

AMENDED IN ASSEMBLY MAY 21, 2015

AMENDED IN SENATE APRIL 23, 2015

AMENDED IN SENATE FEBRUARY 24, 2015

SENATE BILL

No. 13

Introduced by Senator Pavley

December 1, 2014

An act to amend Sections 5202, *10720.5*, *10720.7*, *10722.2*, *10722.4*, *10723*, *10723.6*, *10723.8*, *10724*, *10726.8*, *10730.2*, *10733.2*, *10733.3*, *10735.2*, *10735.4*, *10735.6*, and *10933* of, and to add Section *10729.2* to, 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 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 in a groundwater sustainability agency if the local agencies approve.

This bill would authorize a mutual water company to participate in a groundwater sustainability agency and would provide that a water corporation or a mutual water company may participate through a memorandum of agreement or other legal agreement.

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.

Existing law requires the department to categorize each basin as high-, medium-, low-, or very low priority and authorizes a local agency to request that the department revise the boundaries of a basin. Existing law provides that a local agency has 2 years from the date of a reprioritization that elevates a basin to a medium- or high-priority basin to either establish a groundwater sustainability agency or submit an alternative to the department and 5 years from the date of reprioritization to adopt a groundwater sustainability plan, as prescribed.

This bill would extend the deadline for a basin that is elevated to a medium- or high-priority basin before January 31, 2017, and is not subject to critical conditions of overdraft to be managed under a groundwater sustainability plan to January 31, 2022.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would state that a guideline, criterion, bulletin, or other technical or procedural analysis or guidance prepared by the department as required by the Sustainable Groundwater Management Act is not subject to the Administrative Procedure Act, except as prescribed.

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
11 management area of a groundwater sustainability agency and where
12 the county does not assume responsibility to be the groundwater

1 sustainability agency, as provided in subdivision (b) of Section
2 10724.

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

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

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

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

13 (3) An extraction reported pursuant to Part 5 (commencing with
14 Section 4999).

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

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

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

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

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

29 10720.5. (a) Groundwater management pursuant to this part
30 shall be consistent with Section 2 of Article X of the California
31 Constitution. Nothing in this part modifies rights or priorities to
32 use or store groundwater consistent with Section 2 of Article X of
33 the California Constitution, except that in basins designated
34 medium- or high-priority basins by the department, no extraction
35 of groundwater between January 1, 2015, and the date of adoption
36 of a groundwater sustainability plan pursuant to this ~~part~~, *part or*
37 *the approval by the department of an alternative submitted*
38 *pursuant to Section 10733.6*, whichever is sooner, may be used as
39 evidence of, or to establish or defend against, any claim of
40 prescription.

1 (b) Nothing in this part, or in any groundwater management
2 plan adopted pursuant to this part, determines or alters surface
3 water rights or groundwater rights under common law or any
4 provision of law that determines or grants surface water rights.

5 *SEC. 3. Section 10720.7 of the Water Code is amended to read:*

6 10720.7. (a) (1) By January 31, 2020, all basins designated
7 as high- or medium-priority basins by the department that have
8 been designated in Bulletin 118, as *it* may be updated or revised
9 on or before January 1, 2017, as basins that are subject to critical
10 conditions of overdraft shall be managed under a groundwater
11 sustainability plan or coordinated groundwater sustainability plans
12 pursuant to this part.

13 (2) By January 31, 2022, all basins designated as high- or
14 medium-priority basins by the department that are not subject to
15 paragraph (1) shall be managed under a groundwater sustainability
16 plan or coordinated groundwater sustainability plans pursuant to
17 this part.

18 (b) The Legislature encourages and authorizes basins designated
19 as low- and very low priority basins by the department to be
20 managed under groundwater sustainability plans pursuant to this
21 part. Chapter 11 (commencing with Section 10735) does not apply
22 to a basin designated as a low- or very low priority basin.

23 *SEC. 4. Section 10722.2 of the Water Code is amended to read:*

24 10722.2. (a) A local agency may request that the department
25 revise the boundaries of a basin, including the establishment of
26 new subbasins. A local agency's request shall be supported by the
27 following information:

28 (1) Information demonstrating that the proposed adjusted basin
29 can be the subject of sustainable groundwater management.

30 (2) Technical information regarding the boundaries of, and
31 conditions in, the proposed adjusted basin.

32 (3) Information demonstrating that the entity proposing the
33 basin boundary adjustment consulted with interested local agencies
34 and public water systems in the affected basins before filing the
35 proposal with the department.

36 (4) Other information the department deems necessary to justify
37 revision of the basin's boundary.

38 (b) By January 1, 2016, the department shall adopt regulations
39 regarding the information required to comply with subdivision (a),
40 including the methodology and criteria to be used to evaluate the

1 proposed revision. The department shall adopt the regulations,
2 including any amendments thereto, authorized by this section as
3 emergency regulations in accordance with the Administrative
4 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
5 Part 1 of Division 3 of Title 2 of the Government Code). The
6 adoption of these regulations is an emergency and shall be
7 considered by the Office of Administrative Law as necessary for
8 the immediate preservation of the public peace, health and safety,
9 or general welfare. Notwithstanding the Administrative Procedure
10 Act, emergency regulations adopted by the department pursuant
11 to this section shall not be subject to review by the Office of
12 Administrative Law and shall remain in effect until revised by the
13 department.

14 (c) Methodology and criteria established pursuant to subdivision
15 (b) shall address all of the following:

16 (1) How to assess the likelihood that the proposed basin can be
17 sustainably managed.

18 (2) How to assess whether the proposed basin would limit the
19 sustainable management of adjacent basins.

20 (3) How to assess whether there is a history of sustainable
21 management of groundwater levels in the proposed basin.

22 (d) ~~Prior to adopting and finalizing the regulations, the~~
23 ~~regulations pursuant to subdivision (b),~~ the department shall
24 conduct three public meetings to consider public comments. The
25 department shall publish the draft regulations on its Internet Web
26 site at least 30 days before the public meetings. One meeting shall
27 be conducted at a location in northern California, one meeting
28 shall be conducted at a location in the central valley of California,
29 and one meeting shall be conducted at a location in southern
30 California.

31 (e) The department shall provide a copy of its draft revision of
32 a basin's boundaries to the California Water Commission. The
33 California Water Commission shall hear and comment on the draft
34 revision within 60 days after the department provides the draft
35 revision to the commission.

36 *SEC. 5. Section 10722.4 of the Water Code is amended to read:*

37 10722.4. (a) Pursuant to Section 10933, for the purposes of
38 this part the department shall categorize each basin as one of the
39 following priorities:

40 (1) High priority.

- 1 (2) Medium priority.
- 2 (3) Low priority.
- 3 (4) Very low priority.

4 (b) The initial priority for each basin shall be established by the
 5 department pursuant to Section 10933 no later than January 31,
 6 2015.

7 (c) Any time the department updates Bulletin 118 boundaries
 8 pursuant to subdivision (b) of Section 12924, the department shall
 9 reassess the prioritization pursuant to Section 10933.

10 (d) ~~Any time~~ If the department changes ~~the basin~~ basin priorities
 11 pursuant to Section ~~10933~~, if a basin is elevated ~~10933~~ to elevate
 12 a basin from a low- or very low priority basin to a medium- or
 13 high-priority basin after January 31, ~~2015~~, a 2015, the agency
 14 formation and planning deadlines of this part shall be extended
 15 as follows:

16 (1) A local agency shall have two years from the date of
 17 reprioritization to either establish a groundwater sustainability
 18 agency pursuant to Chapter 4 (commencing with Section 10723)
 19 and five years from the date of reprioritization to adopt a
 20 groundwater sustainability plan pursuant to Chapter 6 (commencing
 21 with Section 10727) or two years to satisfy the requirements of
 22 Section 10733.6.

23 (2) A groundwater sustainability agency shall have five years
 24 from the date of reprioritization to meet the requirements of
 25 subdivision (a) of Section 10720.7, except that if the reprioritization
 26 occurs before January 31, 2017, a groundwater sustainability
 27 agency subject to paragraph (2) of subdivision (a) of Section
 28 10720.7 shall have until January 31, 2022.

29 ~~SEC. 2.~~

30 SEC. 6. 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 opt to become a groundwater sustainability agency for
 34 that basin.

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

39 (c) (1) Except as provided in paragraph (2), the following
 40 agencies created by statute to manage groundwater shall be deemed

1 the exclusive local agencies within their respective statutory
2 boundaries with powers to comply with this part:

3 (A) Alameda County Flood Control and Water Conservation
4 District, Zone 7.

5 (B) Alameda County Water District.

6 (C) Desert Water Agency.

7 (D) Fox Canyon Groundwater Management Agency.

8 (E) Honey Lake Valley Groundwater Management District.

9 (F) Long Valley Groundwater Management District.

10 (G) Mendocino City Community Services District.

11 (H) Mono County Tri-Valley Groundwater Management
12 District.

13 (I) Monterey Peninsula Water Management District.

14 (J) Ojai Groundwater Management Agency.

15 (K) Orange County Water District.

16 (L) Pajaro Valley Water Management Agency.

17 (M) Santa Clara Valley Water District.

18 (N) Sierra Valley Groundwater Management District.

19 (O) Willow Creek Groundwater Management Agency.

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

29 (3) A local agency listed in paragraph (1) may comply with this
30 part by meeting the requirements of Section 10733.6 or opting to
31 become a groundwater sustainability agency pursuant to this
32 section. A local agency with authority to implement a basin-specific
33 management plan pursuant to its principal act shall not exercise
34 any authorities granted in this part in a manner inconsistent with
35 any prohibitions or limitations in its principal act unless the
36 governing board of the local agency makes a finding that the
37 agency is unable to sustainably manage the basin without the
38 prohibited authority.

39 ~~SEC. 3.~~

40 *SEC. 7.* Section 10723.6 of the Water Code is amended to read:

1 10723.6. (a) A combination of local agencies may form a
2 groundwater sustainability agency by using any of the following
3 methods:

4 (1) A joint powers agreement.

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

6 (b) A water corporation regulated by the Public Utilities
7 Commission or a mutual water company may participate in a
8 groundwater sustainability agency through a memorandum of
9 agreement or other legal agreement. The authority provided by
10 this subdivision does not confer any additional powers to a
11 nongovernmental entity.

12 ~~SEC. 4.~~

13 *SEC. 8.* Section 10723.8 of the Water Code is amended to read:

14 10723.8. (a) Within 30 days of deciding to become or form a
15 groundwater sustainability agency, the groundwater sustainability
16 agency shall inform the department of its decision and its intent
17 to undertake sustainable groundwater management. The notification
18 shall include the following information, as applicable:

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

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

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

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

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

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

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

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

3 ~~SEC. 5.~~

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

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

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

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

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

22 *SEC. 10.* Section 10726.8 of the Water Code is amended to
23 read:

24 10726.8. (a) This part is in addition to, and not a limitation
25 on, the authority granted to a local agency under any other law.
26 The local agency may use the local agency’s authority under any
27 other law to apply and enforce any requirements of this part,
28 including, but not limited to, the collection of fees.

29 (b) Nothing in this part shall be construed as authorizing a local
30 agency to make a binding determination of the water rights of any
31 person or ~~entity~~; *entity, or to impose fees or regulatory*
32 *requirements on activities outside the boundaries of the local*
33 *agency.*

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

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

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

6 (f) Nothing in this chapter or a groundwater sustainability plan
7 shall be interpreted as superseding the land use authority of cities
8 and counties, including the city or county general plan, within the
9 overlying basin.

10 *SEC. 11. Section 10729.2 is added to the Water Code, to read:*
11 *10729.2. With the exception of regulations required by Sections*
12 *10722.2 and 10733.2, a guideline, criterion, bulletin, or other*
13 *technical or procedural analysis or guidance prepared by the*
14 *department as required by this part is not subject to the*
15 *Administrative Procedure Act (Chapter 3.5 (commencing with*
16 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
17 *Code).*

18 *SEC. 12. Section 10730.2 of the Water Code is amended to*
19 *read:*

20 10730.2. (a) A groundwater sustainability agency that adopts
21 a groundwater sustainability plan pursuant to this part may impose
22 fees on the extraction of groundwater from the basin to fund costs
23 of groundwater management, including, but not limited to, the
24 costs of the following:

25 (1) Administration, operation, and maintenance, including a
26 prudent reserve.

27 (2) Acquisition of lands or other property, facilities, and services.

28 (3) Supply, production, treatment, or distribution of water.

29 (4) Other activities necessary or convenient to implement the
30 plan.

31 (b) Until a groundwater sustainability plan is adopted pursuant
32 to this part, a local agency may impose fees in accordance with
33 the procedures provided in this section for the purposes of Part
34 2.75 (commencing with Section 10750) as long as a groundwater
35 management plan adopted before January 1, 2015, is in-effect-for
36 ~~the basin.~~ *effect.*

37 (c) Fees imposed pursuant to this section shall be adopted in
38 accordance with subdivisions (a) and (b) of Section 6 of Article
39 XIII D of the California Constitution.

1 (d) Fees imposed pursuant to this section may include fixed fees
2 and fees charged on a volumetric basis, including, but not limited
3 to, fees that increase based on the quantity of groundwater produced
4 annually, the year in which the production of groundwater
5 commenced from a groundwater extraction facility, and impacts
6 to the basin.

7 (e) The power granted by this section is in addition to any
8 powers a groundwater sustainability agency has under any other
9 law.

10 *SEC. 13. Section 10733.2 of the Water Code is amended to*
11 *read:*

12 10733.2. (a) (1) By June 1, 2016, the department shall adopt
13 regulations for evaluating groundwater sustainability plans, the
14 implementation of groundwater sustainability plans, and
15 coordination agreements pursuant to this chapter.

16 (2) The regulations shall identify the necessary plan components
17 specified in Sections 10727.2, 10727.4, and 10727.6 and other
18 information that will assist local agencies in developing and
19 implementing groundwater sustainability plans and coordination
20 agreements.

21 (b) (1) The department may update the regulations, including
22 to incorporate the best management practices identified pursuant
23 to Section 10729.

24 (2) The regulations adopted pursuant to paragraph (1) of
25 subdivision (a) shall identify appropriate methodologies and
26 assumptions for baseline conditions concerning hydrology, water
27 demand, regulatory restrictions that affect the availability of surface
28 water, and unreliability of, or reductions in, surface water deliveries
29 to the agency or water users in the basin, and the impact of those
30 conditions on achieving sustainability. The baseline for measuring
31 unreliability and reductions shall include the historic average
32 reliability and deliveries of surface water to the agency or water
33 users in the basin.

34 (c) By June 1, 2016, the department shall adopt regulations for
35 evaluating alternatives submitted pursuant to Section 10733.6.

36 (d) The department shall adopt the regulations, including any
37 amendments thereto, authorized by this section as emergency
38 regulations in accordance with the Administrative Procedure Act
39 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code). The adoption of

1 these regulations is an emergency and shall be considered by the
2 Office of Administrative Law as necessary for the immediate
3 preservation of the public peace, health and safety, or general
4 welfare. Notwithstanding the Administrative Procedure Act,
5 emergency regulations adopted by the department pursuant to this
6 section shall not be subject to review by the Office of
7 Administrative Law and shall remain in effect until revised by the
8 department.

9 (e) ~~Before adopting and finalizing the regulations,~~ *regulations*
10 *pursuant to this section*, the department shall conduct three public
11 meetings to consider public comments. The department shall
12 publish the draft regulations on its Internet Web site at least 30
13 days before the public meetings. One meeting shall be conducted
14 at a location in northern California, one meeting shall be conducted
15 at a location in the central valley of California, and one meeting
16 shall be conducted at a location in southern California.

17 ~~SEC. 6.~~

18 *SEC. 14.* Section 10733.3 of the Water Code is amended to
19 read:

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

23 ~~SEC. 7.~~

24 *SEC. 15.* Section 10735.2 of the Water Code is amended to
25 read:

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

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

30 (A) A local agency has decided to become a groundwater
31 sustainability agency that intends to develop a groundwater
32 sustainability plan for the entire basin.

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

37 (C) A local agency has submitted an alternative that has been
38 approved or is pending approval pursuant to Section 10733.6. If
39 the department disapproves an alternative pursuant to Section

1 10733.6, the board shall not act under this paragraph until at least
2 180 days after the department disapproved the alternative.

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

6 (A) A groundwater sustainability agency has adopted a
7 groundwater sustainability plan for the entire basin.

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

11 (C) The department has approved an alternative pursuant to
12 Section 10733.6.

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

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

22 (A) A groundwater sustainability agency has adopted a
23 groundwater sustainability plan for the entire basin.

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

27 (C) The department has approved an alternative pursuant to
28 Section 10733.6.

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

31 (A) After January 31, 2022, 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 of
37 long-term overdraft.

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

39 (i) The department, in consultation with the board, determines
40 that a groundwater sustainability plan is inadequate or that the

1 groundwater sustainability plan is not being implemented in a
2 manner that will likely achieve the sustainability goal.

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

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

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

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

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

35 (4) The determination may modify the water year or reporting
36 date for a report of groundwater extraction pursuant to Section
37 5202.

38 (d) If the board finds that litigation challenging the formation
39 of a groundwater sustainability agency prevented its formation
40 before July 1, 2017, pursuant to paragraph (1) of subdivision (a)

1 or prevented a groundwater sustainability program from being
2 implemented in a manner likely to achieve the sustainability goal
3 pursuant to paragraph (3), (4), or (5) of subdivision (a), the board
4 shall not designate a basin as a probationary basin for a period of
5 time equal to the delay caused by the litigation.

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

9 ~~SEC. 8.~~

10 *SEC. 16.* Section 10735.4 of the Water Code is amended to
11 read:

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

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

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

30 ~~SEC. 9.~~

31 *SEC. 17.* Section 10735.6 of the Water Code is amended to
32 read:

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

1 (b) The board may develop an interim plan pursuant to Section
2 10735.8 for the probationary basin one year after the designation
3 of the basin pursuant to paragraph (3) or (5) of subdivision (a) of
4 Section 10735.2, if the board, in consultation with the department,
5 determines that a local agency has not remedied the deficiency
6 that resulted in designating the basin a probationary basin.

7 ~~SEC. 10.~~

8 *SEC. 18.* Section 10933 of the Water Code is amended to read:

9 10933. (a) The department shall commence to identify the
10 extent of monitoring of groundwater elevations that is being
11 undertaken within each basin and subbasin.

12 (b) The department shall prioritize groundwater basins and
13 subbasins for the purpose of implementing this section. In
14 prioritizing the basins and subbasins, the department shall, to the
15 extent data are available, consider all of the following:

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

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

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

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

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

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

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

29 (8) Any other information determined to be relevant by the
30 department, including adverse impacts on local habitat and local
31 streamflows.

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

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

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

39 (A) A groundwater sustainability plan pursuant to Part 2.74
40 (commencing with Section 10720).

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

3 (C) An integrated regional water management plan pursuant to
4 Part 2.2 (commencing with Section 10530) that includes a
5 groundwater management component that complies with the
6 requirements of Section 10753.7.

7 (D) A voluntary groundwater monitoring association pursuant
8 to Section 10935.

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

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

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

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

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

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

O