

SUMMARY OF SB 1168 (PAVLEY) & AB 1739 (DICKINSON)

THESE BILLS WOULD:

Establish the Sustainable Groundwater Management Act:

- Applies to groundwater basins.
- Applies to the United States & an Indian tribe to the extent authorized under federal or tribal law.

The Act does not apply to:

- Adjudicated basins, except for the provision of the judgment or judicial order & annual reporting of groundwater use.
- Low & very low priority basins, though such basins are encouraged to adopt groundwater sustainability plans.

Timetable:

- By January 1, 2017:
 - Local agencies must identify whether they elect to be, or to form, a groundwater sustainability agency. There can be more than one groundwater sustainability agency for a basin.
 - The entire basin must be covered by one or more groundwater sustainability agencies; i.e. no “unmanaged areas.”
 - Counties are presumed to be the default groundwater sustainability agency if no other local agency identifies itself as such; counties may elect, or decline, to undertake the role.
 - If there is more than one groundwater sustainability agency for a basin, the agencies must coordinate their planning.
- By January 1, 2020:
 - Each high & medium priority basin must be covered by an adopted groundwater sustainability plan.
 - If there is more than one adopted groundwater sustainability plan for a basin, the plans must use common data & demonstrate how they are coordinated with each other to achieve the basin objectives.
- Annually, upon adoption of a groundwater sustainability plan:
 - Each groundwater sustainability agency would report to DWR groundwater data, including elevation, aggregate extraction, water usage & change in groundwater storage. ***Note: additional refinements will be made in the bill to address reporting requirements.***
- Every 5 years after 2020:
 - Each groundwater sustainability agency and each local agency with a functional equivalent would recertify it is making progress towards achieving groundwater sustainability.
- By January 1, 2040:
 - Each high & medium priority basin shall achieve its sustainability goals.
 - DWR may grant an extension of up to 10 years upon a showing of good cause.

The groundwater sustainability agency shall:

- Consider the interests of all beneficial uses & users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following:
 - Holders of overlying groundwater rights, including Agricultural & domestic well owners.
 - Municipal well operators.
 - Public water systems.
 - Local land use planning agencies.
 - Environmental users of groundwater.
 - Surface water users, if there is a hydrologic connection between surface & groundwater bodies.
 - The federal government, including, but not limited to, the military & managers of federal lands.
 - Indian tribes.
- Establish & maintain a list of persons interested in receiving notices regarding plan preparation, meeting announcements, & availability of draft plans, maps, & other relevant documents.
- Inform the department of its election or formation & its intent to undertake sustainable groundwater management within 30 days of its election or formation.
- Be presumed to be the County for any area within a basin that is not within the management area of an existing groundwater sustainability agency; counties may elect, or decline, to undertake the role.

Agency powers & authorities:

- In addition to any other powers & authorities an agency may have, upon becoming an groundwater sustainability agency, the agency would be authorized to do the following:
 - To prepare & adopt a groundwater sustainability plan.
 - Adopt rules, regulations, ordinances, & resolutions.
 - To propose & update fees.
 - To monitor compliance & enforcement.
 - To require registration of groundwater extraction facilities.
 - To require every groundwater extraction facility be measured.
 - To appropriate & acquire surface water or groundwater & surface water or groundwater rights, import surface water or groundwater into the agency, & conserve & store that water within or outside the agency.
 - To transport, reclaim, purify, desalinate, treat, or otherwise manage & control polluted water, wastewater, or other waters for subsequent use.
 - File an action to determine the validity of the groundwater sustainability plan.
- This Act does not grant new authorities to groundwater sustainability agencies to do any of the following:
 - Issue permits for the construction, modification, or abandonment of groundwater wells
 - However, a county may authorize a groundwater sustainability agency to issue permits for the construction, modification, or abandonment of groundwater wells.

Contents of the plans:

- A groundwater sustainability plan must include:
 - A planning & implementation horizon of at least 50 years.
 - Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of implementing the plan.
 - A description of the physical setting & characteristics of the aquifer system underlying the basin.
 - A description of how the plan helps meet each objective & how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.
 - Components relating to the monitoring & management of groundwater levels, groundwater quality degradation, inelastic land surface subsidence, & changes in surface flow & surface water quality that directly affect groundwater levels or quality or are caused by groundwater pumping in the basin.
 - Mitigation of overdraft.
- A groundwater sustainability plan may when appropriate & in collaboration with the appropriate local agencies include any of the following:
 - Control of saline water intrusion.
 - Wellhead protection areas & recharge areas.
 - Migration of contaminated groundwater.
 - A well abandonment & well destruction program.
 - Replenishment of groundwater extractions.
 - Activities implementing, opportunities for, & impediments to, conjunctive use.
 - Well construction policies.
 - Measures addressing groundwater contamination cleanup, recharge, diversions to storage, conservation, water recycling, conveyance, & extraction projects.
 - Efficient water management practices.
 - Efforts to develop relationships with state & federal regulatory agencies.
 - Processes to review land use plans & efforts to coordinate with land use planning agencies to assess activities that potentially create risks to groundwater quality or quantity.

Functional equivalence:

- Local agencies in high and medium priority groundwater basins that demonstrate that current management or operations activities have been consistent with the sustainable yield of the basin over a period of at least 10 years will be in compliance with the plan requirements. ***Note: additional refinements will be made in the bill to address functional equivalency.***

Coordination of multiple plans for a basin:

- If multiple groundwater sustainability agencies cover a basin, there must be a coordination agreement that covers the entire basin & ensures that the plans utilize the same data for the following assumptions in developing the plan:
 - Groundwater elevation data.
 - Groundwater extraction data.
 - Surface water supply.
 - Total water use.
 - Change in groundwater storage.

- Water budget.
- Sustainable yield.

DWR Review *Note: additional refinements will be made in the bill to clarify this process:*

- By June 1, 2016, DWRs shall develop guidelines for evaluating groundwater sustainability plans & groundwater sustainability programs.
- The guidelines shall identify the necessary plan components & other information that will assist local agencies in developing & implementing groundwater sustainability plans & groundwater sustainability programs.
- Upon completion of a groundwater sustainability plan, a groundwater sustainability agency shall submit the groundwater sustainability plan to DWR for review.
- DWR shall evaluate the groundwater sustainability plan within two years of its submission by a groundwater sustainability agency & issue an assessment of the plan. The assessment may include recommended corrective actions to address any deficiencies identified by DWR.
- At least every five years after submission, DWR, in consultation with the board, shall review the basin conditions and the progress in implementing a groundwater sustainability plan, or a plan or program deemed to be a functional equivalent for consistency with this part, including achieving the sustainability goal.
- DWR shall adopt a schedule of fees to recover costs incurred in carrying out this chapter.

State Intervention *Note: additional refinements will be made in the bill to clarify this process:*

- General provisions:
 - Intervention is not mandatory; the state water board always may exercise discretion.
 - The board has discretion to apply pressure incrementally.
 - 2- & 5-year safe havens for governance & plans, respectively.
- The four conditions that would allow state intervention:
 1. When local authorities fail to have subbasin-wide governance in 2 years.
 2. When local authorities fail to adopt a subbasin-wide plan in 5 years.
 3. When DWR determines that a plan is inadequate & the board determines that the basin is in a state of long-term overdraft or has significant depletions of interconnected surface water.
 4. When DWR determines that implementation is inadequate & the board determines that the basin is in a state of long-term overdraft or has significant depletions of interconnected surface water.
- The board will consult with DWR in assessing overdraft or surface water depletions.
- Long term overdraft is defined so that drought won't trigger intervention.
- Process:
 - If any of the four above conditions apply, the board may designate a basin as a probationary basin:
 - The board is required to identify specific deficiencies.
 - Deficiencies are limited to overdraft or surface water problems – not other problems with plans.
 - Designation triggers a 180-day cure period. During the cure period, the board may appoint a mediator to assist local agencies. The board may require extractors to report extractions.

- If the local agency does not cure the deficiency, the state water board may proceed with an interim plan:
 - The interim plan would address the deficiencies identified in the probation designation & are thus limited to overdraft & surface water issues, not other problems.
 - The board may tailor remedies within a subbasin by relying on local groundwater sustainability plans that are working well & focusing on problem areas.
 - The board may stay action or rescind its interim plan if local agencies are making good progress on a groundwater sustainability plan or an adjudication, even if the progress or adjudication is incomplete.
- If it limits extractions, the board must follow water right priorities to the extent feasible.
- The board may impose fees on extractors to pay its costs.

These bills would also:

- Establish that it is the policy of the state that groundwater resources be managed sustainably for long term water supply reliability & multiple economic, social, or environmental benefits for current & future beneficial uses.
- Require a city or county planning agency, before adopting or substantially amending a general plan, to review & consider groundwater sustainability plans.
- DWR may provide technical assistance to any groundwater sustainability agency in response to that agency's request for assistance in the development & implementation of a groundwater sustainability plan. DWR shall use its best efforts to provide the requested assistance.
- A basin's boundaries are those identified in Bulletin 118 unless other basin boundaries are established pursuant to this Act:
 - A local agency may request DWR to revise the boundaries of a basin, including the establishment of new subbasins.
 - A local agency's request shall be supported by information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management; technical information regarding the boundaries of, & conditions in, the proposed adjusted basin; & information demonstrating that the entity proposing the basin boundary adjustment consulted with interested local agencies & public water systems in the affected basins before filing the proposal with the department
- DWR shall prioritize basins & subbasins as provided in CASGEM (California State Groundwater Elevation Monitoring).
- DWR, in consultation with California Department of Fish & Wildlife, shall identify & develop criteria to identify groundwater basins & subbasins that should be prioritized based on adverse impacts to habitat & surface water resources. The criteria shall be incorporated into the determination of basin & subbasin prioritization at the department's next update of basin & subbasin prioritizations that occurs after January 1, 2017.
- Nothing in the bill prevents a legal action to adjudicate water rights.