

AMENDED IN SENATE FEBRUARY 24, 2015

SENATE BILL

No. 13

Introduced by Senator Pavley

December 1, 2014

An act to amend Sections 5202, 10723, 10723.8, 10724, 10733.3, 10735.2, 10735.4, 10735.6, and 10933 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as amended, Pavley. 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. The act authorizes the State Water Resources Control Board to designate a basin as a probationary basin if the state board makes a certain determination and to develop an interim plan for the probationary basin. The act requires a local agency or groundwater sustainability agency to have 90 or 180 days, as prescribed, to remedy the deficiency if the board designates the basin as a probationary basin.

This bill would *specify that the board is authorized to designate a high- or medium-priority basin as a probationary basin. This bill would provide a local agency or groundwater sustainability agency 90 or 180 days, as prescribed, to remedy certain deficiencies that caused the board*

to designate the basin as a probationary basin. This bill would authorize the board to develop an interim plan for certain probationary basins one year after the designation of the basin as a probationary basin.

Existing law establishes a groundwater monitoring program pursuant to which specified entities, including a groundwater sustainability agency, may propose to be designated by the department as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a groundwater basin or subbasin. Existing law requires the department to identify the extent of monitoring of groundwater elevations that is being undertaken in groundwater basins and subbasins, and if the department determines that all or part of a basin or subbasin is not being monitored, to determine whether there is sufficient interest in establishing a groundwater management plan, an integrated regional water management plan, or a groundwater monitoring association.

This bill, if the department determines that all or part of a basin or subbasin is not being monitored, would require the department to determine whether there is sufficient interest in establishing a groundwater sustainability plan.

Existing law requires a local agency or combination of local agencies that elect to be a groundwater sustainability agency for a basin to submit a prescribed notice of intent to the Department of Water Resources. Existing law requires the department to post the notice on its Internet Web site within 15 days of receipt.

This bill would eliminate these provisions.

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 5202 of the Water Code is amended to
- 2 read:
- 3 5202. (a) This section applies to a person who does either of
- 4 the following:
- 5 (1) Extracts groundwater from a probationary basin 90 days or
- 6 more after the board designates the basin as a probationary basin
- 7 pursuant to Section 10735.2.
- 8 (2) Extracts groundwater on or after July 1, 2017, in an area
- 9 within a *high- or medium-priority* basin *subject to the requirements*
- 10 of subdivision (a) of Section 10720.7 that is not within the

1 management area of a groundwater sustainability agency and where
2 the county does not assume responsibility to be the groundwater
3 sustainability agency, as provided in subdivision (b) of Section
4 10724.

5 (b) Except as provided in subdivision (c), a person subject to
6 this section shall file a report of groundwater extraction by
7 December 15 of each year for extractions made in the preceding
8 water year.

9 (c) Unless reporting is required pursuant to paragraph (2) of
10 subdivision (c) of Section 10735.2, this section does not apply to
11 any of the following:

12 (1) An extraction by a de minimis extractor.

13 (2) An extraction excluded from reporting pursuant to paragraph
14 (1) of subdivision (c) of Section 10735.2.

15 (3) An extraction reported pursuant to Part 5 (commencing with
16 Section 4999).

17 (4) An extraction that is included in annual reports filed with a
18 court or the board by a watermaster appointed by a court or
19 pursuant to statute to administer a final judgment determining
20 rights to water. The reports shall identify the persons who have
21 extracted water and give the general place of use and the quantity
22 of water that has been extracted from each source.

23 (d) Except as provided in Section 5209, the report shall be filed
24 with the board.

25 (e) The report may be filed by the person extracting water or
26 on that person's behalf by an agency that person designates and
27 that maintains a record of the water extracted.

28 (f) Each report shall be accompanied by the fee imposed
29 pursuant to Section 1529.5.

30 *SEC. 2. Section 10723 of the Water Code is amended to read:*

31 10723. (a) Except as provided in subdivision (c), any local
32 agency or combination of local agencies overlying a groundwater
33 basin may ~~elect to be~~ *opt to become* a groundwater sustainability
34 agency for that basin.

35 (b) ~~Before electing to be~~ *opting to become* a groundwater
36 sustainability agency, and after publication of notice pursuant to
37 Section 6066 of the Government Code, the local agency or agencies
38 shall hold a public hearing in the county or counties overlying the
39 basin.

1 (c) (1) Except as provided in paragraph (2), the following
 2 agencies created by statute to manage groundwater shall be deemed
 3 the exclusive local agencies within their respective statutory
 4 boundaries with powers to comply with this part:

5 (A) Alameda County Flood Control and Water Conservation
 6 District, Zone 7.

7 (B) Alameda County Water District.

8 (C) Desert Water Agency.

9 (D) Fox Canyon Groundwater Management Agency.

10 (E) Honey Lake Valley Groundwater Management District.

11 (F) Long Valley Groundwater Management District.

12 (G) Mendocino City Community Services District.

13 (H) Mono County Tri-Valley Groundwater Management
 14 District.

15 (I) Monterey Peninsula Water Management District.

16 (J) Ojai Groundwater Management Agency.

17 (K) Orange County Water District.

18 (L) Pajaro Valley Water Management Agency.

19 (M) Santa Clara Valley Water District.

20 (N) Sierra Valley Water District.

21 (O) Willow Creek Groundwater Management Agency.

22 (2) An agency identified in this subdivision may ~~elect to opt~~
 23 ~~out of being~~ *becoming* the exclusive groundwater management
 24 agency within its statutory boundaries by sending a notice to the
 25 department, which shall be posted pursuant to Section 10733.3. If
 26 an agency identified in paragraph (1) ~~elects to opt~~ *opts* out of ~~being~~
 27 ~~becoming~~ the exclusive groundwater management agency, any
 28 other local agency or combination of local agencies operating
 29 within the statutory boundaries of the agency that has ~~elected to~~
 30 ~~opt~~ *opted* out may ~~notify the department pursuant to subdivision~~
 31 ~~(d) of its election to be opt to become~~ the groundwater
 32 sustainability agency.

33 (3) A local agency listed in paragraph (1) may comply with this
 34 part by meeting the requirements of Section 10733.6 or ~~electing~~
 35 *opting* to become a groundwater sustainability agency pursuant to
 36 this section. A local agency with authority to implement a
 37 basin-specific management plan pursuant to its principal act shall
 38 not exercise any authorities granted in this part in a manner
 39 inconsistent with any prohibitions or limitations in its principal
 40 act unless the governing board of the local agency makes a finding

1 that the agency is unable to sustainably manage the basin without
2 the prohibited authority.

3 ~~(d) A local agency or combination of local agencies that elects~~
4 ~~to be the groundwater sustainability agency shall submit a notice~~
5 ~~of intent to the department, which shall be posted pursuant to~~
6 ~~Section 10733.3. The notice of intent shall include a description~~
7 ~~of the proposed boundaries of the basin or portion of the basin that~~
8 ~~the local agency or combination of local agencies intends to~~
9 ~~manage pursuant to this part.~~

10 *SEC. 3. Section 10723.8 of the Water Code is amended to read:*

11 10723.8. (a) Within 30 days of ~~electing to be or forming~~
12 ~~deciding to become or form~~ a groundwater sustainability agency,
13 the groundwater sustainability agency shall inform the department
14 of its ~~election or formation~~ *decision* and its intent to undertake
15 sustainable groundwater management. The notification shall
16 include the following information, as applicable:

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

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

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

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

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

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

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

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

1 *SEC. 4. Section 10724 of the Water Code is amended to read:*

2 10724. (a) In the event that there is an area within a *high- or*
3 *medium-priority* basin that is not within the management area of
4 a groundwater sustainability agency, the county within which that
5 unmanaged area lies will be presumed to be the groundwater
6 sustainability agency for that area.

7 (b) A county described in subdivision (a) shall provide
8 notification to the department pursuant to Section 10723.8 unless
9 the county notifies the department that it will not be the
10 groundwater sustainability agency for the area. Extractions of
11 groundwater made on or after July 1, 2017, in that area shall be
12 subject to reporting in accordance with Part 5.2 (commencing with
13 Section 5200) of Division 2 if the county does either of the
14 following:

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

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

19 *SEC. 5. Section 10733.3 of the Water Code is amended to read:*

20 10733.3. The department shall post all notices it receives
21 pursuant to Section ~~10723~~ or 10723.8 on its Internet Web site
22 within 15 days of receipt.

23 *SEC. 6. Section 10735.2 of the Water Code is amended to read:*

24 10735.2. (a) The board, after notice and a public hearing, may
25 designate a *high- or medium-priority* basin as a probationary basin,
26 if the board finds one or more of the following applies to the basin:

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

28 (A) A local agency has ~~elected to be~~ *decided to become* a
29 groundwater sustainability agency that intends to develop a
30 groundwater sustainability plan for the entire basin.

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

35 (C) A local agency has submitted an alternative that has been
36 approved or is pending approval pursuant to Section 10733.6. If
37 the department disapproves an alternative pursuant to Section
38 10733.6, the board shall not act under this paragraph until at least
39 180 days after the department disapproved the alternative.

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

4 (A) A groundwater sustainability agency has adopted a
5 groundwater sustainability plan for the entire basin.

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

9 (C) The department has approved an alternative pursuant to
10 Section 10733.6.

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

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

20 (A) A groundwater sustainability agency has adopted a
21 groundwater sustainability plan for the entire basin.

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

25 (C) The department has approved an alternative pursuant to
26 Section 10733.6.

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

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

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

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

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

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

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

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

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

21 (2) The determination may require reporting of a class or
22 category of extractions that would otherwise be exempt from
23 reporting pursuant to paragraph (1) of subdivision (c) of Section
24 5202 if those extractions are likely to have a substantial impact on
25 basin withdrawals or requiring reporting of those extractions is
26 reasonably necessary to obtain information for purposes of this
27 chapter.

28 (3) The determination may establish requirements for
29 information required to be included in reports of groundwater
30 extraction, for installation of measuring devices, or for use of a
31 methodology, measuring device, or both, pursuant to Part 5.2
32 (commencing with Section 5200) of Division 2.

33 (4) The determination may modify the water year or reporting
34 date for a report of groundwater extraction pursuant to Section
35 5202.

36 (d) If the board finds that litigation challenging the formation
37 of a groundwater sustainability agency prevented its formation
38 before July 1, 2017, pursuant to paragraph (1) of subdivision (a)
39 or prevented a groundwater sustainability program from being
40 implemented in a manner likely to achieve the sustainability goal

1 pursuant to paragraph (3), (4), or (5) of subdivision (a), the board
2 shall not designate a basin as a probationary basin for a period of
3 time equal to the delay caused by the litigation.

4 (e) The board shall exclude from probationary status any portion
5 of a basin for which a groundwater sustainability agency
6 demonstrates compliance with the sustainability goal.

7 ~~SECTION 1.~~

8 *SEC. 7.* Section 10735.4 of the Water Code is amended to read:

9 10735.4. (a) If the board designates a basin as a probationary
10 basin pursuant to paragraph (1), (2), or (4) of subdivision (a) of
11 Section 10735.2, a local agency or groundwater sustainability
12 agency shall have 180 days to remedy the deficiency. The board
13 may appoint a mediator or other facilitator, after consultation with
14 affected local agencies, to assist in resolving disputes, and
15 identifying and implementing actions that will remedy the
16 deficiency.

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

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

27 ~~SEC. 2.~~

28 *SEC. 8.* Section 10735.6 of the Water Code is amended to read:

29 10735.6. (a) If the board designates a basin as a probationary
30 basin pursuant to paragraph (3) or (5) of subdivision (a) of Section
31 10735.2, the board shall identify the specific deficiencies and
32 identify potential actions to address the deficiencies. The board
33 may request the department to provide local agencies, within 90
34 days of the designation of a probationary basin, with technical
35 recommendations to remedy the deficiencies.

36 (b) The board may develop an interim plan pursuant to Section
37 10735.8 for the probationary basin one year after the designation
38 of the basin pursuant to paragraph (3) or (5) of subdivision (a) of
39 Section 10735.2, if the board, in consultation with the department,

1 determines that a local agency has not remedied the deficiency
2 that resulted in designating the basin a probationary basin.

3 ~~SEC. 3.~~

4 *SEC. 9.* Section 10933 of the Water Code is amended to read:

5 10933. (a) The department shall commence to identify the
6 extent of monitoring of groundwater elevations that is being
7 undertaken within each basin and subbasin.

8 (b) The department shall prioritize groundwater basins and
9 subbasins for the purpose of implementing this section. In
10 prioritizing the basins and subbasins, the department shall, to the
11 extent data are available, consider all of the following:

12 (1) The population overlying the basin or subbasin.

13 (2) The rate of current and projected growth of the population
14 overlying the basin or subbasin.

15 (3) The number of public supply wells that draw from the basin
16 or subbasin.

17 (4) The total number of wells that draw from the basin or
18 subbasin.

19 (5) The irrigated acreage overlying the basin or subbasin.

20 (6) The degree to which persons overlying the basin or subbasin
21 rely on groundwater as their primary source of water.

22 (7) Any documented impacts on the groundwater within the
23 basin or subbasin, including overdraft, subsidence, saline intrusion,
24 and other water quality degradation.

25 (8) Any other information determined to be relevant by the
26 department, including adverse impacts on local habitat and local
27 streamflows.

28 (c) If the department determines that all or part of a basin or
29 subbasin is not being monitored pursuant to this part, the
30 department shall do all of the following:

31 (1) Attempt to contact all well owners within the area not being
32 monitored.

33 (2) Determine if there is an interest in establishing any of the
34 following:

35 (A) A groundwater sustainability plan pursuant to Part 2.74
36 (commencing with Section 10720).

37 (B) A groundwater management plan pursuant to Part 2.75
38 (commencing with Section 10750).

39 (C) An integrated regional water management plan pursuant to
40 Part 2.2 (commencing with Section 10530) that includes a

1 groundwater management component that complies with the
2 requirements of Section 10753.7.

3 (D) A voluntary groundwater monitoring association pursuant
4 to Section 10935.

5 (d) If the department determines that there is sufficient interest
6 in establishing a plan or association described in paragraph (2) of
7 subdivision (c), or if the county agrees to perform the groundwater
8 monitoring functions in accordance with this part, the department
9 shall work cooperatively with the interested parties to comply with
10 the requirements of this part within two years.

11 (e) If the department determines, with regard to a basin or
12 subbasin, that there is insufficient interest in establishing a plan
13 or association described in paragraph (2) of subdivision (c), and
14 if the county decides not to perform the groundwater monitoring
15 and reporting functions of this part, the department shall do all of
16 the following:

17 (1) Identify any existing monitoring wells that overlie the basin
18 or subbasin that are owned or operated by the department or any
19 other state or federal agency.

20 (2) Determine whether the monitoring wells identified pursuant
21 to paragraph (1) provide sufficient information to demonstrate
22 seasonal and long-term trends in groundwater elevations.

23 (3) If the department determines that the monitoring wells
24 identified pursuant to paragraph (1) provide sufficient information
25 to demonstrate seasonal and long-term trends in groundwater
26 elevations, the department shall not perform groundwater
27 monitoring functions pursuant to Section 10933.5.

28 (4) If the department determines that the monitoring wells
29 identified pursuant to paragraph (1) provide insufficient
30 information to demonstrate seasonal and long-term trends in
31 groundwater elevations, the department shall perform groundwater
32 monitoring functions pursuant to Section 10933.5.