

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN SENATE MAY 27, 2016

AMENDED IN SENATE MAY 10, 2016

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. Groundwater extraction permit.

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 and designated as 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 January 1, 2018, 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 a groundwater extraction permit for the development of a groundwater extraction facility that requires an applicant for a groundwater extraction permit to demonstrate, based on substantial evidence, that extraction of groundwater from a proposed groundwater extraction facility will not contribute to or create 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 groundwater extraction 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 groundwater extraction 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.

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

4       (c) In 2014, California adopted landmark legislation, the  
5 Sustainable Groundwater Management Act (Part 2.74 (commencing  
6 with Section 10720) of Division 6 of the Water Code), to  
7 sustainably manage groundwater resources. The act will not be  
8 fully implemented for many years, allowing groundwater overdraft  
9 to continue in some regions.

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

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

21      (f) The number of new wells supplying significant new demands  
22 for groundwater has resulted in alarming subsidence in many areas  
23 of California. Subsidence threatens statewide resources and  
24 infrastructure such as roads, highways, and aqueducts. Importantly,  
25 subsidence may also cause permanent damage to aquifers,  
26 threatening groundwater resources for future generations.

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

39      (h) This act is in furtherance of the policy contained in Section  
40 2 of Article X of the California Constitution.

1       65891.1. As used in this article:

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

4       (b) “Board” means the State Water Resources Control Board.

5       (c) “Bulletin 118” has the meaning provided in Section 10721  
6 of the Water Code.

7       (d) “De minimis extractor” has the meaning provided in Section  
8 10721 of the Water Code.

9       (e) “Department” means the Department of Water Resources.

10      (f) “Disadvantaged unincorporated community” has the meaning  
11 provided in Section 56033.5.

12      (g) “Groundwater” has the meaning provided in Section 10721  
13 of the Water Code.

14      (h) “Groundwater extraction facility” has the meaning provided  
15 in Section 10721 of the Water Code.

16      (i) “Groundwater sustainability plan” has the meaning provided  
17 in Section 10721 of the Water Code.

18      (j) “High-priority basin,” “medium-priority basin,” “low-priority  
19 basin,” and “very low priority basin” have the same meaning as  
20 the categorization of a basin by the department pursuant to Section  
21 10722.4 of the Water Code.

22      (k) “Primary drinking water standards” has the meaning  
23 provided in Section 116275 of the Health and Safety Code.

24      (l) “Probationary basin” has the meaning provided in Section  
25 10735 of the Water Code.

26      (m) “Special act water district” means an agency created by  
27 statute to manage groundwater that is the exclusive local agency  
28 within its statutory boundaries with powers to comply with Part  
29 2.74 (commencing with Section 10720) of Division 6 of the Water  
30 Code as described in paragraph (1) of subdivision (c) of Section  
31 10723 of the Water Code.

32      (n) “Undesirable result” has the meaning provided in Section  
33 10721 of the Water Code.

34       65891.2. (a) A city or county overlying a basin designated as  
35 a high- or medium-priority basin shall do both of the following:

36       (1) By January 1, 2018, establish a process for the issuance of  
37 a groundwater extraction permit for the development of a  
38 groundwater extraction facility that requires an applicant for a  
39 groundwater extraction permit to demonstrate, based on substantial  
40 evidence, that extraction of groundwater from a proposed

1 groundwater extraction facility will not contribute to or create an  
2 undesirable result.

3 (2) Prohibit the issuance of a groundwater extraction permit for  
4 a new groundwater extraction facility in either of the following:

5 (A) A probationary basin, except if the board determines that  
6 part of a probationary basin is being adequately managed, in which  
7 case the prohibition on the issuance of a groundwater extraction  
8 permit for a new groundwater extraction facility shall apply only  
9 to those portions of the probationary basin not adequately managed  
10 as determined by the board.

11 (B) A basin designated in Bulletin 118 as a basin subject to  
12 critical conditions of overdraft.

13 (b) A groundwater extraction permit for the development of a  
14 groundwater extraction facility shall not be required for any of the  
15 following:

16 (1) A de minimis extractor.

17 (2) The replacement of an existing groundwater extraction  
18 facility with a new groundwater extraction facility with the same  
19 or a lesser extraction capacity. For the purposes of this article,  
20 replacement includes the deepening of a groundwater extraction  
21 facility.

22 (3) A groundwater extraction facility constructed to provide  
23 drinking water to a water system for the purposes of public health.

24 (4) A groundwater extraction facility necessary for habitat or  
25 wetlands conservation.

26 (5) A groundwater extraction facility ~~necessary for a renewable~~  
27 ~~energy project such as utility scale solar; for a photovoltaic or~~  
28 ~~wind energy generation facility approved on or after January 1,~~  
29 ~~2017, that demands less than 75 acre-feet of groundwater annually.~~

30 (6) A groundwater extraction facility integral to a groundwater  
31 conjunctive use or storage program operating under an approved  
32 California Environmental Quality Act document.

33 (c) A city or county overlying a basin designated as a low- or  
34 very low priority basin may adopt an ordinance establishing a  
35 process for the issuance of groundwater extraction permits for the  
36 development of a groundwater extraction facility in accordance  
37 with this section.

38 (d) A groundwater extraction facility in a high- or  
39 medium-priority basin shall not be developed without a valid  
40 groundwater extraction permit issued pursuant to this section.

1       65891.3. (a) A city or county shall review an application for  
2 a groundwater extraction facility pursuant to the timelines  
3 established in the Permit Streamlining Act (Chapter 4.5  
4 (commencing with Section 65920)).

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

8       65891.4. This article does not require a city or county to  
9 establish a new process for the issuance of a groundwater extraction  
10 permit for the development of a groundwater extraction facility if  
11 the city or county has in effect an ordinance adopted before January  
12 1, 2018, that imposes conditions on the development of a new  
13 groundwater extraction facility in order to prevent the new  
14 groundwater extraction facility from contributing to or creating  
15 an undesirable result.

16       65891.5. This article does not require a city or county overlying  
17 a medium- or high-priority basin to have a process for the issuance  
18 of a groundwater extraction permit for the development of a  
19 groundwater extraction facility on or after January 31, 2022, or  
20 once the department has evaluated a groundwater sustainability  
21 plan for the basin the city or county overlies and determined the  
22 plan to be adequate and likely to achieve the sustainability goal  
23 for the basin, whichever comes first.

24       65891.6. (a) This article does not apply to a basin for which  
25 a court or the State Water Resources Control Board has adjudicated  
26 the rights to extract groundwater.

27       (b) This article does not apply ~~within the statutory boundaries~~  
28 ~~of to a basin, or any portion of a basin, managed by a special act~~  
29 ~~water-district; district identified in paragraph (1) of subdivision~~  
30 ~~(c) of Section 10723 of the Water Code.~~

31       (c) *The Legislature finds and declares that the County of Napa's*  
32 *groundwater conservation ordinance, Napa County Code Chapter*  
33 *13.15, in conjunction with its water availability analysis policy*  
34 *adopted in May 2015, satisfies the purposes of the requirement in*  
35 *Section 65891.4. Accordingly, this article does not apply to a basin*  
36 *managed by the County of Napa if both the county's groundwater*  
37 *conservation ordinance and its water availability analysis policy*  
38 *remain in effect in substantially the same form as they existed on*  
39 *January 1, 2016.*

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

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