

AMENDED IN SENATE JULY 16, 2015
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~~, ~~10735.2~~, ~~and 10735.4~~ and ~~10733.4~~ of, and to add ~~Section 10726.5~~ *Sections 10726.5 and 10732.2* 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. define “in-lieu use” for the purposes of the act and would provide that, where appropriate, measures addressing in-lieu use shall be included in a groundwater sustainability plan.~~

~~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), groundwater sustainability
11 planning pursuant to Part 2.74 (commencing with Section 10720),
12 or other specific groundwater management authority.

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

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

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

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

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

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

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

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

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

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

5 (4) Identification of any significant threats to groundwater
6 resources from overdrafting.

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

9 (6) Protection of groundwater resources from contamination.

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

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

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

16 10720.5. (a) Groundwater management pursuant to this part
17 shall be consistent with Section 2 of Article X of the California
18 Constitution. Nothing in this part modifies rights or priorities to
19 use or store groundwater consistent with Section 2 of Article X of
20 the California Constitution, except that in basins designated
21 medium- or high-priority basins by the department, no extraction
22 of groundwater between January 1, 2015, and the date of adoption
23 of a groundwater sustainability plan pursuant to this part or any
24 action to regulate groundwater extractions taken as a means of
25 implementing a groundwater sustainability plan pursuant to Section
26 10726.4, may be used as evidence of, or to establish or defend
27 against, any claim of prescription.

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

32 ~~SEC. 3. Section 10720.8 of the Water Code is amended to read:~~

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

37 ~~(1) Beaumont Basin.~~

38 ~~(2) Brite Basin.~~

39 ~~(3) Central Basin.~~

40 ~~(4) Chino Basin.~~

- 1 ~~(5) Cucamonga Basin.~~
- 2 ~~(6) Cummings Basin.~~
- 3 ~~(7) Goleta Basin.~~
- 4 ~~(8) Lytle Basin.~~
- 5 ~~(9) Main San Gabriel Basin.~~
- 6 ~~(10) Mojave Basin Area.~~
- 7 ~~(11) Puente Basin.~~
- 8 ~~(12) Raymond Basin.~~
- 9 ~~(13) Rialto-Colton Basin.~~
- 10 ~~(14) Riverside Basin.~~
- 11 ~~(15) San Bernardino Basin Area.~~
- 12 ~~(16) San Jacinto Basin.~~
- 13 ~~(17) Santa Margarita River Watershed.~~
- 14 ~~(18) Santa Maria Valley Basin.~~
- 15 ~~(19) Santa Paula Basin.~~
- 16 ~~(20) Scott River Stream System.~~
- 17 ~~(21) Seaside Basin.~~
- 18 ~~(22) Six Basins.~~
- 19 ~~(23) Tehachapi Basin.~~
- 20 ~~(24) Upper Los Angeles River Area.~~
- 21 ~~(25) Warren Valley Basin.~~
- 22 ~~(26) West Coast Basin.~~
- 23 ~~(b) The Antelope Valley basin at issue in the Antelope Valley~~
- 24 ~~Groundwater Cases (Judicial Council Coordination Proceeding~~
- 25 ~~Number 4408) shall be treated as an adjudicated basin pursuant to~~
- 26 ~~this section if the superior court issues a final judgment, order, or~~
- 27 ~~decree.~~
- 28 ~~(c) Any groundwater basin or portion of a groundwater basin~~
- 29 ~~in Inyo County managed pursuant to the terms of the stipulated~~
- 30 ~~judgment in City of Los Angeles v. Board of Supervisors of the~~
- 31 ~~County of Inyo, et al. (Inyo County Case No. 12908) shall be~~
- 32 ~~treated as an adjudicated area pursuant to this section.~~
- 33 ~~(d) The Los Osos Groundwater Basin at issue in Los Osos~~
- 34 ~~Community Service District v. Southern California Water Company~~
- 35 ~~[Golden State Water Company] et al. (San Luis Obispo County~~
- 36 ~~Superior Court Case No. CV 040126) shall be treated as an~~
- 37 ~~adjudicated basin pursuant to this section if the superior court~~
- 38 ~~issues a final judgment, order, or decree.~~
- 39 ~~(e) If an adjudication action has determined the rights to extract~~
- 40 ~~groundwater for only a portion of a basin, subdivisions (a), (b),~~

1 ~~(e), and (d) apply only within the area for which the adjudication~~
2 ~~action has determined those rights.~~

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

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

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

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

16 ~~(A) Groundwater elevation data unless otherwise submitted~~
17 ~~pursuant to Section 10932.~~

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

25 ~~SEC. 4.~~

26 *SEC. 3.* Section 10721 of the Water Code is amended to read:
27 10721. Unless the context otherwise requires, the following
28 definitions govern the construction of this part:

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

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

38 (c) “Bulletin 118” means the department’s report entitled
39 “California’s Groundwater: Bulletin 118” updated in 2003, as it

1 may be subsequently updated or revised in accordance with Section
2 12924.

3 (d) “Coordination agreement” means a legal agreement adopted
4 between two or more groundwater sustainability agencies that
5 provides the basis for coordinating multiple agencies or
6 groundwater sustainability plans within a basin pursuant to this
7 part.

8 (e) “De minimis extractor” means a person who extracts, for
9 domestic purposes, two acre-feet or less per year.

10 (f) “Governing body” means the legislative body of a
11 groundwater sustainability agency.

12 (g) “Groundwater” means water beneath the surface of the earth
13 within the zone below the water table in which the soil is
14 completely saturated with water, but does not include water that
15 flows in known and definite channels.

16 (h) “Groundwater extraction facility” means a device or method
17 for extracting groundwater from within a basin.

18 (i) “Groundwater recharge” *or* “recharge” means the
19 augmentation of groundwater, by natural or artificial ~~means and~~
20 ~~may include in-lieu recharge through delivery of water to persons~~
21 ~~that otherwise extract groundwater, leaving groundwater in the~~
22 ~~basin.~~ *means.*

23 (j) “Groundwater sustainability agency” means one or more
24 local agencies that implement the provisions of this part. For
25 purposes of imposing fees pursuant to Chapter 8 (commencing
26 with Section 10730) or taking action to enforce a groundwater
27 sustainability plan, “groundwater sustainability agency” also means
28 each local agency comprising the groundwater sustainability
29 agency if the plan authorizes separate agency action.

30 (k) “Groundwater sustainability plan” or “plan” means a plan
31 of a groundwater sustainability agency proposed or adopted
32 pursuant to this part.

33 (l) “Groundwater sustainability program” means a coordinated
34 and ongoing activity undertaken to benefit a basin, pursuant to a
35 groundwater sustainability plan.

36 (m) “*In-lieu use*” means *the use of surface water by persons*
37 *that could otherwise extract groundwater in order to leave*
38 *groundwater in the basin.*

39 (m)

- 1 (*n*) “Local agency” means a local public agency that has water
- 2 supply, water management, or land use responsibilities within a
- 3 groundwater basin.
- 4 ~~(n)~~
- 5 (*o*) “Operator” means a person operating a groundwater
- 6 extraction facility. The owner of a groundwater extraction facility
- 7 shall be conclusively presumed to be the operator unless a
- 8 satisfactory showing is made to the governing body of the
- 9 groundwater sustainability agency that the groundwater extraction
- 10 facility actually is operated by some other person.
- 11 ~~(o)~~
- 12 (*p*) “Owner” means a person owning a groundwater extraction
- 13 facility or an interest in a groundwater extraction facility other
- 14 than a lien to secure the payment of a debt or other obligation.
- 15 ~~(p)~~
- 16 (*q*) “Personal information” has the same meaning as defined in
- 17 Section 1798.3 of the Civil Code.
- 18 ~~(q)~~
- 19 (*r*) “Planning and implementation horizon” means a 50-year
- 20 time period over which a groundwater sustainability agency
- 21 determines that plans and measures will be implemented in a basin
- 22 to ensure that the basin is operated within its sustainable yield.
- 23 ~~(r)~~
- 24 (*s*) “Public water system” has the same meaning as defined in
- 25 Section 116275 of the Health and Safety Code.
- 26 ~~(s)~~
- 27 (*t*) “Recharge area” means the area that supplies water to an
- 28 aquifer in a groundwater basin.
- 29 ~~(t)~~
- 30 (*u*) “Sustainability goal” means the existence and
- 31 implementation of one or more groundwater sustainability plans
- 32 that achieve sustainable groundwater management by identifying
- 33 and causing the implementation of measures targeted to ensure
- 34 that the applicable basin is operated within its sustainable yield.
- 35 ~~(u)~~
- 36 (*v*) “Sustainable groundwater management” means the
- 37 management and use of groundwater in a manner that can be
- 38 maintained during the planning and implementation horizon
- 39 without causing undesirable results.
- 40 ~~(v)~~

1 (w) “Sustainable yield” means the maximum quantity of water,
2 calculated over a base period representative of long-term conditions
3 in the basin and including any temporary surplus, that can be
4 withdrawn annually from a groundwater supply without causing
5 an undesirable result.

6 ~~(w)~~

7 (x) “Undesirable result” means one or more of the following
8 effects caused by groundwater conditions occurring throughout
9 the basin:

10 (1) Chronic lowering of groundwater levels indicating a
11 significant and unreasonable depletion of supply if continued over
12 the planning and implementation horizon. Overdraft during a period
13 of drought is not sufficient to establish a chronic lowering of
14 groundwater levels if extractions and groundwater recharge are
15 managed as necessary to ensure that reductions in groundwater
16 levels or storage during a period of drought are offset by increases
17 in groundwater levels or storage during other periods.

18 (2) Significant and unreasonable reduction of groundwater
19 storage.

20 (3) Significant and unreasonable seawater intrusion.

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

24 (5) Significant and unreasonable land subsidence that
25 substantially interferes with surface land uses.

26 (6) Depletions of interconnected surface water that have
27 significant and unreasonable adverse impacts on beneficial uses
28 of the surface water.

29 ~~(x)~~

30 (y) “Water budget” means an accounting of the total
31 groundwater and surface water entering and leaving a basin
32 including the changes in the amount of water stored.

33 ~~(y)~~

34 (z) “Watermaster” means a watermaster appointed by a court
35 or pursuant to other law.

36 ~~(z)~~

37 (aa) “Water year” means the period from October 1 through
38 the following September 30, inclusive.

39 ~~(aa)~~

1 (ab) “Wellhead protection area” means the surface and
2 subsurface area surrounding a water well or well field that supplies
3 a public water system through which contaminants are reasonably
4 likely to migrate toward the water well or well field.

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

6 ~~10723.6. (a) A combination of local agencies or a combination~~
7 ~~of one or more local agencies and one or more mutual water~~
8 ~~companies may form a groundwater sustainability agency by using~~
9 ~~any of the following methods:~~

10 ~~(1) A joint powers agreement, pursuant to the Joint Exercise of~~
11 ~~Powers Act (Chapter 5 (commencing with Section 6500) of~~
12 ~~Division 7 of Title 1 of the Government Code), which may include~~
13 ~~a mutual water company pursuant to Section 6525 of the~~
14 ~~Government Code.~~

15 ~~(2) A memorandum of agreement or other legal agreement.~~

16 ~~(b) A water corporation regulated by the Public Utilities~~
17 ~~Commission may participate in a groundwater sustainability agency~~
18 ~~if the other parties in the groundwater sustainability agency~~
19 ~~approve.~~

20 ~~(c) A groundwater sustainability agency formed pursuant to a~~
21 ~~joint powers agreement may exercise all of the powers granted~~
22 ~~pursuant to this part. The signatories to a joint powers agreement~~
23 ~~forming a groundwater sustainability agency are deemed to hold~~
24 ~~in common the powers granted to a groundwater sustainability~~
25 ~~agency pursuant to this part in order for the groundwater~~
26 ~~sustainability agency to exercise those powers. Nothing in this~~
27 ~~section shall be construed to grant any power to a mutual water~~
28 ~~company, water corporation, or local agency that participates in~~
29 ~~an agreement authorized under this section that is not otherwise~~
30 ~~granted to the mutual water company, water corporation, or local~~
31 ~~agency, pursuant to other provisions of law.~~

32 SEC. 6. ~~Section 10723.8 of the Water Code is amended to read:~~

33 ~~10723.8. (a) Within 30 days of electing to be or forming a~~
34 ~~groundwater sustainability agency, the groundwater sustainability~~
35 ~~agency shall inform the department of its election or formation~~
36 ~~and its intent to undertake sustainable groundwater management.~~
37 ~~The notification shall include the following information, as~~
38 ~~applicable:~~

1 ~~(1) The service area boundaries, the basin the agency is~~
2 ~~managing, and the other groundwater sustainability agencies~~
3 ~~operating within the basin.~~

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

5 ~~(3) A copy of any new bylaws, ordinances, or new authorities~~
6 ~~adopted by the local agency.~~

7 ~~(4) A list of interested parties developed pursuant to Section~~
8 ~~10723.2 and an explanation of how their interests will be~~
9 ~~considered in the development and operation of the groundwater~~
10 ~~sustainability agency and the development and implementation of~~
11 ~~the agency's sustainability plan.~~

12 ~~(b) Except as provided in subdivision (d), 90 days following~~
13 ~~the posting of the notice pursuant to this section, the groundwater~~
14 ~~sustainability agency shall be presumed the exclusive groundwater~~
15 ~~sustainability agency within the area of the basin the agency is~~
16 ~~managing as described in the notice, provided that no other notice~~
17 ~~was submitted.~~

18 ~~(c) A groundwater sustainability agency may withdraw from~~
19 ~~managing a basin by notifying the department in writing of its~~
20 ~~intent to withdraw.~~

21 ~~(d) This section does not preclude the board from taking an~~
22 ~~action pursuant to Section 10735.6.~~

23 ~~(e) The department shall post all notices received under this~~
24 ~~section in accordance with Section 10733.3.~~

25 ~~(f) The department shall evaluate the proposed boundaries of~~
26 ~~the basin or portion of the basin that a local agency or combination~~
27 ~~of local agencies intends to manage, based on notices submitted~~
28 ~~pursuant to subdivision (d) of Section 10723, and determine~~
29 ~~whether there is an area within the basin that is not within the~~
30 ~~management area of a groundwater sustainability agency.~~

31 ~~SEC. 7. Section 10724 of the Water Code is amended to read:~~

32 ~~10724. (a) In the event that there is an area within a basin that~~
33 ~~is not within the management area of a groundwater sustainability~~
34 ~~agency, the department shall notify the county within which that~~
35 ~~unmanaged area lies that the county will be presumed to be the~~
36 ~~groundwater sustainability agency for that area.~~

37 ~~(b) A county described in subdivision (a) shall provide~~
38 ~~notification to the department pursuant to Section 10723.8 unless~~
39 ~~the county notifies the department that it will not be the~~
40 ~~groundwater sustainability agency for the area. Extractions of~~

1 groundwater made on or after July 1, 2017, in that area shall be
 2 subject to reporting in accordance with Part 5.2 (commencing with
 3 Section 5200) of Division 2 if the county does either of the
 4 following:

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

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

9 (e) The department shall notify the board when a county notifies
 10 the department that it will not be the groundwater sustainability
 11 agency for an area within a basin that is not within the management
 12 area of a groundwater sustainability agency or fails to provide
 13 notification pursuant to paragraph (2) of subdivision (b).

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

15 10725. (a) A groundwater sustainability agency may exercise
 16 any of the powers described in this chapter in implementing this
 17 part, in addition to, and not as a limitation on, any existing
 18 authority, if the groundwater sustainability agency adopts a
 19 groundwater sustainability plan or submits to the department a
 20 prescribed alternative in accordance with Section 10733.6.

21 (b) A groundwater sustainability agency has and may use the
 22 powers in this chapter to provide the maximum degree of local
 23 control and flexibility consistent with the sustainability goals of
 24 this part.

25 SEC. 9.

26 SEC. 4. Section 10726.5 is added to the Water Code, to read:

27 10726.5. In addition to any other authority granted to a
 28 groundwater sustainability agency by this part or other law, a
 29 groundwater sustainability agency may enter into written
 30 agreements and funding with a private party to assist in, or facilitate
 31 the implementation of, a groundwater sustainability plan or any
 32 elements of the plan.

33 SEC. 10. Section 10726.8 of the Water Code is amended to
 34 read:

35 10726.8. (a) This part is in addition to, and not a limitation
 36 on, the authority granted to a local agency under any other law.
 37 The local agency may use the local agency's authority under any
 38 other law to apply and enforce any requirements of this part,
 39 including, but not limited to, the collection of fees.

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

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

6 ~~(d) Notwithstanding Section 6103 of the Government Code, a~~
7 ~~state or local agency that extracts groundwater shall be subject to~~
8 ~~a fee imposed under this part to the same extent as any~~
9 ~~nongovernmental entity.~~

10 ~~(e) Except as provided in subdivision (d), this part does not~~
11 ~~authorize a local agency to impose any requirement on the state~~
12 ~~or any agency, department, or officer of the state. State agencies~~
13 ~~and departments shall work cooperatively with a local agency on~~
14 ~~a voluntary basis.~~

15 ~~(f) If a groundwater sustainability agency finds that a state entity~~
16 ~~is not working cooperatively regarding implementation of a~~
17 ~~groundwater sustainability plan, the groundwater sustainability~~
18 ~~agency may file notice with the board regarding its finding. The~~
19 ~~board shall notice proceedings to investigate the finding of the~~
20 ~~groundwater sustainability agency. If the board determines that~~
21 ~~the failure of the state entity to work cooperatively regarding~~
22 ~~implementation of a groundwater sustainability plan compromises~~
23 ~~the ability of the groundwater sustainability agency to implement~~
24 ~~the plan in a manner that will likely achieve the sustainability goal,~~
25 ~~the board may direct the state entity to cooperate in the~~
26 ~~implementation of the groundwater sustainability plan unless the~~
27 ~~state entity indicates its authority for not complying with a~~
28 ~~groundwater sustainability plan in the same manner as subdivision~~
29 ~~(f) of Section 10735.8.~~

30 ~~(g) Nothing in this chapter or a groundwater sustainability plan~~
31 ~~shall be interpreted as superseding the land use authority of cities~~
32 ~~and counties, including the city or county general plan, within the~~
33 ~~overlying basin.~~

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

35 10727. (a) A groundwater sustainability plan shall be
36 developed and implemented for each medium- or high-priority
37 basin by a groundwater sustainability agency to meet the
38 sustainability goal established pursuant to this part. The
39 groundwater sustainability plan may incorporate, extend, or be

1 based on a plan adopted pursuant to Part 2.75 (commencing with
2 Section 10750):

3 (b) A groundwater sustainability plan may be any of the
4 following:

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

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

9 (3) Subject to Section 10727.6 and subdivision (d) of Section
10 10735.4, multiple plans implemented by multiple groundwater
11 sustainability agencies and coordinated pursuant to a single
12 coordination agreement that covers the entire basin.

13 SEC. 12. Section 10727.2 of the Water Code is amended to
14 read:

15 10727.2. A groundwater sustainability plan shall include all
16 of the following:

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

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

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

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

24 (4) A map that details the area of the basin and the boundaries
25 of the groundwater sustainability agencies that overlie the basin
26 that have or are developing groundwater sustainability plans.

27 (5) A map identifying existing and potential recharge areas for
28 the basin. The map or maps shall identify the existing recharge
29 areas that substantially contribute to the replenishment of the
30 groundwater basin. The map or maps shall be provided to the
31 appropriate local planning agencies after adoption of the
32 groundwater sustainability plan.

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

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

39 (3) (A) Notwithstanding paragraph (1), at the request of the
40 groundwater sustainability agency, the department may grant an

1 extension of up to five years beyond the 20-year sustainability
2 timeframe upon a showing of good cause. The department may
3 grant a second extension of up to five years upon a showing of
4 good cause if the groundwater sustainability agency has begun
5 implementation of the work plan described in clause (iii) of
6 subparagraph (B). For purposes of this paragraph, “good cause”
7 includes litigation that prevented a groundwater sustainability plan
8 or program from being implemented in a manner likely to achieve
9 the sustainability goal as described in subdivision (d) of Section
10 10735.2.

11 (B) The department may grant an extension pursuant to this
12 paragraph if the groundwater sustainability agency does all of the
13 following:

14 (i) Demonstrates a need for an extension.

15 (ii) Has made progress toward meeting the sustainability goal
16 as demonstrated by its progress at achieving the milestones
17 identified in its groundwater sustainability plan.

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

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

27 (e) A planning and implementation horizon.

28 (d) Components relating to the following, as applicable to the
29 basin:

30 (1) The monitoring and management of groundwater levels
31 within the basin.

32 (2) The monitoring and management of groundwater quality,
33 groundwater quality degradation, inelastic land surface subsidence,
34 and changes in surface flow and surface water quality that directly
35 affect groundwater levels or quality or are caused by groundwater
36 extraction in the basin.

37 (3) Mitigation of overdraft.

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

1 ~~(5) A description of surface water supply used or available for~~
 2 ~~use for groundwater recharge.~~

3 ~~(e) A summary of the type of monitoring sites, type of~~
 4 ~~measurements, and the frequency of monitoring for each location~~
 5 ~~monitoring groundwater levels, groundwater quality, subsidence,~~
 6 ~~streamflow, precipitation, evaporation, and tidal influence. The~~
 7 ~~plan shall include a summary of monitoring information such as~~
 8 ~~well depth, screened intervals, and aquifer zones monitored, and~~
 9 ~~a summary of the type of well relied on for the information,~~
 10 ~~including public, irrigation, domestic, industrial, and monitoring~~
 11 ~~wells.~~

12 ~~(f) Monitoring protocols that are designed to detect changes in~~
 13 ~~groundwater levels, groundwater quality, inelastic surface~~
 14 ~~subsidence for basins for which subsidence has been identified as~~
 15 ~~a potential problem, and flow and quality of surface water that~~
 16 ~~directly affect groundwater levels or quality or are caused by~~
 17 ~~groundwater extraction in the basin. The monitoring protocols~~
 18 ~~shall be designed to generate information that promotes efficient~~
 19 ~~and effective groundwater management.~~

20 ~~(g) A description of the consideration given to the applicable~~
 21 ~~county and city general plans and a description of the various~~
 22 ~~adopted water resources-related plans and programs within the~~
 23 ~~basin and an assessment of how the groundwater sustainability~~
 24 ~~plan may affect those plans.~~

25 ~~SEC. 13.~~

26 *SEC. 5.* Section 10727.4 of the Water Code is amended to read:
 27 10727.4. In addition to the requirements of Section 10727.2,
 28 a groundwater sustainability plan shall include, where appropriate
 29 and in collaboration with the appropriate local agencies, all of the
 30 following:

- 31 (a) Control of saline water intrusion.
- 32 (b) Wellhead protection areas and recharge areas.
- 33 (c) Migration of contaminated groundwater.
- 34 (d) A well abandonment and well destruction program.
- 35 (e) Replenishment of groundwater extractions.
- 36 (f) Activities implementing, opportunities for, and removing
- 37 impediments to, conjunctive use or underground storage.
- 38 (g) Well construction policies.

1 (h) Measures addressing groundwater contamination cleanup,
2 groundwater recharge, *in-lieu use*, diversions to storage,
3 conservation, water recycling, conveyance, and extraction projects.

4 (i) Efficient water management practices, as defined in Section
5 10902, for the delivery of water and water conservation methods
6 to improve the efficiency of water use.

7 (j) Efforts to develop relationships with state and federal
8 regulatory agencies.

9 (k) Processes to review land use plans and efforts to coordinate
10 with land use planning agencies to assess activities that potentially
11 create risks to groundwater quality or quantity.

12 (l) Impacts on groundwater dependent ecosystems.

13 ~~SEC. 14.~~

14 ~~SEC. 6.~~ Section 10727.6 of the Water Code is amended to read:

15 10727.6. Groundwater sustainability agencies intending to
16 develop and implement multiple groundwater sustainability plans
17 pursuant to paragraph (3) of subdivision (b) of Section 10727 shall
18 coordinate with other agencies preparing a groundwater
19 sustainability plan within the basin to ensure that the plans utilize
20 consistent data and methodologies for the following assumptions
21 in developing the plans:

22 (a) Groundwater elevation data.

23 (b) Groundwater extraction data.

24 (c) Surface water supply.

25 (d) Total water use.

26 (e) Change in groundwater storage.

27 (f) Water budget.

28 (g) Sustainable yield.

29 ~~SEC. 15.~~ Section 10728 of the Water Code is amended to read:

30 10728. ~~On the April 1 following the adoption of a groundwater~~
31 ~~sustainability plan and annually thereafter, a groundwater~~
32 ~~sustainability agency shall submit a report to the department~~
33 ~~containing the following information about the basin managed in~~
34 ~~the groundwater sustainability plan:~~

35 ~~(a) Groundwater elevation data.~~

36 ~~(b) Annual aggregated data identifying groundwater extraction~~
37 ~~for the preceding water year.~~

38 ~~(c) Surface water supply used for or available for use for~~
39 ~~groundwater recharge.~~

40 ~~(d) Total water use.~~

1 ~~(e) Change in groundwater storage.~~

2 ~~SEC. 16. Section 10728.6 of the Water Code is amended to~~
3 ~~read:~~

4 ~~10728.6. Division 13 (commencing with Section 21000) of the~~
5 ~~Public Resources Code does not apply to the preparation and~~
6 ~~adoption of plans pursuant to this chapter. The formation of or~~
7 ~~election to become a groundwater sustainability agency is not~~
8 ~~subject to the requirements of Division 13 (commencing with~~
9 ~~Section 21000) of the Public Resources Code. Nothing in this part~~
10 ~~shall be interpreted as exempting from Division 13 (commencing~~
11 ~~with Section 21000) of the Public Resources Code a project that~~
12 ~~would implement actions taken pursuant to a plan adopted pursuant~~
13 ~~to this chapter.~~

14 *SEC. 7. Section 10732.2 is added to the Water Code, to read:*

15 *10732.2. If a groundwater sustainability agency finds that a*
16 *state entity is not working cooperatively regarding implementation*
17 *of a groundwater sustainability plan, the groundwater*
18 *sustainability agency may file notice with the board regarding its*
19 *finding. The board shall notice proceedings to investigate the*
20 *finding of the groundwater sustainability agency. If the board*
21 *determines that the failure of the state entity to work cooperatively*
22 *regarding implementation of a groundwater sustainability plan*
23 *compromises the ability of the groundwater sustainability agency*
24 *to implement the plan in a manner that will likely achieve the*
25 *sustainability goal, the board may direct the state entity to*
26 *cooperate in the implementation of the groundwater sustainability*
27 *plan unless the state entity indicates its authority for not complying*
28 *with a groundwater sustainability plan in the same manner as*
29 *subdivision (f) of Section 10735.8.*

30 ~~SEC. 17.~~

31 *SEC. 8. Section 10733.4 of the Water Code is amended to read:*

32 *10733.4. (a) Upon adoption of a groundwater sustainability*
33 *plan, a groundwater sustainability agency shall submit the*
34 *groundwater sustainability plan to the department for review*
35 *pursuant to this chapter.*

36 *(b) If groundwater sustainability agencies develop multiple*
37 *groundwater sustainability plans for a basin, the submission*
38 *required by subdivision (a) shall not occur until the entire basin is*
39 *covered by groundwater sustainability plans, except if the basin*
40 *has been designated as a probationary basin by the board, then*

1 ~~groundwater sustainability plans covering portions of a basin that~~
2 ~~have been excluded from probationary status by the board may be~~
3 ~~submitted to the department. The plans. When the entire basin is~~
4 ~~covered by groundwater sustainability plans, the groundwater~~
5 ~~sustainability agencies shall jointly submit to the department all~~
6 ~~of the following:~~

7 (1) ~~The groundwater sustainability plans.~~

8 (2) ~~An explanation of how the groundwater sustainability plans~~
9 ~~implemented together satisfy Sections 10727.2, 10727.4, and~~
10 ~~10727.6 for the entire basin.~~

11 (3) ~~A copy of the coordination agreement between the~~
12 ~~groundwater sustainability agencies to ensure the coordinated~~
13 ~~implementation of the groundwater sustainability plans for the~~
14 ~~entire basin.~~

15 (c) ~~Upon receipt of a groundwater sustainability plan, the~~
16 ~~department shall post the plan on the department's Internet Web~~
17 ~~site and provide 60 days for persons to submit comments to the~~
18 ~~department about the plan.~~

19 (d) ~~The department shall evaluate the groundwater sustainability~~
20 ~~plan within two years of its submission by a groundwater~~
21 ~~sustainability agency and issue an assessment of the plan. The~~
22 ~~assessment may include recommended corrective actions to address~~
23 ~~any deficiencies identified by the department.~~

24 (e) ~~Nothing in this section shall be construed to prohibit a~~
25 ~~groundwater sustainability agency from implementing a~~
26 ~~groundwater sustainability plan prior to evaluation and assessment~~
27 ~~of the groundwater sustainability plan by the department.~~

28 ~~SEC. 18. Section 10735 of the Water Code is amended to read:~~

29 ~~10735. As used in this chapter, the following terms have the~~
30 ~~following meanings:~~

31 (a) ~~“Condition of long-term overdraft” means the condition of~~
32 ~~a groundwater basin where the average annual amount of water~~
33 ~~extracted for a long-term period, generally 10 years or more,~~
34 ~~exceeds the long-term average annual supply of water to the basin,~~
35 ~~plus any temporary surplus. Overdraft during a period of drought~~
36 ~~is not sufficient to establish a condition of long-term overdraft if~~
37 ~~extractions and groundwater recharge are managed as necessary~~
38 ~~to ensure that reductions in groundwater levels or storage during~~
39 ~~a period of drought are offset by increases in groundwater levels~~
40 ~~or storage during other periods.~~

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

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

13 (d) “Significant depletions of interconnected surface waters”
 14 means reductions in flow or levels of surface water that is
 15 hydrologically connected to the basin such that the reduced surface
 16 water flow or levels have a significant and unreasonable adverse
 17 impact on beneficial uses of the surface water.

18 SEC. 19. Section 10735.2 of the Water Code is amended to
 19 read:

20 10735.2. (a) The board, after notice and a public hearing, may
 21 designate a basin as a probationary basin, if the board finds one
 22 or more of the following applies to the basin:

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

24 (A) A local agency has elected to be a groundwater
 25 sustainability agency that intends to develop a groundwater
 26 sustainability plan for the entire basin.

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

31 (C) A local agency has submitted an alternative that has been
 32 approved or is pending approval pursuant to Section 10733.6. If
 33 the department disapproves an alternative pursuant to Section
 34 10733.6, the board shall not act under this paragraph until at least
 35 180 days after the department disapproved the alternative.

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

39 (A) A groundwater sustainability agency has adopted a
 40 groundwater sustainability plan for the entire basin.

1 ~~(B) A collection of local agencies has adopted groundwater~~
2 ~~sustainability plans that collectively serve as a groundwater~~
3 ~~sustainability plan for the entire basin.~~

4 ~~(C) The department has approved an alternative pursuant to~~
5 ~~Section 10733.6.~~

6 ~~(3) The basin is subject to paragraph (1) of subdivision (a) of~~
7 ~~Section 10720.7 and after January 31, 2020, the department, in~~
8 ~~consultation with the board, determines that a groundwater~~
9 ~~sustainability plan is inadequate or that the groundwater~~
10 ~~sustainability program is not being implemented in a manner that~~
11 ~~will likely achieve the sustainability goal.~~

12 ~~(4) The basin is subject to paragraph (2) of subdivision (a) of~~
13 ~~Section 10720.7, and after January 31, 2022, none of the following~~
14 ~~have occurred:~~

15 ~~(A) A groundwater sustainability agency has adopted a~~
16 ~~groundwater sustainability plan for the entire basin.~~

17 ~~(B) A collection of local agencies has adopted groundwater~~
18 ~~sustainability plans that collectively serve as a groundwater~~
19 ~~sustainability plan for the entire basin.~~

20 ~~(C) The department has approved an alternative pursuant to~~
21 ~~Section 10733.6.~~

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

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

25 ~~(i) The department, in consultation with the board, determines~~
26 ~~that a groundwater sustainability plan is inadequate or that the~~
27 ~~groundwater sustainability plan is not being implemented in a~~
28 ~~manner that will likely achieve the sustainability goal.~~

29 ~~(ii) The board determines that the basin is in a condition of~~
30 ~~long-term overdraft.~~

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

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

36 ~~(ii) The board determines that the basin is in a condition where~~
37 ~~groundwater extractions result in significant depletions of~~
38 ~~interconnected surface waters.~~

39 ~~(b) In making the findings associated with paragraph (3) or (5)~~
40 ~~of subdivision (a), the department and board may rely on periodic~~

1 assessments the department has prepared pursuant to Chapter 10
2 (commencing with Section 10733). The board may request that
3 the department conduct additional assessments utilizing the
4 regulations developed pursuant to Chapter 10 (commencing with
5 Section 10733) and make determinations pursuant to this section.
6 The board shall post on its Internet Web site and provide at least
7 30 days for the public to comment on any determinations provided
8 by the department pursuant to this subdivision.

9 (e) (1) The determination may exclude a class or category of
10 extractions from the requirement for reporting pursuant to Part 5.2
11 (commencing with Section 5200) of Division 2 if those extractions
12 are subject to a local plan or program that adequately manages
13 groundwater within the portion of the basin to which that plan or
14 program applies, or if those extractions are likely to have a minimal
15 impact on basin withdrawals.

16 (2) The determination may require reporting of a class or
17 category of extractions that would otherwise be exempt from
18 reporting pursuant to paragraph (1) of subdivision (e) of Section
19 5202 if those extractions are likely to have a substantial impact on
20 basin withdrawals or requiring reporting of those extractions is
21 reasonably necessary to obtain information for purposes of this
22 chapter.

23 (3) The determination may establish requirements for
24 information required to be included in reports of groundwater
25 extraction, for installation of measuring devices, or for use of a
26 methodology, measuring device, or both, pursuant to Part 5.2
27 (commencing with Section 5200) of Division 2.

28 (4) The determination may modify the water year or reporting
29 date for a report of groundwater extraction pursuant to Section
30 5202.

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

39 (e) The board shall exclude from probationary status any portion
40 of a basin for which a groundwater sustainability agency

1 demonstrates that it has adopted a groundwater sustainability plan
2 and that it is being implemented in a manner that will likely achieve
3 the sustainability goal.

4 SEC. 20. Section 10735.4 of the Water Code is amended to
5 read:

6 10735.4. (a) If the board designates a basin as a probationary
7 basin pursuant to paragraph (1) or (2) of subdivision (a) of Section
8 10735.2, a local agency or groundwater sustainability agency shall
9 have 180 days to remedy the deficiency. The board may appoint
10 a mediator or other facilitator, after consultation with affected local
11 agencies, to assist in resolving disputes, and identifying and
12 implementing actions that will remedy the deficiency.

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

17 (c) The board may develop an interim plan pursuant to Section
18 10735.8 for the probationary basin at the end of the period provided
19 by subdivision (a) or any extension provided pursuant to
20 subdivision (b), if the board, in consultation with the department,
21 determines that a local agency has not remedied the deficiency
22 that resulted in designating the basin as a probationary basin.

23 (d) The board shall notify the department if it will develop an
24 interim plan for the probationary basin and shall identify that
25 portion of a basin that has been excluded pursuant to subdivision
26 (e) of Section 10735.2.

27 SEC. 21. The amendment of Section 10728.6 of the Water
28 Code made by this act does not constitute a change in, but is
29 declaratory of, existing law.

O