

AMENDED IN SENATE MARCH 9, 2016  
AMENDED IN SENATE FEBRUARY 11, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 938**

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**Introduced by Assembly Member Rodriguez**

February 26, 2015

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~~An act to amend Section 10722.4 of the Water Code, relating to groundwater.~~ *An act to amend Section 10720.8 of the Water Code, relating to groundwater, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 938, as amended, Rodriguez. ~~Groundwater: basin reprioritization: establishment of groundwater sustainability agency.~~ *Sustainable Groundwater Management Act: adjudicated basins.*

*Existing law specifies the jurisdiction of the courts. Under existing law, courts may adjudicate rights to produce groundwater and exercise other powers relating to the supervision of a groundwater basin.*

*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 overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other 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. Under existing law, the provisions of the act do not apply to an adjudicated groundwater basin, as*

*specified, or to a local agency that conforms to the requirements of an adjudication of water rights for an adjudicated groundwater basin.*

*This bill would authorize the watermaster or local agency administering an adjudicated basin to elect that the adjudicated basin be subject to the provisions of the act. The bill would authorize the court with jurisdiction over the adjudicated basin to issue an order setting a hearing to determine whether the adjudicated basin shall be subject to the act, as prescribed. The bill would require the watermaster or local agency to provide written notice to the department that the adjudicated basin is subject to the act, and would require the department to post that notice to its Internet Web site within 15 days.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law requires the Department of Water Resources to identify the extent of monitoring of groundwater elevations that is being undertaken within each groundwater basin or subbasin and to prioritize basins or subbasins as high, medium, low, or very low priority and requires the initial priority for each basin to be established no later than January 31, 2015. Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the department 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. The act requires, any time the department changes these basin priorities and elevates a basin to a medium- or high-priority basin after January 31, 2015, a local agency or combination of local agencies overlying a groundwater basin to either establish a groundwater sustainability agency within 2 years of reprioritization and adopt a groundwater sustainability plan within 5 years of reprioritization, or to submit an alternative to the department that the local agency believes satisfies the objectives of these provisions within 2 years of reprioritization.~~

~~This bill would make nonsubstantive changes to these groundwater basin provisions:~~

~~Vote: majority  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.~~

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

1     SECTION 1. Section 10720.8 of the Water Code is amended  
2 to read:

3     10720.8. (a) Except as provided in subdivision (e), this part  
4 does not apply to the following adjudicated areas or a local agency  
5 that conforms to the requirements of an adjudication of water rights  
6 for one of the following adjudicated areas:

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

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

1 (c) Any groundwater basin or portion of a groundwater basin  
2 in Inyo County managed pursuant to the terms of the stipulated  
3 judgment in *City of Los Angeles v. Board of Supervisors of the*  
4 *County of Inyo, et al.* (Inyo County Case No. 12908) shall be  
5 treated as an adjudicated area pursuant to this section.

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

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

16 (f) *A watermaster or local agency administering an adjudicated*  
17 *basin may elect that the adjudicated basin be subject to the*  
18 *provisions of this part as follows:*

19 (1) *The watermaster or local agency shall provide written notice*  
20 *of the proposed election to the court with jurisdiction over the*  
21 *adjudicated basin and to all parties over which the court has*  
22 *continuing jurisdiction in connection with the adjudication decree*  
23 *adopted by the court for that adjudicated basin.*

24 (2) *The court with jurisdiction over the adjudicated basin may*  
25 *order a hearing to determine whether the adjudicated basin shall*  
26 *be subject to this part. If, on its own motion, the court determines*  
27 *that a hearing on the request is appropriate, the court shall issue*  
28 *an order setting a hearing within 60 days of the date on which the*  
29 *court receives notice pursuant to paragraph (1). If a party that*  
30 *receives notice pursuant to paragraph (1) wishes the court to hold*  
31 *a hearing on the request, the party shall file a motion with the*  
32 *court requesting a hearing within 30 days of the date of the notice*  
33 *and the court may issue an order either setting a hearing or*  
34 *denying the request for a hearing within 60 days of the date of the*  
35 *notice.*

36 (3) *After a hearing held pursuant to paragraph (2), the court*  
37 *shall issue an order that states whether the adjudicated basin shall*  
38 *be subject to this part.*

1 (4) *If the court does not issue an order setting a hearing within*  
2 *the time limits described in paragraph (2), the adjudicated basin*  
3 *shall be subject to this part.*

4 (5) *The court shall maintain continuing jurisdiction over the*  
5 *watermaster's or local agency's administration of the adjudicated*  
6 *basin.*

7 (6) *If the adjudicated basin is determined to be subject to the*  
8 *requirements of this part pursuant to paragraph (3) or (4), the*  
9 *watermaster or local agency administering the adjudicated basin*  
10 *shall provide written notice to the department that the adjudicated*  
11 *basin is subject to this part. The department shall post all notices*  
12 *it receives pursuant to this paragraph on its Internet Web site*  
13 *within 15 days.*

14 (7) *Nothing in this part shall be construed in a manner that*  
15 *would do either of the following:*

16 (A) *Require the watermaster or local agency that administers*  
17 *an adjudicated basin to violate the adjudication decree.*

18 (B) *Deprive a court with jurisdiction over an adjudicated basin*  
19 *of its authority to enforce compliance with the adjudication decree.*

20 ~~(F)~~

21 (g) *The watermaster or a local agency within a basin identified*  
22 *in subdivision (a) shall do all of the following:*

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

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

30 (3) *By April 1, 2016, and annually thereafter, submit to the*  
31 *department a report containing the following information to the*  
32 *extent available for the portion of the basin subject to the*  
33 *adjudication:*

34 (A) *Groundwater elevation data unless otherwise submitted*  
35 *pursuant to Section 10932.*

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 or in-lieu use.*

40 (D) *Total water use.*

- 1 (E) Change in groundwater storage.
- 2 (F) The annual report submitted to the court.

3 *SEC. 2. This act is an urgency statute necessary for the*  
 4 *immediate preservation of the public peace, health, or safety within*  
 5 *the meaning of Article IV of the Constitution and shall go into*  
 6 *immediate effect. The facts constituting the necessity are:*

7 *In order to permit groundwater sustainability agencies to include*  
 8 *entities representing adjudicated basins to meet organizational*  
 9 *deadlines of the act and to respond to emergency conditions caused*  
 10 *by declining groundwater tables caused by the prolonged drought,*  
 11 *it is necessary that the act take effect immediately.*

12 ~~SECTION 1. Section 10722.4 of the Water Code is amended~~  
 13 ~~to read:~~

14 ~~10722.4. (a) Pursuant to Section 10933, for purposes of this~~  
 15 ~~part, the department shall categorize each basin as one of the~~  
 16 ~~following priorities:~~

- 17 ~~(1) High priority.~~
- 18 ~~(2) Medium priority.~~
- 19 ~~(3) Low priority.~~
- 20 ~~(4) Very low priority.~~

21 ~~(b) The initial priority for each basin shall be established by the~~  
 22 ~~department pursuant to Section 10933 no later than January 31,~~  
 23 ~~2015.~~

24 ~~(c) Any time the department updates Bulletin 118 boundaries~~  
 25 ~~pursuant to subdivision (b) of Section 12924, the department shall~~  
 26 ~~reassess the prioritization pursuant to Section 10933.~~

27 ~~(d) If the department changes priorities pursuant to Section~~  
 28 ~~10933 to elevate a basin from a low- or very low priority basin to~~  
 29 ~~a medium- or high-priority basin after January 31, 2015, the agency~~  
 30 ~~formation and planning deadlines of this part shall be extended as~~  
 31 ~~follows:~~

32 ~~(1) A local agency, or combination of local agencies overlying~~  
 33 ~~a groundwater basin, shall have two years from the date of~~  
 34 ~~reprioritization to either establish a groundwater sustainability~~  
 35 ~~agency pursuant to Chapter 4 (commencing with Section 10723)~~  
 36 ~~or two years to satisfy the requirements of Section 10733.6.~~

37 ~~(2) A groundwater sustainability agency shall have five years~~  
 38 ~~from the date of reprioritization to meet the requirements of~~  
 39 ~~subdivision (a) of Section 10720.7, except that if the reprioritization~~  
 40 ~~occurs before January 31, 2017, a groundwater sustainability~~

- 1 ~~agency subject to paragraph (2) of subdivision (a) of Section~~
- 2 ~~10720.7 shall have until January 31, 2022.~~

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