

AMENDED IN ASSEMBLY JUNE 29, 2016
AMENDED IN ASSEMBLY JUNE 21, 2016
AMENDED IN ASSEMBLY MAY 31, 2016
AMENDED IN ASSEMBLY MARCH 7, 2016
AMENDED IN SENATE FEBRUARY 12, 2015

SENATE BILL

No. 37

Introduced by Senator Vidak
(Principal coauthor: Senator Fuller)
(Principal coauthors: Assembly Members Mathis and Salas)

December 1, 2014

An act to amend Section 10723 of the Water Code, and to create the Kings River East Groundwater Sustainability Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Vidak. Kings River East Groundwater Sustainability Agency Act.

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 any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin. The act deems certain agencies created by statute to manage groundwater the exclusive local agencies within their respective statutory boundaries with powers to comply with the act and authorizes these agencies to opt out of being the exclusive groundwater management agency.

This bill would create the Kings River East Groundwater Sustainability Agency and would require the agency's initial boundaries to be established by the boards of supervisors of the Counties of Fresno and Tulare after a noticed public hearing. The bill would require the agency to elect to be a groundwater sustainability agency under the Sustainable Groundwater Management Act for that portion of the Kings Subbasin that lies within the boundaries of the agency and would require the agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management within the territory of the agency. The bill would generally specify the powers and purposes of the agency. The bill would prescribe the composition of the 7-member board of directors of the agency and would require members and alternates to be chosen by certain member agencies, as specified. By imposing duties on the agency and the member agencies, the bill would impose a state-mandated local program. The bill would deem the Kings River East Groundwater Sustainability Agency the exclusive local agency with powers to comply with the Sustainable Groundwater Management Act.

This bill would incorporate additional changes to Section 10723 of the Water Code proposed by both this bill and SB 564 to become operative only if both bills are enacted and become effective before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known and may be cited as the
2 Kings River East Groundwater Sustainability Agency Act.

3
4 Kings River East Groundwater Sustainability Agency Act

5
6 Article 1. Findings and Declarations

7
8 101. The Legislature hereby finds and declares that the
9 preservation of the groundwater resources within the territory of
10 the agency for agricultural, municipal, and industrial uses is in the
11 public interest and that the creation of the agency pursuant to this
12 act is for the common benefit of water users.

13 102. The Legislature further finds and declares that the
14 groundwater management activities of the agency benefit all
15 operators of groundwater extraction facilities within the territory
16 of the agency.

17 103. The Legislature further finds and declares that
18 circumstances in the territory of the agency to be formed hereby,
19 which may not exist in other locations, justify the formation of the
20 agency and the grant of powers contained in this act.

21
22 Article 2. Creation and Purposes

23
24 201. (a) A groundwater management agency is hereby created
25 in the Counties of Fresno and Tulare to be known as the Kings
26 River East Groundwater Sustainability Agency.

27 (b) The agency shall be governed by a board as specified in
28 Section 501 and shall have the boundaries specified in Section
29 301. The agency shall only exercise the powers granted by this act
30 and the Sustainable Groundwater Management Act (Part 2.74
31 (commencing with Section 10720) of Division 6 of the Water
32 Code) for purposes of groundwater management within the
33 boundaries of the agency, together with any other powers as are
34 reasonably implied, necessary, and proper to carry out the
35 objectives and purposes of the agency to implement the Sustainable
36 Groundwater Management Act. The agency shall abide by the
37 rules and regulations promulgated by the Department of Water

1 Resources and the State Water Resources Control Board to
2 implement the Sustainable Groundwater Management Act.

3

4

Article 3. Boundaries

5

6 301. For purposes of this act, the initial boundaries of the
7 agency shall include the following:

8 (a) All land located within the exterior perimeter boundaries of
9 Alta Irrigation District that is within the Counties of Fresno and
10 Tulare.

11 (b) All land located in the incorporated City of Reedley.

12 (c) All land located in Kings River Water District plus parcel
13 350-150-16 within the County of Fresno, as that parcel existed as
14 of January 1, 2016, and excluding the incorporated City of Sanger.

15 (d) Land that is east of Alta Irrigation District and east of the
16 east line of Sections 13 and 24, T13S, R23E, between Alta
17 Irrigation District and east line and the east line of the Bulletin
18 118 Kings Subbasin boundary, as described in the report by the
19 Department of Water Resources titled, “California’s Groundwater:
20 Bulletin 118,” updated in 2003, as it may be subsequently updated
21 or revised in accordance with Section 12924 of the Water Code.

22 302. The agency’s initial boundaries shall be established by
23 the boards of supervisors of the Counties of Fresno and Tulare
24 after a noticed public hearing. The boundaries shall be depicted
25 on a map that shall be adopted by the boards of supervisors of
26 those counties and thereafter recorded in the office of the county
27 recorder of each county.

28 303. The boards of supervisors of the Counties of Fresno and
29 Tulare may adjust the boundaries of the agency in the same manner
30 prescribed for establishment of the initial boundaries if the
31 boundaries of the basin are revised, including the establishment
32 of new subbasins.

33

34

Article 4. Definitions

35

36 401. Unless otherwise indicated by their context, the definitions
37 set forth in this article govern the interpretation of this act.

38 401.1. “Actively and primarily engaged in production of
39 agriculture” means that a person derives at least 75 percent of his
40 or her annual income from production agriculture.

- 1 402. “Agency” means the Kings River East Groundwater
2 Sustainability Agency established by this act.
- 3 403. “Alta” means the Alta Irrigation District.
- 4 404. “Aquifer” means a geologic formation or structure that
5 transmits water in sufficient quantities to supply pumping wells
6 or springs.
- 7 405. “Basin” has the same meaning as defined in Section 10721
8 of the Water Code.
- 9 406. “Board” means the board of directors of the agency, as
10 more particularly described in Section 501.
- 11 407. “Cities” means the Cities of Dinuba, Orange Cove, and
12 Reedley.
- 13 408. “Coordination agreement” has the same meaning as
14 defined in Section 10721 of the Water Code.
- 15 409. “County” means either the County of Fresno or the County
16 of Tulare, as the context requires. “Counties” means the County
17 of Fresno and the County of Tulare.
- 18 410. “Extraction” means the act of obtaining groundwater by
19 pumping or other controlled means.
- 20 411. “Groundwater” has the same meaning as defined in
21 Section 10721 of the Water Code.
- 22 412. “Groundwater management activities” means programs,
23 measures, or actions taken to preserve, protect, and enhance
24 groundwater resources within the territory of the agency.
- 25 413. “Kings Subbasin” means the San Joaquin Valley
26 Groundwater Basin Kings Subbasin.
- 27 414. “Member agency” means Alta, the counties, the cities,
28 and the special districts entitled to representation on the agency’s
29 board of directors as specified in Section 501.
- 30 415. “Operator” has the same meaning as defined in Section
31 10721 of the Water Code.
- 32 416. “Person” includes any state or local governmental agency,
33 private corporation, firm, partnership, limited liability company,
34 individual, group of individuals, or, to the extent authorized by
35 law, any federal agency.
- 36 417. “Plan” means a groundwater sustainability plan prepared
37 by the agency pursuant to this act.
- 38 418. “Supplemental water” means surface water or groundwater
39 imported from outside the watershed or watersheds of the basin
40 or aquifer and floodwaters that are conserved and saved within the

1 watershed or watersheds that would otherwise have been lost or
2 would not have reached the basin or aquifer.

3

4

Article 5. General Provisions

5

6 501. (a) The agency shall be governed by a board of directors
7 that shall consist of seven members, as follows:

8 (1) One member shall be chosen by Alta.

9 (2) One member shall be chosen by the County of Fresno.

10 (3) One member shall be chosen by the County of Tulare.

11 (4) One member shall be chosen by the cities. This member
12 shall be chosen from the members of the city councils of the cities
13 whose territory, at least in part, overlies the territory of the agency.
14 This member shall be chosen at a public meeting where each city
15 is represented by its mayor.

16 (5) One member shall be chosen from the members of the
17 governing boards of the following special districts that are not
18 governed by the board of supervisors of either county, are engaged
19 in water activities, and whose territory, at least in part, overlies
20 the territory of the agency:

21 (A) Hills Valley Irrigation District.

22 (B) Orange Cove Irrigation District.

23 (C) Tri-Valley Water District.

24 (D) Kings River Water District.

25 (6) One member shall be chosen from the members of the
26 governing boards of special districts that provide drinking water
27 within the territory of the agency.

28 (7) One member shall be chosen by the other six board members
29 to represent agricultural interests within the territory of the agency.
30 This member shall reside and be actively and primarily engaged
31 in production of agriculture within the territory of the agency. This
32 member shall be selected from a list of at least five nominations
33 submitted from the Fresno County Farm Bureau and the Tulare
34 County Farm Bureau, acting jointly, but the five nominees need
35 not be members of either organization.

36 (b) The board members described in paragraphs (1), (2), and
37 (3) of subdivision (a) shall be chosen by their respective governing
38 boards from their board members whose districts or divisions
39 overlie, at least in part, the territory of the agency.

1 (c) The board members described in paragraphs (5) and (6) of
2 subdivision (a) shall be chosen at a public meeting where each
3 special district is represented by the president or chair of its
4 governing board.

5 (d) There shall be an alternate for each board member, chosen
6 in the same manner and by the same entity as the board member.
7 The alternate member shall act in place of the board member he
8 or she is an alternate for in case of that board member's absence
9 or inability to act.

10 502. (a) The members described in paragraphs (1) to (6),
11 inclusive, of subdivision (a) of Section 501 shall serve for a
12 four-year term of office, or until the member is no longer an
13 eligible official of the member agency. These members may serve
14 for more than one term of office.

15 (b) The member described in paragraph (7) of subdivision (a)
16 of Section 501 shall serve a four-year term of office.

17 503. (a) The board may adopt an ordinance to provide
18 compensation to members of the board in an amount not to exceed
19 one hundred dollars (\$100) per day for each day's attendance at
20 meetings of the board or for each day's service rendered as a
21 member of the board by request of the board. For purposes of this
22 section, the determination of whether a board member's activities
23 on any specific day are compensable shall be made pursuant to
24 Article 2.3 (commencing with Section 53232) of Chapter 2 of Part
25 1 of Division 2 of Title 5 of the Government Code.

26 (b) Reimbursement for expenses of members of the board is
27 subject to Sections 53232.2 and 53232.3 of the Government Code.

28 (c) The board may adopt an ordinance to increase the
29 compensation received by members of the board above the amount
30 of one hundred dollars (\$100) per day. The increase shall not
31 exceed an amount equal to 5 percent, for each calendar year
32 following the operative date of the last adjustment, of the
33 compensation that is received when the ordinance is adopted.

34 (d) A board member shall not be compensated for more than a
35 total of 10 days in any calendar month.

36 504. (a) The board may adopt ordinances for the purpose of
37 regulating, conserving, managing, and controlling the use and
38 extraction of groundwater within the territory of the agency.

39 (b) An ordinance adopted by the board shall become effective
40 30 days from the date of its passage.

1 (c) All ordinances shall be adopted at noticed, public hearings
2 by a majority vote of the board. No ordinance shall be adopted by
3 the board except at a public hearing. Notice of the hearing shall
4 be published in a newspaper of general circulation pursuant to
5 Section 6066 of the Government Code.

6 (d) The board shall provide notice of the adoption of all
7 ordinances.

8 505. No provision of this act shall be construed as denying to
9 the counties, any city, Alta, or any other member agency any rights
10 or powers that they already have or that they may be granted.

11 506. The agency may contract with either county or Alta for
12 staff and other services. The agency may hire contractors and
13 consultants as it considers appropriate.

14 507. The agency shall enter into a coordination agreement with
15 other local agencies for purposes of coordinating the agency's plan
16 with other agencies or groundwater sustainability plans within the
17 Kings Subbasin as required by the Sustainable Groundwater
18 Management Act (Part 2.74 (commencing with Section 10720) of
19 Division 6 of the Water Code).

20 508. The agency may exclude from any of the requirements of
21 this act, or the operation of any ordinance, any operator who
22 annually extracts less than a minimum amount of groundwater as
23 specified by an ordinance adopted by the board.

24

25 Article 6. Studies and Investigations

26

27 601. The agency may collect data and conduct technical and
28 other investigations of all kinds in order to carry out the provisions
29 of this act. All hydrological investigations and studies carried out
30 by or on behalf of the agency shall be constructed by or under the
31 supervision of licensed engineers or other persons qualified in
32 groundwater geology or hydrology.

33 602. The agency may recommend and encourage water
34 recycling and other water development projects, where those
35 projects will enhance and contribute to the responsible management
36 of groundwater resources, as part of its annual plan for
37 implementation of groundwater management objectives.

1 Article 7. Sustainable Groundwater Management Powers

2
3 701. The agency shall develop and implement a groundwater
4 sustainability plan pursuant to Chapter 6 (commencing with Section
5 10727) of Part 2.74 of Division 6 of the Water Code to achieve
6 sustainable groundwater management within the territory of the
7 agency.

8 702. The agency shall elect to be a groundwater sustainability
9 agency pursuant to Chapter 4 (commencing with Section 10723)
10 of Part 2.74 of Division 6 of the Water Code for that portion of
11 the Kings Subbasin that lies within the boundaries of the agency.

12 703. The agency may exercise any of the powers described in
13 Chapter 5 (commencing with Section 10725) of Part 2.74 of
14 Division 6 of the Water Code and the enforcement powers
15 described in Chapter 9 (commencing with Section 10732) of Part
16 2.74 of Division 6 of the Water Code.

17 704. The availability of supplemental water to any operator
18 shall not subject that operator to regulations that are more
19 restrictive than those imposed on other operators.

20
21 Article 8. Fee Authority

22
23 801. Pursuant to Chapter 8 (commencing with Section 10730)
24 of Part 2.74 of Division 6 of the Water Code, the agency may
25 impose fees, including, but not limited to, permit fees and fees on
26 groundwater extraction or other regulated activity, to fund the costs
27 of a groundwater sustainability program, that include, but are not
28 limited to, the preparation, adoption, and amendment of a
29 groundwater sustainability plan, investigations, inspections,
30 compliance assistance, enforcement, and program administration,
31 including a prudent reserve.

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

33 10723. (a) Except as provided in subdivision (c), any local
34 agency or combination of local agencies overlying a groundwater
35 basin may decide to become a groundwater sustainability agency
36 for that basin.

37 (b) Before deciding to become a groundwater sustainability
38 agency, and after publication of notice pursuant to Section 6066
39 of the Government Code, the local agency or agencies shall hold
40 a public hearing in the county or counties overlying the 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) Kings River East Groundwater Sustainability Agency.

12 (G) Long Valley Groundwater Management District.

13 (H) Mendocino City Community Services District.

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

15 (J) Monterey Peninsula Water Management District.

16 (K) Ojai Groundwater Management Agency.

17 (L) Orange County Water District.

18 (M) Pajaro Valley Water Management Agency.

19 (N) Santa Clara Valley Water District.

20 (O) Sierra Valley Groundwater Management District.

21 (P) Willow Creek Groundwater Management Agency.

22 (2) An agency identified in this subdivision may opt out of being
23 the exclusive groundwater management agency within its statutory
24 boundaries by sending a notice to the department, which shall be
25 posted on the department's Internet Web site within 15 days of
26 receipt. If an agency identified in paragraph (1) opts out of being
27 the exclusive groundwater management agency, any other local
28 agency or combination of local agencies operating within the
29 statutory boundaries of the agency that has opted out may notify
30 the department pursuant to Section 10723.8 of its decision to be
31 the groundwater sustainability agency.

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

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

3 (d) The decision of a local agency or combination of agencies
4 to become a groundwater sustainability agency shall take effect
5 as provided in Section 10723.8.

6 *SEC. 2.5. Section 10723 of the Water Code is amended to read:*

7 10723. (a) Except as provided in subdivision (c), any local
8 agency or combination of local agencies overlying a groundwater
9 basin may decide to become a groundwater sustainability agency
10 for that basin.

11 (b) Before deciding to become a groundwater sustainability
12 agency, and after publication of notice pursuant to Section 6066
13 of the Government Code, the local agency or agencies shall hold
14 a public hearing in the county or counties overlying the basin.

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

19 (A) Alameda County Flood Control and Water Conservation
20 District, Zone 7.

21 (B) Alameda County Water District.

22 (C) Desert Water Agency.

23 (D) Fox Canyon Groundwater Management Agency.

24 (E) Honey Lake Valley Groundwater Management District.

25 (F) *Kings River East Groundwater Sustainability Agency.*

26 ~~(F)~~

27 (G) Long Valley Groundwater Management District.

28 ~~(G)~~

29 (H) Mendocino City Community Services District.

30 ~~(H)~~

31 (I) Mono County Tri-Valley Groundwater Management District.

32 ~~(I)~~

33 (J) Monterey Peninsula Water Management District.

34 ~~(J)~~

35 (K) Ojai Groundwater Management Agency.

36 ~~(K)~~

37 (L) Orange County Water District.

38 ~~(L)~~

39 (M) Pajaro Valley Water Management Agency.

40 ~~(M)~~

- 1 (N) Santa Clara Valley Water District.
- 2 ~~(N)~~
- 3 (O) Sierra Valley Groundwater Management District.
- 4 (P) West Kings Groundwater Sustainability Agency.
- 5 ~~(O)~~
- 6 (Q) Willow Creek Groundwater Management Agency.

7 (2) An agency identified in this subdivision may opt out of being
 8 the exclusive groundwater management agency within its statutory
 9 boundaries by sending a notice to the department, which shall be
 10 posted on the department’s Internet Web site within 15 days of
 11 receipt. If an agency identified in paragraph (1) opts out of being
 12 the exclusive groundwater management agency, any other local
 13 agency or combination of local agencies operating within the
 14 statutory boundaries of the agency that has opted out may notify
 15 the department pursuant to Section 10723.8 of its decision to be
 16 the groundwater sustainability agency.

17 (3) A local agency listed in paragraph (1) may comply with this
 18 part by meeting the requirements of Section 10733.6 or opting to
 19 become a groundwater sustainability agency pursuant to this
 20 section. A local agency with authority to implement a basin-specific
 21 management plan pursuant to its principal act shall not exercise
 22 any authorities granted in this part in a manner inconsistent with
 23 any prohibitions or limitations in its principal act unless the
 24 governing board of the local agency makes a finding that the
 25 agency is unable to sustainably manage the basin without the
 26 prohibited authority.

27 (d) The decision of a local agency or combination of agencies
 28 to become a groundwater sustainability agency shall take effect
 29 as provided in Section 10723.8.

30 *SEC. 3. Section 2.5 of this bill incorporates amendments to*
 31 *Section 10723 of the Water Code proposed by both this bill and*
 32 *Senate Bill 564. It shall only become operative if (1) both bills are*
 33 *enacted and become effective on or before January 1, 2017, (2)*
 34 *each bill amends Section 10723 of the Water Code, and (3) this*
 35 *bill is enacted after Senate Bill 564, in which case Section 2 of this*
 36 *bill shall not become operative.*

37 ~~SEC. 3.~~

38 *SEC. 4.* No reimbursement is required by this act pursuant to
 39 Section 6 of Article XIII B of the California Constitution because
 40 a local agency or school district has the authority to levy service

- 1 charges, fees, or assessments sufficient to pay for the program or
- 2 level of service mandated by this act, within the meaning of Section
- 3 17556 of the Government Code.

O