



**SB-1317 Groundwater extraction permit.** (2015-2016)

Current Version: 06/20/16 - Amended Assembly

Compared to Version: 05/27/16 - Amended Senate

Compare Versions ⓘ

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

**Article 2.10. Aquifer Protection**

**65891.** The Legislature finds and declares as follows:

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

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

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

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

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

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

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

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

**65891.1.** As used in this article:

(a) "Basin" has the meaning provided in Section 10721 of the Water Code.

(b) "Board" means the State Water Resources Control Board.

(c) "Bulletin 118" has the meaning provided in Section 10721 of the Water Code.

(d) "De minimis extractor" has the meaning provided in Section 10721 of the Water Code.

(e) "Department" means the Department of Water Resources.

- (f) "Disadvantaged unincorporated community" has the meaning provided in Section 56033.5.
- (g) "Groundwater" has the meaning provided in Section 10721 of the Water Code.
- (h) "Groundwater extraction facility" has the meaning provided in Section 10721 of the Water Code.
- (i) "Groundwater sustainability plan" has the meaning provided in Section 10721 of the Water Code.
- (j) "High-priority basin," "medium-priority basin," "low-priority basin," and "very low priority basin" have the same meaning as the categorization of a basin by the department pursuant to Section 10722.4 of the Water Code.
- (k) "Primary drinking water standards" has the meaning provided in Section 116275 of the Health and Safety Code.
- (l) "Probationary basin" has the meaning provided in Section 10735 of the Water Code.
- (m) "Special act water district" means an agency created by statute to manage groundwater that is the exclusive local agency within its statutory boundaries with powers to comply with Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code as described in paragraph (1) of subdivision (c) of Section 10723 of the Water Code.
- (n) "Undesirable result" has the meaning provided in Section 10721 of the Water Code.

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

(1) By January 1, 2018, 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.

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

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

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

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

(1) A de minimis extractor.

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

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

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

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

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

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

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

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

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

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

**65891.5.** This article does 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.

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

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

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

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

