

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 617**

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**Introduced by Assembly Member Perea**

February 24, 2015

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An act to amend Sections 10540, ~~10720.5~~, 10721, 10727.4, ~~10727.8~~, and 10733.4 of, and to add Sections 10726.5 and 10732.2 to, the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 617, as amended, Perea. 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.

This bill would define “in-lieu use” for the purposes of the act and would provide that, where appropriate, measures addressing in-lieu use shall be included in a groundwater sustainability plan.

The act authorizes a groundwater sustainability agency to exercise certain powers in implementing the act, in addition to, and not as a limitation on, any existing authority, if the groundwater sustainability agency adopts and submits to the Department of Water Resources a groundwater sustainability plan or prescribed alternative documentation.

This bill would, in addition to any other authorities granted to a groundwater sustainability agency, authorize a groundwater sustainability agency to enter into written agreements and funding with private parties that assist in or facilitate the implementation of groundwater sustainability plans or elements of a groundwater sustainability plan.

The act, with a specified exception, does not authorize a local agency to impose any requirement on the state or any agency, department, or officer of the state.

This bill, if a groundwater sustainability agency finds that a state entity is not working cooperatively regarding implementation of a groundwater sustainability plan, would permit the groundwater sustainability agency to file notice with the board and require the board to notice proceedings to investigate the finding of the groundwater sustainability agency. This bill would authorize the board to direct the state entity to cooperate in the implementation of the groundwater sustainability plan if the board determines that the failure of the state entity to work cooperatively regarding implementation of a groundwater sustainability plan compromises the ability of the groundwater sustainability agency to implement the plan in a manner that will likely achieve the sustainability goal unless the state entity indicates its authority for not complying with the groundwater sustainability plan.

Existing law, the Integrated Regional Water Management Planning Act, authorizes a regional water management group to prepare and adopt an integrated regional water management plan with specified components relating to water supply and water quality. Existing law authorizes a regional water management group to coordinate its planning activities to address or incorporate all or part of certain actions of its members into its plan, including groundwater management planning.

This bill would specify that groundwater sustainability planning is an action of regional water management group members that may be addressed or incorporated into a regional water management plan.

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 10540 of the Water Code is amended to  
2 read:  
3 10540. (a) A regional water management group may prepare  
4 and adopt an integrated regional water management plan in  
5 accordance with this part.  
6 (b) A regional water management group may coordinate its  
7 planning activities to address or incorporate all or part of any of  
8 the following actions of its members into its plan:  
9 (1) Groundwater management planning pursuant to Part 2.75  
10 (commencing with Section 10750), groundwater sustainability  
11 planning pursuant to Part 2.74 (commencing with Section 10720),  
12 or other specific groundwater management authority.  
13 (2) Urban water management planning pursuant to Part 2.6  
14 (commencing with Section 10610).  
15 (3) The preparation of a water supply assessment required  
16 pursuant to Part 2.10 (commencing with Section 10910).  
17 (4) Agricultural water management planning pursuant to Part  
18 2.8 (commencing with Section 10800).  
19 (5) City and county general planning pursuant to Section 65350  
20 of the Government Code.  
21 (6) Stormwater resource planning that is undertaken pursuant  
22 to Part 2.3 (commencing with Section 10560).  
23 (7) Other water resource management planning, including flood  
24 protection, watershed management planning, and multipurpose  
25 program planning.  
26 (c) At a minimum, all plans shall address all of the following:  
27 (1) Protection and improvement of water supply reliability,  
28 including identification of feasible agricultural and urban water  
29 use efficiency strategies.  
30 (2) Identification and consideration of the drinking water quality  
31 of communities within the area of the plan.

1 (3) Protection and improvement of water quality within the area  
2 of the plan, consistent with the relevant basin plan.

3 (4) Identification of any significant threats to groundwater  
4 resources from overdrafting.

5 (5) Protection, restoration, and improvement of stewardship of  
6 aquatic, riparian, and watershed resources within the region.

7 (6) Protection of groundwater resources from contamination.

8 (7) Identification and consideration of the water-related needs  
9 of disadvantaged communities in the area within the boundaries  
10 of the plan.

11 (d) This section does not obligate a local agency to fund the  
12 implementation of any project or program.

13 ~~SEC. 2. Section 10720.5 of the Water Code is amended to read:~~

14 ~~10720.5. (a) Groundwater management pursuant to this part~~  
15 ~~shall be consistent with Section 2 of Article X of the California~~  
16 ~~Constitution. Nothing in this part modifies rights or priorities to~~  
17 ~~use or store groundwater consistent with Section 2 of Article X of~~  
18 ~~the California Constitution, except that in basins designated~~  
19 ~~medium- or high-priority basins by the department, no extraction~~  
20 ~~of groundwater between January 1, 2015, and the date of adoption~~  
21 ~~of a groundwater sustainability plan pursuant to this part or the~~  
22 ~~approval by the department of an alternative submitted pursuant~~  
23 ~~to Section 10733.6, whichever is sooner, or any action to regulate~~  
24 ~~groundwater extractions taken as a means of implementing a~~  
25 ~~groundwater sustainability plan pursuant to Section 10726.4, may~~  
26 ~~be used as evidence of, or to establish or defend against, any claim~~  
27 ~~of prescription.~~

28 ~~(b) Nothing in this part, or in any groundwater management~~  
29 ~~plan adopted pursuant to this part, determines or alters surface~~  
30 ~~water rights or groundwater rights under common law or any~~  
31 ~~provision of law that determines or grants surface water rights.~~

32 ~~SEC. 3.~~

33 ~~SEC. 2.~~ Section 10721 of the Water Code is amended to read:

34 10721. Unless the context otherwise requires, the following  
35 definitions govern the construction of this part:

36 (a) “Adjudication action” means an action filed in the superior  
37 or federal district court to determine the rights to extract  
38 groundwater from a basin or store water within a basin, including,  
39 but not limited to, actions to quiet title respecting rights to extract

1 or store groundwater or an action brought to impose a physical  
2 solution on a basin.

3 (b) “Basin” means a groundwater basin or subbasin identified  
4 and defined in Bulletin 118 or as modified pursuant to Chapter 3  
5 (commencing with Section 10722).

6 (c) “Bulletin 118” means the department’s report entitled  
7 “California’s Groundwater: Bulletin 118” updated in 2003, as it  
8 may be subsequently updated or revised in accordance with Section  
9 12924.

10 (d) “Coordination agreement” means a legal agreement adopted  
11 between two or more groundwater sustainability agencies that  
12 provides the basis for coordinating multiple agencies or  
13 groundwater sustainability plans within a basin pursuant to this  
14 part.

15 (e) “De minimis extractor” means a person who extracts, for  
16 domestic purposes, two acre-feet or less per year.

17 (f) “Governing body” means the legislative body of a  
18 groundwater sustainability agency.

19 (g) “Groundwater” means water beneath the surface of the earth  
20 within the zone below the water table in which the soil is  
21 completely saturated with water, but does not include water that  
22 flows in known and definite channels.

23 (h) “Groundwater extraction facility” means a device or method  
24 for extracting groundwater from within a basin.

25 (i) “Groundwater recharge” or “recharge” means the  
26 augmentation of groundwater, by natural or artificial means.

27 (j) “Groundwater sustainability agency” means one or more  
28 local agencies that implement the provisions of this part. For  
29 purposes of imposing fees pursuant to Chapter 8 (commencing  
30 with Section 10730) or taking action to enforce a groundwater  
31 sustainability plan, “groundwater sustainability agency” also means  
32 each local agency comprising the groundwater sustainability  
33 agency if the plan authorizes separate agency action.

34 (k) “Groundwater sustainability plan” or “plan” means a plan  
35 of a groundwater sustainability agency proposed or adopted  
36 pursuant to this part.

37 (l) “Groundwater sustainability program” means a coordinated  
38 and ongoing activity undertaken to benefit a basin, pursuant to a  
39 groundwater sustainability plan.

1 (m) “In-lieu use” means the use of surface water by persons  
2 that could otherwise extract groundwater in order to leave  
3 groundwater in the basin.

4 (n) “Local agency” means a local public agency that has water  
5 supply, water management, or land use responsibilities within a  
6 groundwater basin.

7 (o) “Operator” means a person operating a groundwater  
8 extraction facility. The owner of a groundwater extraction facility  
9 shall be conclusively presumed to be the operator unless a  
10 satisfactory showing is made to the governing body of the  
11 groundwater sustainability agency that the groundwater extraction  
12 facility actually is operated by some other person.

13 (p) “Owner” means a person owning a groundwater extraction  
14 facility or an interest in a groundwater extraction facility other  
15 than a lien to secure the payment of a debt or other obligation.

16 (q) “Personal information” has the same meaning as defined in  
17 Section 1798.3 of the Civil Code.

18 (r) “Planning and implementation horizon” means a 50-year  
19 time period over which a groundwater sustainability agency  
20 determines that plans and measures will be implemented in a basin  
21 to ensure that the basin is operated within its sustainable yield.

22 (s) “Public water system” has the same meaning as defined in  
23 Section 116275 of the Health and Safety Code.

24 (t) “Recharge area” means the area that supplies water to an  
25 aquifer in a groundwater basin.

26 (u) “Sustainability goal” means the existence and  
27 implementation of one or more groundwater sustainability plans  
28 that achieve sustainable groundwater management by identifying  
29 and causing the implementation of measures targeted to ensure  
30 that the applicable basin is operated within its sustainable yield.

31 (v) “Sustainable groundwater management” means the  
32 management and use of groundwater in a manner that can be  
33 maintained during the planning and implementation horizon  
34 without causing undesirable results.

35 (w) “Sustainable yield” means the maximum quantity of water,  
36 calculated over a base period representative of long-term conditions  
37 in the basin and including any temporary surplus, that can be  
38 withdrawn annually from a groundwater supply without causing  
39 an undesirable result.

(x) “Undesirable result” means one or more of the following effects caused by groundwater conditions occurring throughout the basin:

(1) Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and groundwater recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

(2) Significant and unreasonable reduction of groundwater storage.

(3) Significant and unreasonable seawater intrusion.

(4) Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.

(5) Significant and unreasonable land subsidence that substantially interferes with surface land uses.

(6) Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

(y) “Water budget” means an accounting of the total groundwater and surface water entering and leaving a basin including the changes in the amount of water stored.

(z) “Watermaster” means a watermaster appointed by a court or pursuant to other law.

(aa) “Water year” means the period from October 1 through the following September 30, inclusive.

(ab) “Wellhead protection area” means the surface and subsurface area surrounding a water well or well field that supplies a public water system through which contaminants are reasonably likely to migrate toward the water well or well field.

~~SEC. 4.~~

SEC. 3. Section 10726.5 is added to the Water Code, to read:

10726.5. In addition to any other authority granted to a groundwater sustainability agency by this part or other law, a groundwater sustainability agency may enter into written agreements and funding with a private party to assist in, or facilitate

1 the implementation of, a groundwater sustainability plan or any  
2 elements of the plan.

3 ~~SEC. 5.~~

4 *SEC. 4.* Section 10727.4 of the Water Code is amended to read:  
5 10727.4. In addition to the requirements of Section 10727.2,  
6 a groundwater sustainability plan shall include, where appropriate  
7 and in collaboration with the appropriate local agencies, all of the  
8 following:

- 9 (a) Control of saline water intrusion.
- 10 (b) Wellhead protection areas and recharge areas.
- 11 (c) Migration of contaminated groundwater.
- 12 (d) A well abandonment and well destruction program.
- 13 (e) Replenishment of groundwater extractions.
- 14 (f) Activities implementing, opportunities for, and removing  
15 impediments to, conjunctive use or underground storage.
- 16 (g) Well construction policies.
- 17 (h) Measures addressing groundwater contamination cleanup,  
18 groundwater recharge, in-lieu use, diversions to storage,  
19 conservation, water recycling, conveyance, and extraction projects.
- 20 (i) Efficient water management practices, as defined in Section  
21 10902, for the delivery of water and water conservation methods  
22 to improve the efficiency of water use.
- 23 (j) Efforts to develop relationships with state and federal  
24 regulatory agencies.
- 25 (k) Processes to review land use plans and efforts to coordinate  
26 with land use planning agencies to assess activities that potentially  
27 create risks to groundwater quality or quantity.
- 28 (l) Impacts on groundwater dependent ecosystems.

29 *SEC. 5.* Section 10727.8 of the Water Code is amended to read:

30 10727.8. (a) Prior to initiating the development of a  
31 groundwater sustainability plan, the groundwater sustainability  
32 agency shall make available to the public and the department a  
33 written statement describing the manner in which interested parties  
34 may participate in the development and implementation of the  
35 groundwater sustainability plan. The groundwater sustainability  
36 agency shall provide the written statement to the legislative body  
37 of any city, county, or city and county located within the  
38 geographic area to be covered by the plan. The groundwater  
39 sustainability agency may appoint and consult with an advisory  
40 committee consisting of interested parties for the purposes of

1 developing and implementing a groundwater sustainability plan.  
2 The groundwater sustainability agency shall encourage the active  
3 involvement of diverse social, cultural, and economic elements of  
4 the population within the groundwater basin prior to and during  
5 the development and implementation of the groundwater  
6 sustainability plan. *If the geographic area to be covered by the*  
7 *plan includes a public water system regulated by the Public*  
8 *Utilities Commission, the groundwater sustainability agency shall*  
9 *provide the written statement to the commission.*

10 (b) For purposes of this section, interested parties include entities  
11 listed in Section 10927 that are monitoring and reporting  
12 groundwater elevations in all or a part of a groundwater basin  
13 managed by the groundwater sustainability agency.

14 SEC. 6. Section 10732.2 is added to the Water Code, to read:

15 10732.2. If a groundwater sustainability agency finds that a  
16 state entity is not working cooperatively regarding implementation  
17 of a groundwater sustainability plan, the groundwater sustainability  
18 agency may file notice with the board regarding its finding. The  
19 board shall notice proceedings to investigate the finding of the  
20 groundwater sustainability agency. If the board determines that  
21 the failure of the state entity to work cooperatively regarding  
22 implementation of a groundwater sustainability plan compromises  
23 the ability of the groundwater sustainability agency to implement  
24 the plan in a manner that will likely achieve the sustainability goal,  
25 the board may direct the state entity to cooperate in the  
26 implementation of the groundwater sustainability plan unless the  
27 state entity indicates its authority for not complying with a  
28 groundwater sustainability plan in the same manner as subdivision  
29 (f) of Section 10735.8.

30 SEC. 7. Section 10733.4 of the Water Code is amended to read:

31 10733.4. (a) Upon adoption of a groundwater sustainability  
32 plan, a groundwater sustainability agency shall submit the  
33 groundwater sustainability plan to the department for review  
34 pursuant to this chapter.

35 (b) If groundwater sustainability agencies develop multiple  
36 groundwater sustainability plans for a basin, the submission  
37 required by subdivision (a) shall not occur until the entire basin is  
38 covered by groundwater sustainability plans. When the entire basin  
39 is covered by groundwater sustainability plans, the groundwater

1 sustainability agencies shall jointly submit to the department all  
2 of the following:

3 (1) The groundwater sustainability plans.

4 (2) An explanation of how the groundwater sustainability plans  
5 implemented together satisfy Sections 10727.2, 10727.4, and  
6 10727.6 for the entire basin.

7 (3) A copy of the coordination agreement between the  
8 groundwater sustainability agencies to ensure the coordinated  
9 implementation of the groundwater sustainability plans for the  
10 entire basin.

11 (c) Upon receipt of a groundwater sustainability plan, the  
12 department shall post the plan on the department's Internet Web  
13 site and provide 60 days for persons to submit comments to the  
14 department about the plan.

15 (d) The department shall evaluate the groundwater sustainability  
16 plan within two years of its submission by a groundwater  
17 sustainability agency and issue an assessment of the plan. The  
18 assessment may include recommended corrective actions to address  
19 any deficiencies identified by the department.

20 (e) Nothing in this section shall be construed to prohibit a  
21 groundwater sustainability agency from implementing a  
22 groundwater sustainability plan prior to evaluation and assessment  
23 of the groundwater sustainability plan by the department.