

AMENDED IN SENATE AUGUST 31, 2015
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, 10721, 10727.4, ~~10727.6~~, and 10733.4 of, and to add 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 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 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.

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.

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.

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

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

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

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

7 (6) Protection of groundwater resources from contamination.

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

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

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

14 10720.5. (a) Groundwater management pursuant to this part
15 shall be consistent with Section 2 of Article X of the California
16 Constitution. Nothing in this part modifies rights or priorities to
17 use or store groundwater consistent with Section 2 of Article X of
18 the California Constitution, except that in basins designated
19 medium- or high-priority basins by the department, no extraction
20 of groundwater between January 1, 2015, and the date of adoption
21 of a groundwater sustainability plan pursuant to this part *or the*
22 *approval by the department of an alternative submitted pursuant*
23 *to Section 10733.6, whichever is sooner*, or any action to regulate
24 groundwater extractions taken as a means of implementing a
25 groundwater sustainability plan pursuant to Section 10726.4, may
26 be used as evidence of, or to establish or defend against, any claim
27 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 10721 of the Water Code is amended to read:

33 10721. Unless the context otherwise requires, the following
34 definitions govern the construction of this part:

35 (a) "Adjudication action" means an action filed in the superior
36 or federal district court to determine the rights to extract
37 groundwater from a basin or store water within a basin, including,
38 but not limited to, actions to quiet title respecting rights to extract
39 or store groundwater or an action brought to impose a physical
40 solution on a basin.

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

4 (c) “Bulletin 118” means the department’s report entitled
5 “California’s Groundwater: Bulletin 118” updated in 2003, as it
6 may be subsequently updated or revised in accordance with Section
7 12924.

8 (d) “Coordination agreement” means a legal agreement adopted
9 between two or more groundwater sustainability agencies that
10 provides the basis for coordinating multiple agencies or
11 groundwater sustainability plans within a basin pursuant to this
12 part.

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

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

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

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

23 (i) “Groundwater recharge” or “recharge” means the
24 augmentation of groundwater, by natural or artificial means.

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

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

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

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

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

1 (1) Chronic lowering of groundwater levels indicating a
2 significant and unreasonable depletion of supply if continued over
3 the planning and implementation horizon. Overdraft during a period
4 of drought is not sufficient to establish a chronic lowering of
5 groundwater levels if extractions and groundwater recharge are
6 managed as necessary to ensure that reductions in groundwater
7 levels or storage during a period of drought are offset by increases
8 in groundwater levels or storage during other periods.

9 (2) Significant and unreasonable reduction of groundwater
10 storage.

11 (3) Significant and unreasonable seawater intrusion.

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

15 (5) Significant and unreasonable land subsidence that
16 substantially interferes with surface land uses.

17 (6) Depletions of interconnected surface water that have
18 significant and unreasonable adverse impacts on beneficial uses
19 of the surface water.

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

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

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

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

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

32 10726.5. In addition to any other authority granted to a
33 groundwater sustainability agency by this part or other law, a
34 groundwater sustainability agency may enter into written
35 agreements and funding with a private party to assist in, or facilitate
36 the implementation of, a groundwater sustainability plan or any
37 elements of the plan.

38 SEC. 5. Section 10727.4 of the Water Code is amended to read:

39 10727.4. In addition to the requirements of Section 10727.2,
40 a groundwater sustainability plan shall include, where appropriate

1 and in collaboration with the appropriate local agencies, all of the
2 following:

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

23 ~~SEC. 6. Section 10727.6 of the Water Code is amended to read:~~
 24 ~~10727.6. Groundwater sustainability agencies intending to~~
 25 ~~develop and implement multiple groundwater sustainability plans~~
 26 ~~pursuant to paragraph (3) of subdivision (b) of Section 10727 shall~~
 27 ~~coordinate with other agencies preparing a groundwater~~
 28 ~~sustainability plan within the basin to ensure that the plans utilize~~
 29 ~~consistent data and methodologies for the following assumptions~~
 30 ~~in developing the plans:~~

- 31 ~~(a) Groundwater elevation data.~~
- 32 ~~(b) Groundwater extraction data.~~
- 33 ~~(c) Surface water supply.~~
- 34 ~~(d) Total water use.~~
- 35 ~~(e) Change in groundwater storage.~~
- 36 ~~(f) Water budget.~~
- 37 ~~(g) Sustainable yield.~~

38 ~~SEC. 7.~~
 39 *SEC. 6.* Section 10732.2 is added to the Water Code, to read:

1 10732.2. If a groundwater sustainability agency finds that a
2 state entity is not working cooperatively regarding implementation
3 of a groundwater sustainability plan, the groundwater sustainability
4 agency may file notice with the board regarding its finding. The
5 board shall notice proceedings to investigate the finding of the
6 groundwater sustainability agency. If the board determines that
7 the failure of the state entity to work cooperatively regarding
8 implementation of a groundwater sustainability plan compromises
9 the ability of the groundwater sustainability agency to implement
10 the plan in a manner that will likely achieve the sustainability goal,
11 the board may direct the state entity to cooperate in the
12 implementation of the groundwater sustainability plan unless the
13 state entity indicates its authority for not complying with a
14 groundwater sustainability plan in the same manner as subdivision
15 (f) of Section 10735.8.

16 ~~SEC. 8.~~

17 *SEC. 7.* Section 10733.4 of the Water Code is amended to read:

18 10733.4. (a) Upon adoption of a groundwater sustainability
19 plan, a groundwater sustainability agency shall submit the
20 groundwater sustainability plan to the department for review
21 pursuant to this chapter.

22 (b) If groundwater sustainability agencies develop multiple
23 groundwater sustainability plans for a basin, the submission
24 required by subdivision (a) shall not occur until the entire basin is
25 covered by groundwater sustainability plans. When the entire basin
26 is covered by groundwater sustainability plans, the groundwater
27 sustainability agencies shall jointly submit to the department all
28 of the following:

29 (1) The groundwater sustainability plans.

30 (2) An explanation of how the groundwater sustainability plans
31 implemented together satisfy Sections 10727.2, 10727.4, and
32 10727.6 for the entire basin.

33 (3) A copy of the coordination agreement between the
34 groundwater sustainability agencies to ensure the coordinated
35 implementation of the groundwater sustainability plans for the
36 entire basin.

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

1 (d) The department shall evaluate the groundwater sustainability
2 plan within two years of its submission by a groundwater
3 sustainability agency and issue an assessment of the plan. The
4 assessment may include recommended corrective actions to address
5 any deficiencies identified by the department.

6 (e) Nothing in this section shall be construed to prohibit a
7 groundwater sustainability agency from implementing a
8 groundwater sustainability plan prior to evaluation and assessment
9 of the groundwater sustainability plan by the department.