

AMENDED IN SENATE APRIL 26, 2016

**SENATE BILL**

**No. 1317**

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**Introduced by Senator Wolk**

February 19, 2016

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An act to add Article 2.10 (commencing with Section 65891) to Chapter 4 of Division 1 of Title 7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Wolk. Conditional use permit: groundwater extraction facility.

The California Constitution requires the reasonable and beneficial use of water and that the conservation of the water resources of the state is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. 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~~ *and* designated as ~~basins~~ subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

This bill, by July 1, 2017, would require a city or county overlying a basin designated as a high- or medium-priority basin to establish a process for the issuance of conditional use permits for the development of a groundwater extraction facility in order to prevent a new

groundwater extraction facility from contributing to or creating an undesirable result, as prescribed. *The bill would prohibit a groundwater extraction facility in a high- or medium-priority basin from being developed without a valid conditional use permit, with certain exceptions. The bill would not require a city or county overlying a medium- or high-priority basin to have a process for the issuance of a conditional use permit for the development of a groundwater extraction facility on or after January 31, 2022, or once the department has evaluated a groundwater sustainability plan for the basin the city or county overlies and determined the plan to be adequate and likely to achieve the sustainability goal for the basin, whichever comes first.* By increasing the duties of cities and counties, this bill would impose a state-mandated local program.

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. Article 2.10 (commencing with Section 65891)  
2 is added to Chapter 4 of Division 1 of Title 7 of the Government  
3 Code, to read:

4  
5 Article 2.10. Aquifer Protection

6  
7 65891. The Legislature finds and declares as follows:

8 (a) Groundwater provides substantial water supplies for many  
9 farms and communities across the state, particularly in drier years.  
10 While in some parts of the state groundwater is very well managed,  
11 in other parts there has been substantial groundwater overdraft.

12 (b) During California's record drought, there has been a  
13 substantial increase in the extraction of groundwater resulting in  
14 impacts to aquifers.

15 (c) In 2014, California adopted landmark legislation, the  
16 Sustainable Groundwater Management Act (Part 2.74 (commencing  
17 with Section 10720) of Division 6 of the Water Code), to

1 sustainably manage groundwater resources. The act will not be  
2 fully implemented for many years, allowing groundwater overdraft  
3 to continue in some regions.

4 (d) Despite the drought, there has been a substantial and  
5 dramatic increase in conversion of existing pastureland and  
6 nonirrigated lands to new permanent crops irrigated by new deep  
7 groundwater wells. In many parts of the central valley, these new  
8 orchards and groundwater wells have caused or contributed to  
9 existing groundwater wells drying up. These new groundwater  
10 wells exacerbate overdraft in some regions of the state and have  
11 harmed and will continue to harm groundwater supplies for existing  
12 farms and rural communities and the long-term viability of aquifers.

13 (e) A number of new developments also rely on individual new  
14 wells, further stressing overdrafted groundwater basins.

15 (f) The number of new wells supplying significant new demands  
16 for groundwater has resulted in alarming subsidence in many areas  
17 of California. Subsidence threatens statewide resources and  
18 infrastructure such as roads, highways, and aqueducts. Importantly,  
19 subsidence may also cause permanent damage to aquifers,  
20 threatening groundwater resources for future generations.

21 (g) The lack of protection for aquifers, existing groundwater  
22 users, and important infrastructure from the explosive increase in  
23 new wells is an issue of statewide importance and requires  
24 statewide regulation to avoid undesirable results to groundwater  
25 and statewide resources while local communities are working to  
26 comply with the provisions of the Sustainable Groundwater  
27 Management Act. Preventing undesirable results in a high- or  
28 medium-priority basin pursuant to this article and in furtherance  
29 of Section 113 of the Water Code is a matter of statewide concern  
30 and not a municipal affair, as that term is used in Section 5 of  
31 Article XI of the California Constitution. Therefore, this act applies  
32 to charter cities.

33 (h) This act is in furtherance of the policy contained in Section  
34 2 of Article X of the California Constitution.

35 65891.1. As used in this article:

36 (a) “Basin” has the meaning provided in Section 10721 of the  
37 Water Code.

38 (b) “Bulletin 118” has the meaning provided in Section 10721  
39 of the Water Code.

- 1 (c) “De minimis extractor” has the meaning provided in Section
- 2 10721 of the Water Code.
- 3 (d) “Department” means the Department of Water Resources.
- 4 (e) “*Disadvantaged unincorporated community*” has the
- 5 meaning provided in Section 56033.5.
- 6 ~~(e)~~
- 7 (f) “Groundwater” has the meaning provided in Section 10721
- 8 of the Water Code.
- 9 ~~(f)~~
- 10 (g) “Groundwater extraction facility” has the meaning provided
- 11 in Section 10721 of the Water Code.
- 12 ~~(g)~~
- 13 (h) “High-priority basin,” “medium-priority basin,” “low-priority
- 14 basin,” and “very low priority basin” have the same meaning as
- 15 the categorization of a basin by the department pursuant to Section
- 16 10722.4 of the Water Code.
- 17 (i) “*Primary drinking water standards*” has the same meaning
- 18 provided in Section 116275 of the Health and Safety Code.
- 19 ~~(h)~~
- 20 (j) “Probationary basin” has the meaning provided in Section
- 21 10735 of the Water Code.
- 22 ~~(i)~~
- 23 (k) “Undesirable result” has the meaning provided in Section
- 24 10721 of the Water Code.
- 25 65891.2. (a) A city or county overlying a basin designated as
- 26 a high- or medium-priority basin shall do both of the following:
- 27 (1) By July 1, 2017, establish a process for the issuance of a
- 28 conditional use permit for the development of a groundwater
- 29 extraction facility that imposes conditions on the development of
- 30 a new groundwater extraction facility in order to prevent the new
- 31 groundwater extraction facility from contributing to or creating
- 32 an undesirable result.
- 33 (2) Prohibit the issuance of a conditional use permit for a new
- 34 groundwater extraction facility in either of the following:
- 35 (A) A probationary basin.
- 36 (B) A basin designated in Bulletin 118 as a basin subject to
- 37 critical conditions of overdraft.
- 38 (b) A conditional use permit for the development of a
- 39 groundwater extraction facility shall not be required for ~~either~~ any
- 40 of the following:

1 (1) A de minimis extractor.

2 (2) The replacement of an existing groundwater extraction  
3 facility with a new groundwater extraction facility with the same  
4 or a lesser extraction capacity. For the purposes of this article,  
5 replacement includes the deepening of a groundwater extraction  
6 facility.

7 (3) *A groundwater extraction facility constructed to provide*  
8 *drinking water to a water system, if the water system meets both*  
9 *of the following conditions:*

10 (A) *The system provides water to a disadvantaged*  
11 *unincorporated community.*

12 (B) *The system has received a citation for a violation of primary*  
13 *drinking water standards within the prior two years.*

14 (c) A city or county overlying a basin designated as a low- or  
15 very low priority basin may adopt an ordinance establishing a  
16 process for the issuance of conditional use permits for the  
17 development of a groundwater extraction facility in accordance  
18 with this section.

19 (d) *A groundwater extraction facility in a high- or*  
20 *medium-priority basin shall not be developed without a valid*  
21 *conditional use permit issued pursuant to this section.*

22 65891.3. (a) A city or county shall review an application for  
23 a groundwater extraction facility pursuant to the timelines  
24 established in the Permit Streamlining Act (Chapter 4.5  
25 (commencing with Section 65920)).

26 (b) A fee charged by a city or county to review an application  
27 for a groundwater extraction facility shall be determined in  
28 accordance with Sections 66014 and 66016.

29 65891.4. This article does not require a city or county to  
30 establish a new process for the issuance of a conditional use permit  
31 for the development of a groundwater extraction facility if the city  
32 or county has in effect an ordinance adopted before January 1,  
33 2017, that imposes conditions on the development of a new  
34 groundwater extraction facility in order to prevent the new  
35 groundwater extraction facility from contributing to or creating  
36 an undesirable result.

37 65891.5. *This article does not require a city or county overlying*  
38 *a medium- or high-priority basin to have a process for the issuance*  
39 *of a conditional use permit for the development of a groundwater*  
40 *extraction facility on or after January 31, 2022, or once the*

1 *department has evaluated a groundwater sustainability plan for*  
2 *the basin the city or county overlies and determined the plan to*  
3 *be adequate and likely to achieve the sustainability goal for the*  
4 *basin, whichever comes first.*

5 *65891.6. This article does not apply to a basin for which a*  
6 *court or the State Water Resources Control Board has adjudicated*  
7 *the rights to extract groundwater.*

8 SEC. 2. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 a local agency or school district has the authority to levy service  
11 charges, fees, or assessments sufficient to pay for the program or  
12 level of service mandated by this act, within the meaning of Section  
13 17556 of the Government Code.