



Solano Local Agency Formation Commission

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Staff Report

DATE: October 20, 2014
TO: Local Agency Formation Commission
FROM: Elliot Mulberg, Executive Officer

SUBJECT: **Legislative Report**

RECOMMENDATION: That the Commission receive the Legislative Report.

DISCUSSION:

The 2013-14 legislative session is complete. This report summarizes the status of legislation that Solano LAFCO has been following through the second year of the session.

The Governor signed three bills that addressed the drought. AB 1739 (Dickinson) requires a sustainable groundwater management plan to be adopted for each high or medium priority groundwater basin by any groundwater management agency.

SB 1168 (Pavley) calls for the formation of new groundwater management agencies through either a JPA, MOA, or some other legal agreement. The bill also requires the Department of Water Resources to establish procedures for local and groundwater management agencies to establish and modify basin and subbasin boundaries.

The third bill, SB 1319 will authorize the state board to designate certain high- and medium-priority basins as a probationary basin if, after January 31, 2025, the state board determines that groundwater extractions result in significant depletions of interconnected surface waters in the basin. SB 1319 was later amended to make various changes requested by the Governor's Office to AB 1739. Attachment A provides a summary of the provision of the three bills.

AB 2443 was also signed by the Governor. AB 2443 will authorize a recycled water producer to request a retail water supplier to enter into an agreement to provide recycled water to a potential customer.

Two bills we have been following were vetoed. AB 1527 (Parea was introduced to address grant requirements of the Safe Drinking Water State Revolving Fund. The one CEQA related bill, AB 543 (Campos) was also vetoed by the Governor. The bill was to have required the Governor's Office of Planning and Research to establish guidelines for lead agencies to determine when a translation of the CEQA document would be necessary.

Legislative Report Current as of 10/6/14

CHAPTERED LEGISLATION:

AB 1739 (Dickinson D) Groundwater basin management: sustainability.

Summary: Would require all groundwater basins designated as high-or medium-priority basins by the Department of Water Resources to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, with specified exceptions. This bill would require a groundwater sustainability agency to certify that its plan complies with the requirements of this bill no later than January 31, 2020, and every 5 years thereafter.

Subject: Water

AB 2156 (Achadjian R) Local agency formation commissions: studies.

Summary: Would include joint powers agencies and joint powers authorities among the entities from which a local agency formation commission is authorized to request land use information, studies, and plans, for purposes of conducting the studies described above, and also would include joint powers agreements in the list of items the commission may request in conducting those studies . The bill would specifically define "joint powers agency" and "joint powers authority" for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Subject: CKH General Procedures, LAFCO Administration, Municipal Services, Service Reviews/Spheres

AB 2762 (Committee on Local Government) Local government.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 does not apply to pending proceedings for a change or organization or reorganization for which the application was accepted for filing prior to January 1, 2001, as specified. The act authorizes these pending proceedings to be continued and completed under, and in accordance with, the law under which the proceedings were commenced. This bill would repeal those provisions relating to pending proceedings for a change or organization or reorganization for which an application was accepted for filing prior to January 1, 2001, and make other conforming changes.

Subject: CKH General Procedures – CALAFCO Omnibus Bill

SB 614 (Wolk D) Local government: jurisdictional changes: infrastructure financing.

Summary: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization by submitting a resolution of application to a local agency formation commission to also submit a plan for providing services within the affected territory, as specified. This bill would instead require, if a proposal for a change of organization or reorganization is submitted to a local commission, that the applicant submit a plan for providing services within the affected territory.

Subject: Annexation Proceedings, CKH General Procedures, Disadvantaged Communities

SB 1168 (Pavley D) Groundwater management.

Summary:

Current law requires the Department of Water Resources to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin or subbasin and prioritize groundwater basins and subbasins. The bill would require the Department of Fish and Wildlife, in collaboration with the department, to identify those basins and subbasins where species and ecosystems are vulnerable to existing or future groundwater conditions.

Subject: Water

SB 1319 (Pavley D) Groundwater

Summary:

Would authorize the state board to designate certain high- and medium-priority basins as a probationary basin if, after January 31, 2025, prescribed criteria are met, including that the state board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters. This bill would add to the prescribed determinations that would prevent the state board from designating the basin as a probationary basin for a specified time period.

Subject: Water

AB 2443 (Rendon D) Water Recycling Act of 1991: mutual water companies: duplication of service.

Summary: Would authorize a recycled water producer or wholesaler that has identified a potential use or customer within the service area or jurisdiction of the retail water supplier, to request, in writing, a retail water supplier to enter into an agreement to provide recycled water to the potential customer consistent with specified requirements of the Water Recycling Act of 1991. This bill contains other related provisions and other existing laws.

Subject: Water

VETOED LEGISLATION:

AB 1521 (Fox D) Local government finance: property tax revenue allocations: vehicle license

Summary: Beginning with the 2004-05 fiscal year, current law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a vehicle license fee property tax compensation fund that exists in each county treasury. Current law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. This bill would modify these reduction and transfer provisions, for the 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Subject: Financial Viability of Agencies, Tax Allocation

AB 1527 (Perea D) Public water systems: Safe Drinking Water State Revolving Fund.

Summary:

Current law, operative on July 1, 2014, and repealed as of January 1 of the next calendar year occurring after the State Water Resources Control Board provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the board has adopted a policy handbook, requires the board to establish a priority list of proposed projects to be considered for funding. This bill would require the board to give priority to funding the consolidation of public water systems based upon a service review developed by a local agency formation commission.

Subject: Disadvantaged Communities, Municipal Services, Service Reviews/Spheres

SB 69 (Roth D) Local government finance: property tax revenue allocation: vehicle license fee adjustments.

Summary: Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, for the 2014-15 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Subject: Tax Allocation

AB 543 (Campos D) California Environmental Quality Act: translation.

Summary:

CEQA requires the Office of Planning and Research to prepare and develop guidelines for the implementation of CEQA and the Secretary of the Natural Resources Agency to certify and adopt those guidelines. This bill would require the office, on or before July 1, 2016, to prepare and develop recommended amendments to the guidelines and the secretary, on or before January 1, 2017, to certify and adopt those amendments to the guidelines to establish criteria for a lead agency to assess the need for translating those notices into non-English languages, as specified.

Subject: CEQA

Sustainable Groundwater Management Act

AB 1739 SB 1168 SB 1319

Summary

The provisions of the Sustainable Groundwater Management Act (Act) are detailed. A timeline is also included.

Background

In March the Governor's Office released a draft groundwater management framework and solicited input on actions that could be taken to assure local managers have the tools and authority to sustainably manage groundwater, and how the State should structure state backstop authority when local action has not occurred or is insufficient.

In response, Senator Pavley introduced SB 1168 based on recommendations developed by the California Water Foundation (CWF) and Assembly Member Dickinson introduced AB 1739 based on recommendations developed by the Association of California Water Agencies (ACWA). At one point in the legislative process the two bills mirrored each other, but they were later amended to divide the various provisions between the two bills. AB 1739 was amended to make various changes to the provisions of SB 1168 and, as a result of ongoing negotiations, SB 1319 was later amended to make various changes requested by the Governor's Office to AB 1739.

CALAFCO had a number of issues with both AB 1739 and SB 1168, and through the amendment process, all initial concerns were removed. Both bills have been signed by the Governor and chaptered on 9/16/14.

Issue

Counties with high and medium priority designated basins to which the Act applies have an opportunity to play an active role in the development of the local governance structure in their counties. CSAC and RCRC feel that counties are the logical entity to take the lead to bring all the stakeholders together to jointly discuss and locally determine the governance structure that best suits the specific basins or portions of basins in the county. Unlike previous groundwater management law, local land use agencies are specifically authorized to undertake a more active role in groundwater management if they so choose.

Intent Language. Legislative intent includes: **“To recognize and preserve and authority of cities and counties to manage groundwater pursuant to their police power.”** (SB 1168/AB 1739)

Water Right Protections. Water right protections includes: **“Nothing in this part, or in any groundwater management plan adopted pursuant to this part, determines or alters surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.”** (SB 1168)

Federal/Tribal. To the extent authorized under federal or tribal law, the Act applies to Indian tribes and to the federal government. The federal government or any federally

recognized tribe may voluntarily participate in the preparation and/or administration of a groundwater sustainability plan (plan) through a joint powers authority or other agreement with local agencies in the basin. In an adjudication of rights, and the management of a basin or subbasin by a groundwater sustainability agency (GSA) or by the State Water Resources Control Board (Board), federally-reserved water rights to groundwater are required to be respected in full. (SB 1168)

Applicability. Applicable to all basins. Low and very low priority basins are encouraged to be managed under the plans, but are not subject to state intervention if they are not. (SB 1168)

Major Deadlines. On or before June 30, 2017 a local agency (or agencies) must notify the Department of Water Resources (Department) of the intent to become a GSA and to develop a plan for a basin (SB 1168)

High and medium priority basins that are designated as in a critical condition of overdraft (overdraft) are to be managed under a plan or coordinated plans by January 31, 2020 unless the basin is legally adjudicated or it has been established that it is otherwise being sustainably managed. (SB 1168)

High and medium priority basins that are not in overdraft are to be managed under a plan or coordinated plans by January 31, 2022 unless the basin is legally adjudicated or it has been established that it is otherwise being sustainably managed. (SB 1168)

Adjudicated Basins. Specified basins are exempt. (SB 1168)

Definitions. Definitions include:

- “De minimis extractor” means a person who extracts, for domestic purposes, two-acre feet or less per year.
- **“Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.** (SB 1168)

Basin Boundaries. A local agency may request the Department to revise the boundaries of a basin. The Department is required to adopt regulations regarding the information required from the local agency and the methodology and criteria to evaluate the proposed revision. (SB 1168)

Basin Prioritization. The Department is required to categorize each basin (high, medium, low, very low) no later than January 31, 2015. When the Department updates basin boundaries it is required to reassess the basin prioritization. If a basin is elevated to a medium or high priority basin after January 31, 2015, a local agency (or agencies) has two years to establish a GSA and five years to adopt a plan, or two years to submit an alternative plan. (SB 1168)

Groundwater Sustainability Agency Formation. Any local agency or combination of local agencies overlying a basin may elect to be a GSA for that basin. An exception is certain agencies created by statute that are deemed to be the exclusive

local agencies within their statutory boundaries unless they notice the Department that they elect to opt out. (SB 1168)

Before electing to become a GSA, a local agency (or agencies) is required to notice and hold a public hearing in the county or counties overlying the basin, and to submit a notice of intent to the Department. The GSA is required to consider the interests of all beneficial uses and users of groundwater. (SB 1168)

A combination of local agencies may form a GSA by joint powers agreement, a memorandum of agreement, or other legal document. The Department must be notified within 30 days of the formation of a GSA. Ninety days following the Department's posting of the notice of intent, the GSA is presumed to be the exclusive GSA within the area of the basin described in the notice provided that no other notice was submitted. (SB 1168)

In the event there is an area within a basin that is not within the management area of a GSA, the county will be presumed to be the GSA unless the county notifies the Department that it will not be the GSA for the area. If the county notifies the Department that it will not be the GSA for the area, or fails to provide notification, extractions made on or after July 1, 2017 will be subject to Board reporting requirements. (SB 1168)

Groundwater Sustainability Agency Powers and Authorities. A GSA may perform any act necessary to carry out its purposes including: the adoption of rules, regulations and resolutions; conducting investigations; the registration of extraction facilities; requiring water measurement; imposing fees; and, limiting extractions. GSA's are authorized to inspect property or facilities upon obtaining consent or obtaining an inspection warrant pursuant to existing law. (SB 1168)

GSA's may also: appropriate surface water or groundwater; acquire surface water or groundwater rights; import surface water or groundwater; conserve and store water; provide for or validate a voluntary fallowing program; manage and control polluted water; and, engage in any and all proceedings. (SB 1168)

GSA's may regulate extraction by: imposing spacing requirements on new well construction; and, impose operating regulations on existing wells. (AB 1739)

GSA's may also limit or suspend extractions from individual wells or in the aggregate; limit construction of new wells, the enlargement of existing wells, and the reactivation of abandoned wells; or, otherwise establish extraction allocations. These specific actions by a GSA are required to be consistent with the applicable elements of the city or county General Plan, unless there is insufficient sustainable yield in the basin to serve a land use designated in the city or county General Plan. (AB 1739)

GSA's may also authorize temporary or permanent transfers of extraction allocations within agency boundaries and to establish accounting rules to allow unused groundwater allocations to be carried over and voluntarily transferred. Transfers of water are subject to applicable city and county ordinances. (AB 1739)

GSA's are not authorized to issue permits for construction, modification, or abandonment of wells, except as authorized by a county with authority to issue those permits. A GSA may request, and the county is required to consider, that the county forward, before permit approval, permit requests for the construction of new wells, the enlarging of existing wells, and the reactivation of abandoned wells to the GSA. (AB 1739)

Nothing in a plan shall be interpreted as superseding the land use authority of cities and counties, including the city or county General Plan, within the overlying basin. (AB 1739)

Note: GSA powers and authorities do not apply to de minimus extractors. (SB 1168)

Groundwater Sustainability Agency Enforcement/Penalties. Extraction in excess of the amount authorized by a GSA is subject to a civil penalty not to exceed \$500 per acre-foot extracted in excess of the amount authorized. (AB 1739)

Violators of any GSA rule, regulation, ordinance, or resolution are liable for a civil penalty not to exceed \$1,000 plus \$100 for each additional day the violation continues if the person fails to comply within 30 days after notification of the violation. (AB 1739)

A GSA may bring an action in the superior court or may administratively impose a civil penalty. In either case, consideration is required to be given to all relevant circumstances. (AB 1739)

Penalties imposed are in addition to any civil penalty or criminal fine under any other law. (AB 1739)

Groundwater Sustainability Plan Development. Prior to plan development a GSA is required to:

- Make available to the public and Department a written statement describing how interested parties may participate in the development and implementation of the plan.
- Provide the written statement to any city or county located within the area to be covered by the plan.
- Encourage the active involvement of diverse social, cultural, and economic elements of the population. (SB 1168)

A GSA may appoint an advisory committee of interested parties. Interested parties include entities that are monitoring and reporting groundwater elevations in all or part of a basin managed by a GSA. (SB 1168)

CEQA does not apply to the preparation and adoption of plans, but does apply to projects that implement actions taken pursuant to the plan. (SB 1168)

A plan may incorporate, extend, or be based on a plan adopted pursuant to existing groundwater law and may be any of the following:

1. A single plan covering the entire basin developed and implemented by one GSA.
2. A single plan covering the entire basin developed and implemented by multiple GSA's.

3. Multiple plans implemented by multiple GSA's and coordinated through a single coordination agreement that covers the entire basin. (SB 1168)

Plans are required to include:

1. A description of the characteristics of the aquifer system underlying the basin including specified data.
2. Measurable objectives, including interim milestones, to achieve the sustainability goal within 20 years of implementation.
3. A 50 year planning and implementation horizon.
4. Other components, as applicable, including: monitoring and management of water levels; monitoring and management of water quality; land surface subsidence; and, mitigation of overdraft.
5. A description of the consideration given to the applicable county and city General Plans and a description of the various adopted water resources-related plans and programs within the basin and an assessment of how the plan may affect those plans. (SB 1168)

Plans are also required to include, among other things, and in collaboration with the appropriate local agencies:

6. Control of saline water intrusion; wellhead protection areas and recharge areas; mitigation of contaminated groundwater; replenishment of extractions; well construction policies; conservation; water recycling; processes to review land use plans and efforts to coordinate with land use planning agencies to access activities that potentially create risks to groundwater quality or quantity; and, impacts on groundwater dependent ecosystems. (SB 1168)

Plans are required to take into account the most recent planning assumptions stated in local General Plans of jurisdictions overlying the basin. (AB 1739)

A GSA is required to provide notice of the proposed adoption of the plan on its Internet Web site and to provide for electronic notice to any person who requests notification. (SB 1168)

A GSA may adopt or amend a plan after a public hearing held at least 90 days after providing notice to a city or county within the area of the proposed plan or amendment. The GSA is required to review and consider comments from any city or county that receives notice, and to consult with a city or county that requests consultation within 30 days of receipt of the notice. (SB 1168)

After adoption of a plan, the GSA is required to provide the appropriate local planning agencies the maps identifying existing or potential recharge areas for the basin. (SB 1168)

Upon adoption of a plan a GSA is required to submit the plan to the Department for review. (AB 1739)

Multiple Groundwater Sustainability Agencies – One Basin. GSA's who plan to develop and implement multiple plans are required to coordinate to ensure the plans utilize the same data and methodologies. (SB 1168)

GSA's that develop multiple plans are required to jointly submit the plans and to include an explanation of how the plans implemented together satisfy requirements, along with a copy of the coordination agreement. (AB 1739)

Alternative Plans. A local agency may submit an alternative plan to the Department. If the alternative is in a basin that is not in compliance with elevation monitoring requirements, the Department is required to find that the alternative does not meet the requirements. An alternative is any of the following:

1. A plan developed pursuant to existing groundwater management law.
2. Management pursuant to an adjudication action.
3. An analysis of basin conditions that demonstrates that the basin has operated within its sustainable yield over a period of at least 10 years. (AB 1739)

Alternative plans are to be submitted to the Department no later than January 1, 2017, and every five years thereafter. (AB 1739)

Annual Report. GSA's, on April 1 following the adoption of a plan, and annually thereafter, are required to submit to the Department a report containing specified data including: elevation data; aggregated extraction data for the preceding water year; total water use; and, change in storage. (SB 1168)

State Evaluation of Groundwater Sustainability Plans. The Department is required, at least every five years after initial submission, to review GSA plans or alternative plans. If there are multiple plans for a basin, the plans must be evaluated together. The Department is also required to evaluate if a plan adversely affects an adjacent basin. (AB 1739)

By June 1, 2016, the Department is required to adopt regulations for evaluating plans, implementation of plans, and coordination agreements, as well as regulations for evaluating alternative plans. The regulations are required to identify necessary plan components and other information that will assist local agencies in developing and implementing coordination agreements. The regulations are also to identify appropriate methodologies and assumptions for baseline conditions. Before finalizing the regulations, the Department is required to conduct three public hearings to consider public comments. (AB 1739)

The Department is required to post plans submitted on its web site and to provide a 60 day comment period. The Department is required to evaluate the plan within two years of its submission, and to issue an assessment. The assessment may include recommended corrective actions to address any deficiencies identified. (AB 1739)

Sustainability Deadline Extension. A GSA may request an extension of up to 5 years beyond the 20-year sustainability timeframe upon a showing of good cause. An additional 5 year extension may be granted if the GSA has adopted a feasible work plan for meeting the sustainability goal during the extension period. (SB 1168)

To obtain an extension the GSA must do all of the following:

1. Demonstrate a need for an extension.

2. Show progress toward meeting the sustainability goal.
3. Adopt a feasible work plan for meeting the sustainability goal during the extension period. (SB 1168)

State Intervention – Probationary Basins. After notice and public hearing, the Board may designate a basin as probationary if the Board finds that after June 30, 2017 one or more of the following applies:

1. No local agency has elected to be a GSA for the entire basin.
2. No collection of local agencies has formed a GSA or prepared agreements to develop one or more plans that will serve as a plan for the entire basin.
3. No local agency has submitted an alternative plan that has been approved or is pending approval. (SB 1319)

After notice and public hearing, the Board may designate a high or medium priority basin in overdraft as probationary if, after January 31, 2020, the following applies:

1. No GSA has adopted a plan for the entire basin.
2. No collection of local agencies have adopted plans that serve as a plan for the entire basin.
3. The Department has not approved an alternative plan.
4. After January 31, 2020, the Department determines that a plan is inadequate or is not being implemented in a manner that will likely achieve the sustainability goal. (SB 1319)

After notice and public hearing, the Board may designate a high or medium priority basin (not in overdraft) as probationary if the Board finds after January 31, 2022, that the following applies:

1. No GSA has adopted a plan for the entire basin.
2. No collection of local agencies have adopted plans that serve as a plan for the entire basin.
3. The Department has not approved an alternative.
4. After January 31, 2022, the Department determines that a plan is inadequate or that the plan is not being implemented in a manner that will likely achieve the sustainability goal and the Board determines that the basin is in a condition of long-term overdraft.
5. After January 31, 2025 the Department determines that a plan is inadequate or that the plan is not being implemented in a manner that will likely achieve the sustainability goal and the Board determines that a basin is in a condition where groundwater extractions result in significant depletions of interconnected surface water. (SB 1319)

The probationary basin determination may exclude a class or category of extractions from the reporting requirement if those extractions are subject to a local plan or program and certain conditions are met, or if those extractions are likely to have minimal impact on basin withdrawals. The determination may also require reporting of a class or category of extractions that would otherwise be exempt from reporting if those extractions are likely to have a substantial impact on basin withdrawals or requiring reporting is reasonably necessary to obtain required information. (SB 1319)

The probationary basin determination may establish requirements for the information to be required to be reported and for the installation of measuring devices, among other things. (SB 1319)

If the Board finds that litigation challenging the formation of a GSA prevented its formation before July 1, 2017, or prevented a program from being implemented in a manner likely to achieve the sustainability goal, the Board may not designate a basin as probationary for a period of time equal to the delay caused by the litigation. (SB 1319)

The Board is required to exclude from probationary status any portion of a basin for which a GSA demonstrates compliance with the sustainability goal. (SB 1319)

The Board is required to adopt or amend a determination or interim plan for a probationary basin in accordance with procedures for quasi-legislative action. (AB 1739)

The Board is required to publish notice of the hearing on its web site at least 90 days before the hearing, as well as to notify the Department and each city, county, or city and county in which any part of the basin is situated. At least 60 days before the hearing the Board is required to mail or send by electronic mail notice to all persons known to the Board who extract or who propose to extract water from the basin, or who have requested notice. (AB 1739)

The Board is authorized to adopt a regulation setting procedures for adopting a determination or plan, as well as emergency regulations if the Board determines it is necessary for the allocation, administration, or collection of the fees. (AB 1739)

The Board may order a person that extracts or uses water from the basin to prepare and submit technical or monitoring reports. An order is required to be served by personal service or registered mail. The order, unless issued after a hearing, is required to inform the party of the right to request a hearing within 30 days. If a hearing is not requested, the order takes effect as issued. If a hearing is requested within the 30 days, the Board may adopt a decision and order after conducting a hearing. (AB 1739)

In lieu of adopting an order directed at named persons, the Board may adopt a regulation applicable to a category or class of persons. (AB 1739)

In conducting an investigation or proceeding, the Board may inspect the property or facilities to ascertain compliance, including obtaining an inspection warrant pursuant to existing law. (AB 1739)

The Board, upon application of a person or upon its own motion, may review and revise an order issued or a regulation adopted. (AB 1739)

The Board is authorized to issue a cease and desist order in response to a violation or threatened violation of any decision or order of the Board or any extraction restriction, limitation, order, or regulation adopted or issued. A cease and desist order may only be issued after notice and an opportunity for hearing. (AB 1739)

A person who extracts groundwater from a probationary basin 90 days or more after the Board designates the basin as probationary or, on or after July 1, 2017, in an area that is not within the management area of a GSA and where the county does not assume responsibility to be the GSA, is required to file an extraction report by December 15 of each year for extractions made the preceding year. (AB 1739)

Unless reporting is required under other provisions of law, the reporting requirement does not apply to:

1. A de minimis extractor.
2. An extraction otherwise excluded as likely to have minimal impact on basin withdrawals.
3. An extraction currently required to be reported in certain counties.
4. An extraction included in annual reports filed with a court or the Board by a watermaster. (AB 1739)

Each report is required to be accompanied by a fee and be on a Board provided form. (AB 1739)

If a person fails to file a report, the Board may, at the expense of that person, investigate and determine the information required. The Board is required to provide notice of intent to investigate and to provide 60 days in which the person may file the report without penalty. (AB 1739)

Probationary Basins – Interim Plans. After notice and a public hearing, the Board may adopt an interim plan for a probationary basin. The interim plan is required to include:

1. Identification of the actions necessary to correct a condition of long-term overdraft or a condition where extractions result in significant depletions of interconnected surface water.
2. A time schedule for the actions to be taken.
3. A description of the monitoring to be undertaken to determine effectiveness of the plan. (SB 1319)

The interim plan may include restrictions on extractions, and principles and guidelines for the administration of rights to surface waters that are connected to the basins. The Board is required to include in its interim plan a plan or any element of a plan that the Board finds complies with the sustainability goals for that portion of the basin or would help meet the goals for the basin. (SB 1319)

The interim plan is required to be consistent with water right priorities, except where in the judgment of the Board an adjudication action can be relied on as part of the interim plan. (SB 1319)

Upon petition of a GSA with an adopted plan for the probationary basin or a portion of the basin, or a person authorized to file the petition by a judicial order or decree entered in an adjudication action in the probationary basin, the Board is required to determine if a plan or an adjudication action is adequate to eliminate long-term overdraft or condition where extractions result in significant depletions of interconnected surface waters. (SB 1319)

The Board is required to act on the petition within 90 days. If the Board determines that the plan or adjudication action is adequate, the Board is required to rescind the interim plan unless:

1. The petitioner requests the Board to amend an interim plan to eliminate portions of the interim plan, while allowing other portions to continue in effect; or,
2. The Board determines that the petitioner has not provided adequate assurances that the plan or judicial order or decree will be implemented. (SB 1319)

The Board may not establish an interim plan to remedy a condition where extractions result in significant depletions of interconnected surface waters before January 1, 2025.

Groundwater Sustainability Agency Fees. A GSA may impose fees, including but not limited to fees for permits, extraction, and fees to fund costs associated with development, administration and implementation of a program. Fees may include fixed fees and fees charged on a volumetric basis. (AB 1739)

Fees shall be adopted in accordance with Proposition 218. (AB 1739)

A GSA may not impose a fee on a de minimis extractor unless the GSA is regulating de minimis extractors. (AB 1739)

Prior to imposing or increasing a fee the GSA is required to hold a least one public meeting. Notice of the time and place is required to include a general explanation of the matter to be considered. Notice is required to be provided by multiple means. (AB 1739)

At least 10 days prior to the meeting, the GSA is required to make available to the public the data upon which the proposed fee is based. Any action by a GSA to impose or increase a fee is required to be taken by ordinance or resolution. (AB 1739)

A GSA may adopt a resolution requesting collection of the fees in the same manner as ordinary municipal ad valorem taxes. The adopted resolution shall be furnished to the county auditor-controller and board of supervisors on or before August 1 of each year that the alternative collection of the fees is being requested. The resolution shall include a list of parcels and the amount to be collected for each parcel. (AB 1739)

A state or local agency that extracts groundwater is subject to any fees imposed by a GSA to the same extent as any nongovernmental entity. (AB 1739)

Nonpayment of Groundwater Sustainability Agency Fees. If an owner or operator "knowingly fails" to pay a fee within 30 days of it becoming due, they are liable for interest at the rate of 1% per month on the delinquent amount and a 10% penalty. (AB 1739)

If a GSA makes a determination to limit or fix extractions, a written notice is required to be mailed to the owner or operator of the extraction facility. The owner or operator may file a written protest within 20 days after the mailing of the notice. If a protest is filed, the GSA is required to hold a hearing. Notice of the hearing is required to be mailed at

least 20 days before the hearing, and a notice of the determination is required to be mailed to each protestant. The owner or operator has 20 days from the mailing of the date of determination to pay the charges, interest, and penalties. (AB 1739)

The GSA may bring a suit in court for the collection of delinquent fees, interest or penalties. As an alternative, the GSA may collect any delinquent fees and any civil penalties and interest pursuant to laws applicable to the local agency or, after a public hearing, order an owner or operator to cease extraction of groundwater. (AB 1739)

State Water Board Fees. The Board is required to adopt a schedule of fees to recover costs. Recoverable costs include, but are not limited to, costs incurred in connection with investigations, facilitation, monitoring, hearings, enforcement, and administrative costs. The fee schedule may include, but is not limited to:

1. A fee for participation as a petitioner or party to an adjudicative proceeding.
2. A fee for filing a report. (AB 1739)

Legal Challenge – Fees. Venue of an action is the county in which the principal office of the GSA is located. Any judicial actions or proceeding to attack, review, set aside, void or annul the ordinance or resolution imposing a new, or increasing an existing fee, is required to be commenced within 180 days following the adoption of the ordinance or resolution. (SB 1168)

Fees may be paid under protest and an action may be brought in superior court. Payments and actions shall be made and brought in the manner provided for the payment of taxes under protest and actions for refund of that payment. (SB 1168)

Local Land Use Planning Agency/Groundwater Sustainability Agency Interaction. Before the adoption of any substantial amendment to a General Plan, the planning agency is required to review and consider the following:

1. An adoption or update of a groundwater sustainability plan; existing groundwater management plan; or, groundwater management court order, judgment, or decree.
2. An adjudication of water rights.
3. An order or interim plan by the Board. (AB 1739)

Before the adoption or substantial amendment of a General Plan, the planning agency is required to additionally refer the proposed action to:

1. Any GSA that has adopted a plan or local agency that otherwise manages groundwater pursuant to other provisions of law or a court order, judgment, or decree within the planning area of the General Plan.
2. The Board if it has adopted an interim plan that includes territory within the planning area of the General Plan. (AB 1739)

Upon receiving notice of the adoption or substantial amendment to a General Plan, the GSA or an entity that submits an alternative plan is required to provide the planning agency with, as relevant:

1. The current version of the plan or alternative plan.
2. Maps of recharge basins and percolation ponds, extraction limitations, and other relevant information, or the court order, judgment, or decree.

3. A report on the anticipated effect of the proposed action on implementation of a plan. (AB 1739)

Technical Assistance. The Department or a GSA may provide technical assistance to groundwater users, and the Department may provide technical assistance to a GSA in response to a request for assistance in the development and implementation of a plan. (AB 1739)

The Department is required, by January 1, 2017, to publish best management practices (BMP's) for the sustainable management of groundwater. The BMP's are to be developed through a public process. (AB 1739)

Sustainable Groundwater Management Act Timeline

January 15, 2015 deadline for the Department to categorize initial prioritization (high, medium, low, very low) of each basin.

After January 31, 2015 (if a basin is elevated to medium/high priority) two years are provided to establish a GSA and five years to adopt a plan, or two years to submit an alternative plan.

By June 1, 2016 the Department is to adopt regulations for evaluating plans, including alternative plans, implementing plans and coordination agreements.

By January 1, 2017 the Department is to publish a report (best estimate) of water available for replenishment of groundwater.

By January 1, 2017, the Department is to publish BMP's for the sustainable management of groundwater.

No later than January 1, 2017 alternative plans are to be submitted to the Department.

On or before June 30, 2017 deadline for the Department to be notified of the intent to become a GSA and develop a plan for the basin.

After June 30, 2017, the Board may designate a basin as probationary if certain conditions apply.

Before July 1, 2017, the Board may not designate a basin as probationary for a period of time equal to the delay caused by litigation if litigation prevented the formation of a GSA or prevented a program from being implemented in a manner likely to achieve the sustainability goal.

On or after July 1, 2017, extractions in an area not within a GSA will be subject to Board reporting requirements if the county notifies the Department that it will not be the GSA or fails to provide notification.

On or after July 1, 2017, extractions from a probationary basin 90 days or more after the basin is designated, in an area that is not within a GSA and where the county does

not assume responsibility to be the GSA, are required to be reported to the Board by December 15 of each year for extractions made the preceding year.

By January 31, 2020, high and medium priority basins that are designated to be in a critical condition of overdraft are to be managed under a plan or coordinated plans.

After January 31, 2020, the Board may designate a high or medium priority basin designated as subject to critical conditions of overdraft as probationary if certain conditions apply.

After January 31, 2020, the Board may designate a high or medium priority basin not designated as subject to critical conditions of overdraft as probationary if it is determined by the Department that a plan is inadequate or is not being implemented in a manner that will likely achieve the sustainability goal.

By January 31, 2022, high and medium priority basins that are not designated to be in critical condition of overdraft are to be managed under a plan or coordinated plans.

After January 31, 2022, the Board may designate a high or medium priority basin (not in overdraft) as probationary if the Board finds that certain conditions apply.

After January 31, 2022, the Board may designate a high or medium priority basins as probationary if the Department determines that a plan is inadequate or that the plan is not being implemented in a manner that will likely achieve the sustainability goal and the Board determines that the basin is in a condition of long-term overdraft.

Before January 1, 2025, the Board may not establish an interim plan to remedy a condition where extractions result in significant depletions of interconnected surface waters.

After January 31, 2025, the Board may designate a high or medium priority basin as probationary if the Department determines that a plan is inadequate or that the plan is not being implemented in a manner that will likely achieve the sustainability goal and the Board determines that a basin is in a condition where groundwater extractions result in significant depletions of interconnected surface water.

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