainability plan pursuant to this part or any
21 action to regulate groundwater extractions taken as a means of
22 implementing a groundwater sustainability plan pursuant to Section
23 10726.4, may be used as evidence of, or to establish or defend
24 against, any claim of prescription.

25 (b) Nothing in this part, or in any groundwater management
26 plan adopted pursuant to this part, determines or alters surface
27 water rights or groundwater rights under common law or any
28 provision of law that determines or grants surface water rights.

29 ~~SEC. 2.~~

30 *SEC. 3.* Section 10720.8 of the Water Code is amended to read:

31 10720.8. (a) Except as provided in subdivision (e), this part
32 does not apply to the following adjudicated areas or a local agency
33 that conforms to the requirements of an adjudication of water rights
34 for one of the following adjudicated areas:

- 35 (1) Beaumont Basin.
- 36 (2) Brite Basin.
- 37 (3) Central Basin.
- 38 (4) Chino Basin.
- 39 (5) Cucamonga Basin.
- 40 (6) Cummings Basin.

- 1 (7) Goleta Basin.
- 2 (8) Lytle Basin.
- 3 (9) Main San Gabriel Basin.
- 4 (10) Mojave Basin Area.
- 5 (11) Puente Basin.
- 6 (12) Raymond Basin.
- 7 (13) Rialto-Colton Basin.
- 8 (14) Riverside Basin.
- 9 (15) San Bernardino Basin Area.
- 10 (16) San Jacinto Basin.
- 11 (17) Santa Margarita River Watershed.
- 12 (18) Santa Maria Valley Basin.
- 13 (19) Santa Paula Basin.
- 14 (20) Scott River Stream System.
- 15 (21) Seaside Basin.
- 16 (22) Six Basins.
- 17 (23) Tehachapi Basin.
- 18 (24) Upper Los Angeles River Area.
- 19 (25) Warren Valley Basin.
- 20 (26) West Coast Basin.

21 (b) The Antelope Valley basin at issue in the Antelope Valley
22 Groundwater Cases (Judicial Council Coordination Proceeding
23 Number 4408) shall be treated as an adjudicated basin pursuant to
24 this section if the superior court issues a final judgment, order, or
25 decree.

26 (c) Any groundwater basin or portion of a groundwater basin
27 in Inyo County managed pursuant to the terms of the stipulated
28 judgment in City of Los Angeles v. Board of Supervisors of the
29 County of Inyo, et al. (Inyo County Case No. 12908) shall be
30 treated as an adjudicated area pursuant to this section.

31 (d) The Los Osos Groundwater Basin at issue in Los Osos
32 Community Service District v. Southern California Water Company
33 [Golden State Water Company] et al. (San Luis Obispo County
34 Superior Court Case No. CV 040126) shall be treated as an
35 adjudicated basin pursuant to this section if the superior court
36 issues a final judgment, order, or decree.

37 (e) If an adjudication action has determined the rights to extract
38 groundwater for only a portion of a basin, subdivisions (a), (b),
39 (c), and (d) apply only within the area for which the adjudication
40 action has determined those rights.

1 (f) The watermaster or a local agency within a basin identified
2 in subdivision (a) shall do all of the following:

3 (1) By April 1, 2016, submit to the department a copy of a
4 governing final judgment, or other judicial order or decree, and
5 any amendments entered before April 1, 2016.

6 (2) Within 90 days of entry by a court, submit to the department
7 a copy of any amendment made and entered by the court to the
8 governing final judgment or other judicial order or decree on or
9 after April 1, 2016.

10 (3) By April 1, 2016, and annually thereafter, submit to the
11 department a report containing the following information to the
12 extent available for the portion of the basin subject to the
13 adjudication:

14 (A) Groundwater elevation data unless otherwise submitted
15 pursuant to Section 10932.

16 (B) Annual aggregated data identifying groundwater extraction
17 for the preceding water year.

18 (C) Surface water supply used for or available for use for
19 groundwater recharge.

20 (D) Total water use.

21 (E) Change in groundwater storage.

22 (F) The annual report submitted to the court.

23 ~~SEC. 3.~~

24 *SEC. 4.* Section 10721 of the Water Code is amended to read:

25 10721. Unless the context otherwise requires, the following
26 definitions govern the construction of this part:

27 (a) “Adjudication action” means an action filed in the superior
28 or federal district court to determine the rights to extract
29 groundwater from a basin or store water within a basin, including,
30 but not limited to, actions to quiet title respecting rights to extract
31 or store groundwater or an action brought to impose a physical
32 solution on a basin.

33 (b) “Basin” means a groundwater basin or subbasin identified
34 and defined in Bulletin 118 or as modified pursuant to Chapter 3
35 (commencing with Section 10722).

36 (c) “Bulletin 118” means the department’s report entitled
37 “California’s Groundwater: Bulletin 118” updated in 2003, as it
38 may be subsequently updated or revised in accordance with Section
39 12924.

- 1 (d) “Coordination agreement” means a legal agreement adopted
2 between two or more groundwater sustainability agencies that
3 provides the basis for coordinating multiple agencies or
4 groundwater sustainability plans within a basin pursuant to this
5 part.
- 6 (e) “De minimis extractor” means a person who extracts, for
7 domestic purposes, two acre-feet or less per year.
- 8 (f) “Governing body” means the legislative body of a
9 groundwater sustainability agency.
- 10 (g) “Groundwater” means water beneath the surface of the earth
11 within the zone below the water table in which the soil is
12 completely saturated with water, but does not include water that
13 flows in known and definite channels.
- 14 (h) “Groundwater extraction facility” means a device or method
15 for extracting groundwater from within a basin.
- 16 (i) “Groundwater recharge” means the augmentation of
17 groundwater, by natural or artificial means and may include in-lieu
18 recharge through delivery of water to persons that otherwise extract
19 groundwater, leaving groundwater in the basin.
- 20 (j) “Groundwater sustainability agency” means one or more
21 local agencies that implement the provisions of this part. For
22 purposes of imposing fees pursuant to Chapter 8 (commencing
23 with Section 10730) or taking action to enforce a groundwater
24 sustainability plan, “groundwater sustainability agency” also means
25 each local agency comprising the groundwater sustainability
26 agency if the plan authorizes separate agency action.
- 27 (k) “Groundwater sustainability plan” or “plan” means a plan
28 of a groundwater sustainability agency proposed or adopted
29 pursuant to this part.
- 30 (l) “Groundwater sustainability program” means a coordinated
31 and ongoing activity undertaken to benefit a basin, pursuant to a
32 groundwater sustainability plan.
- 33 (m) “Local agency” means a local public agency that has water
34 supply, water management, or land use responsibilities within a
35 groundwater basin.
- 36 (n) “Operator” means a person operating a groundwater
37 extraction facility. The owner of a groundwater extraction facility
38 shall be conclusively presumed to be the operator unless a
39 satisfactory showing is made to the governing body of the

1 groundwater sustainability agency that the groundwater extraction
2 facility actually is operated by some other person.

3 (o) “Owner” means a person owning a groundwater extraction
4 facility or an interest in a groundwater extraction facility other
5 than a lien to secure the payment of a debt or other obligation.

6 (p) “Personal information” has the same meaning as defined in
7 Section 1798.3 of the Civil Code.

8 (q) “Planning and implementation horizon” means a 50-year
9 time period over which a groundwater sustainability agency
10 determines that plans and measures will be implemented in a basin
11 to ensure that the basin is operated within its sustainable yield.

12 (r) “Public water system” has the same meaning as defined in
13 Section 116275 of the Health and Safety Code.

14 (s) “Recharge area” means the area that supplies water to an
15 aquifer in a groundwater basin.

16 (t) “Sustainability goal” means the existence and implementation
17 of one or more groundwater sustainability plans that achieve
18 sustainable groundwater management by identifying and causing
19 the implementation of measures targeted to ensure that the
20 applicable basin is operated within its sustainable yield.

21 (u) “Sustainable groundwater management” means the
22 management and use of groundwater in a manner that can be
23 maintained during the planning and implementation horizon
24 without causing undesirable results.

25 (v) “Sustainable yield” means the maximum quantity of water,
26 calculated over a base period representative of long-term conditions
27 in the basin and including any temporary surplus, that can be
28 withdrawn annually from a groundwater supply without causing
29 an undesirable result.

30 (w) “Undesirable result” means one or more of the following
31 effects caused by groundwater conditions occurring throughout
32 the basin:

33 (1) Chronic lowering of groundwater levels indicating a
34 significant and unreasonable depletion of supply if continued over
35 the planning and implementation horizon. Overdraft during a period
36 of drought is not sufficient to establish a chronic lowering of
37 groundwater levels if extractions and groundwater recharge are
38 managed as necessary to ensure that reductions in groundwater
39 levels or storage during a period of drought are offset by increases
40 in groundwater levels or storage during other periods.

1 (2) Significant and unreasonable reduction of groundwater
2 storage.

3 (3) Significant and unreasonable seawater intrusion.

4 (4) Significant and unreasonable degraded water quality,
5 including the migration of contaminant plumes that impair water
6 supplies.

7 (5) Significant and unreasonable land subsidence that
8 substantially interferes with surface land uses.

9 (6) Depletions of interconnected surface water that have
10 significant and unreasonable adverse impacts on beneficial uses
11 of the surface water.

12 (x) “Water budget” means an accounting of the total
13 groundwater and surface water entering and leaving a basin
14 including the changes in the amount of water stored.

15 (y) “Watermaster” means a watermaster appointed by a court
16 or pursuant to other law.

17 (z) “Water year” means the period from October 1 through the
18 following September 30, inclusive.

19 (aa) “Wellhead protection area” means the surface and
20 subsurface area surrounding a water well or well field that supplies
21 a public water system through which contaminants are reasonably
22 likely to migrate toward the water well or well field.

23 ~~SEC. 4.~~

24 *SEC. 5.* Section 10723.6 of the Water Code is amended to read:

25 10723.6. (a) A combination of local agencies or a combination
26 of one or more local agencies and one or more mutual water
27 companies may form a groundwater sustainability agency by using
28 any of the following methods:

29 (1) A joint powers agreement, pursuant to the Joint Exercise of
30 Powers Act (Chapter 5 (commencing with Section 6500) of
31 Division 7 of Title 1 of the Government Code), which may include
32 a mutual water company pursuant to Section 6525 of the
33 Government Code.

34 (2) A memorandum of agreement or other legal agreement.

35 (b) A water corporation regulated by the Public Utilities
36 Commission may participate in a groundwater sustainability agency
37 if the other parties in the groundwater sustainability agency
38 approve.

39 (c) A groundwater sustainability agency formed pursuant to a
40 joint powers agreement may exercise all of the powers granted

1 pursuant to this part. The signatories to a joint powers agreement
2 forming a groundwater sustainability agency are deemed to hold
3 in common the powers granted to a groundwater sustainability
4 agency pursuant to this part in order for the groundwater
5 sustainability agency to exercise those powers. Nothing in this
6 section shall be construed to grant any power to a mutual water
7 company, water corporation, or local agency that participates in
8 an agreement authorized under this section that is not otherwise
9 granted to the mutual water company, water corporation, or local
10 agency, pursuant to other provisions of law.

11 *SEC. 6. Section 10723.8 of the Water Code is amended to read:*

12 10723.8. (a) Within 30 days of electing to be or forming a
13 groundwater sustainability agency, the groundwater sustainability
14 agency shall inform the department of its election or formation
15 and its intent to undertake sustainable groundwater management.
16 The notification shall include the following information, as
17 applicable:

18 (1) The service area boundaries, the basin the agency is
19 managing, and the other groundwater sustainability agencies
20 operating within the basin.

21 (2) A copy of the resolution forming the new agency.

22 (3) A copy of any new bylaws, ordinances, or new authorities
23 adopted by the local agency.

24 (4) A list of interested parties developed pursuant to Section
25 10723.2 and an explanation of how their interests will be
26 considered in the development and operation of the groundwater
27 sustainability agency and the development and implementation of
28 the agency's sustainability plan.

29 (b) Except as provided in subdivision (d), 90 days following
30 the posting of the notice pursuant to this section, the groundwater
31 sustainability agency shall be presumed the exclusive groundwater
32 sustainability agency within the area of the basin the agency is
33 managing as described in the notice, provided that no other notice
34 was submitted.

35 (c) A groundwater sustainability agency may withdraw from
36 managing a basin by notifying the department in writing of its
37 intent to withdraw.

38 (d) This section does not preclude the board from taking an
39 action pursuant to Section 10735.6.

1 (e) The department shall post all notices received under this
2 section in accordance with Section 10733.3.

3 (f) *The department shall evaluate the proposed boundaries of*
4 *the basin or portion of the basin that a local agency or combination*
5 *of local agencies intends to manage, based on notices submitted*
6 *pursuant to subdivision (d) of Section 10723, and determine*
7 *whether there is an area within the basin that is not within the*
8 *management area of a groundwater sustainability agency.*

9 *SEC. 7. Section 10724 of the Water Code is amended to read:*

10 10724. (a) In the event that there is an area within a basin that
11 is not within the management area of a groundwater sustainability
12 agency, *the department shall notify* the county within which that
13 unmanaged area lies *that the county* will be presumed to be the
14 groundwater sustainability agency for that area.

15 (b) A county described in subdivision (a) shall provide
16 notification to the department pursuant to Section 10723.8 unless
17 the county notifies the department that it will not be the
18 groundwater sustainability agency for the area. Extractions of
19 groundwater made on or after July 1, 2017, in that area shall be
20 subject to reporting in accordance with Part 5.2 (commencing with
21 Section 5200) of Division 2 if the county does either of the
22 following:

23 (1) Notifies the department that it will not be the groundwater
24 sustainability agency for an area.

25 (2) Fails to provide notification to the department pursuant to
26 Section 10723.8 for an area on or before June 30, 2017.

27 (c) *The department shall notify the board when a county notifies*
28 *the department that it will not be the groundwater sustainability*
29 *agency for an area within a basin that is not within the*
30 *management area of a groundwater sustainability agency or fails*
31 *to provide notification pursuant to paragraph (2) of subdivision*
32 *(b).*

33 ~~SEC. 5.~~

34 *SEC. 8. Section 10725 of the Water Code is amended to read:*

35 10725. (a) A groundwater sustainability agency may exercise
36 any of the powers described in this chapter in implementing this
37 part, in addition to, and not as a limitation on, any existing
38 authority, if the groundwater sustainability agency adopts a
39 groundwater sustainability plan or submits to the department a
40 prescribed alternative in accordance with Section 10733.6.

1 (b) A groundwater sustainability agency has and may use the
2 powers in this chapter to provide the maximum degree of local
3 control and flexibility consistent with the sustainability goals of
4 this part.

5 ~~SEC. 6.~~

6 *SEC. 9.* Section 10726.5 is added to the Water Code, to read:

7 10726.5. In addition to any other authority granted to a
8 groundwater sustainability agency by this part or other law, a
9 groundwater sustainability agency may enter into written
10 agreements and funding with a private party to assist in, or facilitate
11 the implementation of, a groundwater sustainability plan or any
12 elements of the plan.

13 ~~SEC. 7.~~

14 *SEC. 10.* Section 10726.8 of the Water Code is amended to
15 read:

16 10726.8. (a) This part is in addition to, and not a limitation
17 on, the authority granted to a local agency under any other law.
18 The local agency may use the local agency's authority under any
19 other law to apply and enforce any requirements of this part,
20 including, but not limited to, the collection of fees.

21 (b) Nothing in this part shall be construed as authorizing a local
22 agency to make a binding determination of the water rights of any
23 person or entity.

24 (c) Nothing in this part is a limitation on the authority of the
25 board, the department, or the State Department of Public Health.

26 (d) Notwithstanding Section 6103 of the Government Code, a
27 state or local agency that extracts groundwater shall be subject to
28 a fee imposed under this part to the same extent as any
29 nongovernmental entity.

30 (e) Except as provided in subdivision (d), this part does not
31 authorize a local agency to impose any requirement on the state
32 or any agency, department, or officer of the state. State agencies
33 and departments shall work cooperatively with a local agency on
34 a voluntary basis.

35 (f) If a groundwater sustainability agency finds that a state entity
36 is not working cooperatively regarding implementation of a
37 groundwater sustainability plan, the groundwater sustainability
38 agency may file notice with the board regarding its finding. The
39 board shall notice proceedings to investigate the finding of the
40 groundwater sustainability agency. If the board determines that

1 the failure of the state entity to work cooperatively regarding
2 implementation of a groundwater sustainability plan compromises
3 the ability of the groundwater sustainability agency to implement
4 the plan in a manner that will likely achieve the sustainability goal,
5 the board may direct the state entity to cooperate in the
6 implementation of the groundwater sustainability plan unless the
7 state entity indicates its authority for not complying with a
8 groundwater sustainability plan in the same manner as subdivision
9 (f) of Section 10735.8.

10 (g) Nothing in this chapter or a groundwater sustainability plan
11 shall be interpreted as superseding the land use authority of cities
12 and counties, including the city or county general plan, within the
13 overlying basin.

14 *SEC. 11. Section 10727 of the Water Code is amended to read:*

15 10727. (a) A groundwater sustainability plan shall be
16 developed and implemented for each medium- or high-priority
17 basin by a groundwater sustainability agency to meet the
18 sustainability goal established pursuant to this part. The
19 groundwater sustainability plan may incorporate, extend, or be
20 based on a plan adopted pursuant to Part 2.75 (commencing with
21 Section 10750).

22 (b) A groundwater sustainability plan may be any of the
23 following:

24 (1) A single plan covering the entire basin developed and
25 implemented by one groundwater sustainability agency.

26 (2) A single plan covering the entire basin developed and
27 implemented by multiple groundwater sustainability agencies.

28 (3) Subject to Section ~~10727.6~~, *10727.6 and subdivision (d) of*
29 *Section 10735.4*, multiple plans implemented by multiple
30 groundwater sustainability agencies and coordinated pursuant to
31 a single coordination agreement that covers the entire basin.

32 ~~SEC. 8:~~

33 *SEC. 12. Section 10727.2 of the Water Code is amended to*
34 *read:*

35 10727.2. A groundwater sustainability plan shall include all
36 of the following:

37 (a) A description of the physical setting and characteristics of
38 the aquifer system underlying the basin that includes the following:

39 (1) Historical data, to the extent available.

1 (2) Groundwater levels, groundwater quality, subsidence, and
2 groundwater-surface water interaction.

3 (3) A general discussion of historical and projected water
4 demands and supplies.

5 (4) A map that details the area of the basin and the boundaries
6 of the groundwater sustainability agencies that overlie the basin
7 that have or are developing groundwater sustainability plans.

8 (5) A map identifying existing and potential recharge areas for
9 the basin. The map or maps shall identify the existing recharge
10 areas that substantially contribute to the replenishment of the
11 groundwater basin. The map or maps shall be provided to the
12 appropriate local planning agencies after adoption of the
13 groundwater sustainability plan.

14 (b) (1) Measurable objectives, as well as interim milestones in
15 increments of five years, to achieve the sustainability goal in the
16 basin within 20 years of the implementation of the plan.

17 (2) A description of how the plan helps meet each objective and
18 how each objective is intended to achieve the sustainability goal
19 for the basin for long-term beneficial uses of groundwater.

20 (3) (A) Notwithstanding paragraph (1), at the request of the
21 groundwater sustainability agency, the department may grant an
22 extension of up to five years beyond the 20-year sustainability
23 timeframe upon a showing of good cause. The department may
24 grant a second extension of up to five years upon a showing of
25 good cause if the groundwater sustainability agency has begun
26 implementation of the work plan described in clause (iii) of
27 subparagraph (B). For purposes of this paragraph, “good cause”
28 includes litigation that prevented a groundwater sustainability plan
29 or program from being implemented in a manner likely to achieve
30 the sustainability goal as described in subdivision (d) of Section
31 10735.2.

32 (B) The department may grant an extension pursuant to this
33 paragraph if the groundwater sustainability agency does all of the
34 following:

35 (i) Demonstrates a need for an extension.

36 (ii) Has made progress toward meeting the sustainability goal
37 as demonstrated by its progress at achieving the milestones
38 identified in its groundwater sustainability plan.

39 (iii) Adopts a feasible work plan for meeting the sustainability
40 goal during the extension period.

1 (4) The plan may, but is not required to, address undesirable
2 results that occurred before, and have not been corrected by,
3 January 1, 2015. Notwithstanding paragraphs (1) to (3), inclusive,
4 a groundwater sustainability agency has discretion as to whether
5 to set measurable objectives and the timeframes for achieving any
6 objectives for undesirable results that occurred before, and have
7 not been corrected by, January 1, 2015.

8 (c) A planning and implementation horizon.

9 (d) Components relating to the following, as applicable to the
10 basin:

11 (1) The monitoring and management of groundwater levels
12 within the basin.

13 (2) The monitoring and management of groundwater quality,
14 groundwater quality degradation, inelastic land surface subsidence,
15 and changes in surface flow and surface water quality that directly
16 affect groundwater levels or quality or are caused by groundwater
17 extraction in the basin.

18 (3) Mitigation of overdraft.

19 (4) How recharge areas identified in the plan substantially
20 contribute to the replenishment of the basin.

21 (5) A description of surface water supply used or available for
22 use for groundwater recharge.

23 (e) A summary of the type of monitoring sites, type of
24 measurements, and the frequency of monitoring for each location
25 monitoring groundwater levels, groundwater quality, subsidence,
26 streamflow, precipitation, evaporation, and tidal influence. The
27 plan shall include a summary of monitoring information such as
28 well depth, screened intervals, and aquifer zones monitored, and
29 a summary of the type of well relied on for the information,
30 including public, irrigation, domestic, industrial, and monitoring
31 wells.

32 (f) Monitoring protocols that are designed to detect changes in
33 groundwater levels, groundwater quality, inelastic surface
34 subsidence for basins for which subsidence has been identified as
35 a potential problem, and flow and quality of surface water that
36 directly affect groundwater levels or quality or are caused by
37 groundwater extraction in the basin. The monitoring protocols
38 shall be designed to generate information that promotes efficient
39 and effective groundwater management.

1 (g) A description of the consideration given to the applicable
2 county and city general plans and a description of the various
3 adopted water resources-related plans and programs within the
4 basin and an assessment of how the groundwater sustainability
5 plan may affect those plans.

6 ~~SEC. 9.~~

7 *SEC. 13.* Section 10727.4 of the Water Code is amended to
8 read:

9 10727.4. In addition to the requirements of Section 10727.2,
10 a groundwater sustainability plan shall include, where appropriate
11 and in collaboration with the appropriate local agencies, all of the
12 following:

- 13 (a) Control of saline water intrusion.
- 14 (b) Wellhead protection areas and recharge areas.
- 15 (c) Migration of contaminated groundwater.
- 16 (d) A well abandonment and well destruction program.
- 17 (e) Replenishment of groundwater extractions.
- 18 (f) Activities implementing, opportunities for, and removing
19 impediments to, conjunctive use or underground storage.
- 20 (g) Well construction policies.
- 21 (h) Measures addressing groundwater contamination cleanup,
22 groundwater recharge, diversions to storage, conservation, water
23 recycling, conveyance, and extraction projects.
- 24 (i) Efficient water management practices, as defined in Section
25 10902, for the delivery of water and water conservation methods
26 to improve the efficiency of water use.
- 27 (j) Efforts to develop relationships with state and federal
28 regulatory agencies.
- 29 (k) Processes to review land use plans and efforts to coordinate
30 with land use planning agencies to assess activities that potentially
31 create risks to groundwater quality or quantity.
- 32 (l) Impacts on groundwater dependent ecosystems.

33 ~~SEC. 10.~~

34 *SEC. 14.* Section 10727.6 of the Water Code is amended to
35 read:

36 10727.6. Groundwater sustainability agencies intending to
37 develop and implement multiple groundwater sustainability plans
38 pursuant to paragraph (3) of subdivision (b) of Section 10727 shall
39 coordinate with other agencies preparing a groundwater
40 sustainability plan within the basin to ensure that the plans utilize

1 consistent data and methodologies for the following assumptions
2 in developing the plans:

- 3 (a) Groundwater elevation data.
- 4 (b) Groundwater extraction data.
- 5 (c) Surface water supply.
- 6 (d) Total water use.
- 7 (e) Change in groundwater storage.
- 8 (f) Water budget.
- 9 (g) Sustainable yield.

10 ~~SEC. 11.~~

11 *SEC. 15.* Section 10728 of the Water Code is amended to read:

12 10728. On the April 1 following the adoption of a groundwater
13 sustainability plan and annually thereafter, a groundwater
14 sustainability agency shall submit a report to the department
15 containing the following information about the basin managed in
16 the groundwater sustainability plan:

- 17 (a) Groundwater elevation data.
- 18 (b) Annual aggregated data identifying groundwater extraction
19 for the preceding water year.
- 20 (c) Surface water supply used for or available for use for
21 groundwater recharge.
- 22 (d) Total water use.
- 23 (e) Change in groundwater storage.

24 ~~SEC. 12.~~

25 *SEC. 16.* Section 10728.6 of the Water Code is amended to
26 read:

27 10728.6. Division 13 (commencing with Section 21000) of the
28 Public Resources Code does not apply to the preparation and
29 adoption of plans pursuant to this chapter. The formation of or
30 election to become a groundwater sustainability agency is not
31 subject to the requirements of Division 13 (commencing with
32 Section 21000) of the Public Resources Code. Nothing in this part
33 shall be interpreted as exempting from Division 13 (commencing
34 with Section 21000) of the Public Resources Code a project that
35 would implement actions taken pursuant to a plan adopted pursuant
36 to this chapter.

37 *SEC. 17.* Section 10733.4 of the Water Code is amended to
38 read:

39 10733.4. (a) Upon adoption of a groundwater sustainability
40 plan, a groundwater sustainability agency shall submit the

1 groundwater sustainability plan to the department for review
2 pursuant to this chapter.

3 (b) If groundwater sustainability agencies develop multiple
4 groundwater sustainability plans for a basin, the submission
5 required by subdivision (a) shall not occur until the entire basin is
6 covered by groundwater sustainability plans. ~~When the entire basin
7 is covered by groundwater sustainability plans, the plans, except
8 if the basin has been designated as a probationary basin by the
9 board, then groundwater sustainability plans covering portions
10 of a basin that have been excluded from probationary status by
11 the board may be submitted to the department. The groundwater
12 sustainability agencies shall jointly submit to the department all
13 of the following:~~

14 (1) The groundwater sustainability plans.

15 (2) An explanation of how the groundwater sustainability plans
16 implemented together satisfy Sections 10727.2, 10727.4, and
17 10727.6 for the entire basin.

18 (3) A copy of the coordination agreement between the
19 groundwater sustainability agencies to ensure the coordinated
20 implementation of the groundwater sustainability plans for the
21 entire basin.

22 (c) Upon receipt of a groundwater sustainability plan, the
23 department shall post the plan on the department's Internet Web
24 site and provide 60 days for persons to submit comments to the
25 department about the plan.

26 (d) The department shall evaluate the groundwater sustainability
27 plan within two years of its submission by a groundwater
28 sustainability agency and issue an assessment of the plan. The
29 assessment may include recommended corrective actions to address
30 any deficiencies identified by the department.

31 (e) *Nothing in this section shall be construed to prohibit a
32 groundwater sustainability agency from implementing a
33 groundwater sustainability plan prior to evaluation and assessment
34 of the groundwater sustainability plan by the department.*

35 ~~SEC. 13.~~

36 *SEC. 18.* Section 10735 of the Water Code is amended to read:

37 10735. As used in this chapter, the following terms have the
38 following meanings:

39 (a) "Condition of long-term overdraft" means the condition of
40 a groundwater basin where the average annual amount of water

1 extracted for a long-term period, generally 10 years or more,
2 exceeds the long-term average annual supply of water to the basin,
3 plus any temporary surplus. Overdraft during a period of drought
4 is not sufficient to establish a condition of long-term overdraft if
5 extractions and groundwater recharge are managed as necessary
6 to ensure that reductions in groundwater levels or storage during
7 a period of drought are offset by increases in groundwater levels
8 or storage during other periods.

9 (b) “Person” means any person, firm, association, organization,
10 partnership, business, trust, corporation, limited liability company,
11 or public agency, including any city, county, city and county,
12 district, joint powers authority, state, or any agency or department
13 of those entities. “Person” includes, to the extent authorized by
14 federal or tribal law and subject to the limitations described in
15 subdivisions (c) and (d) of Section 10720.3, the United States, a
16 department, agency, or instrumentality of the federal government,
17 an Indian tribe, an authorized Indian tribal organization, or
18 interstate body.

19 (c) “Probationary basin” means a basin for which the board has
20 issued a determination under Section 10735.2.

21 (d) “Significant depletions of interconnected surface waters”
22 means reductions in flow or levels of surface water that is
23 hydrologically connected to the basin such that the reduced surface
24 water flow or levels have a significant and unreasonable adverse
25 impact on beneficial uses of the surface water.

26 ~~SEC. 14.~~

27 *SEC. 19.* Section 10735.2 of the Water Code is amended to
28 read:

29 10735.2. (a) The board, after notice and a public hearing, may
30 designate a basin as a probationary basin, if the board finds one
31 or more of the following applies to the basin:

32 (1) After June 30, 2017, none of the following have occurred:

33 (A) A local agency has elected to be a groundwater
34 sustainability agency that intends to develop a groundwater
35 sustainability plan for the entire basin.

36 (B) A collection of local agencies has formed a groundwater
37 sustainability agency or prepared agreements to develop one or
38 more groundwater sustainability plans that will collectively serve
39 as a groundwater sustainability plan for the entire basin.

1 (C) A local agency has submitted an alternative that has been
2 approved or is pending approval pursuant to Section 10733.6. If
3 the department disapproves an alternative pursuant to Section
4 10733.6, the board shall not act under this paragraph until at least
5 180 days after the department disapproved the alternative.

6 (2) The basin is subject to paragraph (1) of subdivision (a) of
7 Section 10720.7, and after January 31, 2020, none of the following
8 have occurred:

9 (A) A groundwater sustainability agency has adopted a
10 groundwater sustainability plan for the entire basin.

11 (B) A collection of local agencies has adopted groundwater
12 sustainability plans that collectively serve as a groundwater
13 sustainability plan for the entire basin.

14 (C) The department has approved an alternative pursuant to
15 Section 10733.6.

16 (3) The basin is subject to paragraph (1) of subdivision (a) of
17 Section 10720.7 and after January 31, 2020, the department, in
18 consultation with the board, determines that a groundwater
19 sustainability plan is inadequate or that the groundwater
20 sustainability program is not being implemented in a manner that
21 will likely achieve the sustainability goal.

22 (4) The basin is subject to paragraph (2) of subdivision (a) of
23 Section 10720.7, and after January 31, 2022, none of the following
24 have occurred:

25 (A) A groundwater sustainability agency has adopted a
26 groundwater sustainability plan for the entire basin.

27 (B) A collection of local agencies has adopted groundwater
28 sustainability plans that collectively serve as a groundwater
29 sustainability plan for the entire basin.

30 (C) The department has approved an alternative pursuant to
31 Section 10733.6.

32 (5) The basin is subject to paragraph (2) of subdivision (a) of
33 Section 10720.7, and either of the following have occurred:

34 (A) After January 31, 2022, both of the following have occurred:

35 (i) The department, in consultation with the board, determines
36 that a groundwater sustainability plan is inadequate or that the
37 groundwater sustainability plan is not being implemented in a
38 manner that will likely achieve the sustainability goal.

39 (ii) The board determines that the basin is in a condition of
40 long-term overdraft.

1 (B) After January 31, 2025, both of the following have occurred:

2 (i) The department, in consultation with the board, determines
3 that a groundwater sustainability plan is inadequate or that the
4 groundwater sustainability plan is not being implemented in a
5 manner that will likely achieve the sustainability goal.

6 (ii) The board determines that the basin is in a condition where
7 groundwater extractions result in significant depletions of
8 interconnected surface waters.

9 (b) In making the findings associated with paragraph (3) or (5)
10 of subdivision (a), the department and board may rely on periodic
11 assessments the department has prepared pursuant to Chapter 10
12 (commencing with Section 10733). The board may request that
13 the department conduct additional assessments utilizing the
14 regulations developed pursuant to Chapter 10 (commencing with
15 Section 10733) and make determinations pursuant to this section.
16 The board shall post on its Internet Web site and provide at least
17 30 days for the public to comment on any determinations provided
18 by the department pursuant to this subdivision.

19 (c) (1) The determination may exclude a class or category of
20 extractions from the requirement for reporting pursuant to Part 5.2
21 (commencing with Section 5200) of Division 2 if those extractions
22 are subject to a local plan or program that adequately manages
23 groundwater within the portion of the basin to which that plan or
24 program applies, or if those extractions are likely to have a minimal
25 impact on basin withdrawals.

26 (2) The determination may require reporting of a class or
27 category of extractions that would otherwise be exempt from
28 reporting pursuant to paragraph (1) of subdivision (c) of Section
29 5202 if those extractions are likely to have a substantial impact on
30 basin withdrawals or requiring reporting of those extractions is
31 reasonably necessary to obtain information for purposes of this
32 chapter.

33 (3) The determination may establish requirements for
34 information required to be included in reports of groundwater
35 extraction, for installation of measuring devices, or for use of a
36 methodology, measuring device, or both, pursuant to Part 5.2
37 (commencing with Section 5200) of Division 2.

38 (4) The determination may modify the water year or reporting
39 date for a report of groundwater extraction pursuant to Section
40 5202.

1 (d) If the board finds that litigation challenging the formation
2 of a groundwater sustainability agency prevented its formation
3 before July 1, 2017, pursuant to paragraph (1) of subdivision (a)
4 or prevented a groundwater sustainability program from being
5 implemented in a manner likely to achieve the sustainability goal
6 pursuant to paragraph (3), (4), or (5) of subdivision (a), the board
7 shall not designate a basin as a probationary basin for a period of
8 time equal to the delay caused by the litigation.

9 (e) The board shall exclude from probationary status any portion
10 of a basin for which a groundwater sustainability agency
11 demonstrates that it has adopted a groundwater sustainability plan
12 and that it is being implemented in a manner that will likely achieve
13 the sustainability goal.

14 *SEC. 20. Section 10735.4 of the Water Code is amended to*
15 *read:*

16 10735.4. (a) If the board designates a basin as a probationary
17 basin pursuant to paragraph (1) or (2) of subdivision (a) of Section
18 10735.2, a local agency or groundwater sustainability agency shall
19 have 180 days to remedy the deficiency. The board may appoint
20 a mediator or other facilitator, after consultation with affected local
21 agencies, to assist in resolving disputes, and identifying and
22 implementing actions that will remedy the deficiency.

23 (b) After the 180-day period provided by subdivision (a), the
24 board may provide additional time to remedy the deficiency if it
25 finds that a local agency is making substantial progress toward
26 remedying the deficiency.

27 (c) The board may develop an interim plan pursuant to Section
28 10735.8 for the probationary basin at the end of the period provided
29 by subdivision (a) or any extension provided pursuant to
30 subdivision (b), if the board, in consultation with the department,
31 determines that a local agency has not remedied the deficiency
32 that resulted in designating the basin as a probationary basin.

33 (d) *The board shall notify the department if it will develop an*
34 *interim plan for the probationary basin and shall identify that*
35 *portion of a basin that has been excluded pursuant to subdivision*
36 *(e) of Section 10735.2.*

1 ~~SEC. 15.~~

2 *SEC. 21.* The amendment of Section 10728.6 of the Water
3 Code made by this act does not constitute a change in, but is
4 declaratory of, existing law.

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