

# CLIENT NEWS BRIEF

## California Enacts Historic Sustainable Groundwater Management Act

October 2014  
Number 79

For the first time in its history, California has passed comprehensive legislation providing for the sustainable management of the state's groundwater resources. The several bills, Senate Bill (SB) 1168, SB 1319, and Assembly Bill (AB) 1739, collectively enacted the "Sustainable Groundwater Management Act" (Act). The goal of the Act is to achieve "sustainability" for California's groundwater basins, which will now be regulated by local agencies.

A total of 127 groundwater basins will be required to comply with the Act, while the remaining basins may opt in to its provisions. The impacts and duties imposed by the Act on the autonomy of cities and on land management of school districts may be dramatic. Lozano Smith is assessing these impacts and is ready to assist local agencies in gaining the most control and benefit possible. Agencies that are water providers that have facilities or well systems will want to pay close attention to these new laws.

### *Current Groundwater Regulation*

California produces approximately 14 million acre-feet of groundwater each year, which provides for approximately 40% of California's total water supply in normal years and as much as 60% in drought years. Some communities in California are 100% reliant on groundwater for their water supply. California's groundwater resources are stored in naturally occurring geologic "basins," which are separate and distinct geographical and hydrological formations.

Currently, California's groundwater basins are managed in three general ways. Some counties and cities have adopted local ordinances regulating groundwater under their police powers. More commonly, courts have adjudicated groundwater rights for regional basins. Finally, some local agencies regulate groundwater by express statutory authority or through "groundwater management plans" adopted pursuant to AB 3030. AB 3030 plans are voluntary and provide for the planned use, storage space, transmission capability, and water storage for a basin.

However, no current law requires the reasonable management of these critical water storage resources and, as a result, groundwater management in California has been piecemeal. This has resulted in the overuse (overdraft) of some basins. Given the necessary role of water, the Legislature felt this hodge-podge of management could no longer be accepted.

### *The Sustainable Groundwater Management Act*

The Act authorizes one or more local agencies overlying a groundwater basin that have water supply, water management, or land use responsibilities to become a "Groundwater Sustainability Agency" (GSA) for that basin. GSA's are granted broad authority under the Act to adopt and enforce rules and regulations for management of groundwater resources, conduct investigations, impose fees and restrictions on groundwater extraction, and require registration and monitoring of groundwater wells among other powers.



William P. Curley III  
Senior Counsel  
Los Angeles Office  
wcurley@lozanosmith.com



Gary B. Bell  
Associate  
Fresno Office  
gbell@lozanosmith.com



*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*

Each GSA is authorized to adopt a “Groundwater Sustainability Plan” (GSP) that will guide the exercise of its powers and authorities under the Act. The basic elements of a GSP mirror closely the requirements for existing groundwater management plans adopted pursuant to AB 3030.

A GSP must include interim milestones in five year increments to achieve the adopted “sustainability goal” for the particular basin within twenty years of adoption of the GSP. The sustainability goal must achieve sustainable groundwater management by identifying and causing the implementation of measures that will ensure the basin is operated within its sustainable yield, including preventing the chronic lowering of groundwater levels, reductions in groundwater storage, as well as preventing seawater intrusion, degraded water quality, land subsidence, and surface water depletions.

A total of 127 high- and medium-priority basins, as designated by the Department of Water Resources in Bulletin 118, must be managed by a GSP. Bulletin 118 contains data and evaluations of all groundwater basins in the state. The GSA for the particular basin must be formed by July 1, 2017. For basins that are subject to critical conditions of overdraft pursuant to Bulletin 118, a GSP must be adopted by January 31, 2020. For all other high- and medium-priority basins, a GSP must be adopted by January 31, 2022. All other water basins in California *may* form a GSA and adopt a GSP, but are not required to do so.

The Department of Water Resources is authorized to revise Bulletin 118 for designation of groundwater basins. Therefore, the number of basins subject to the mandatory provisions of the Act may change in the future. If the deadlines for adoption of a GSP are not complied with, the State Water Resources Control Board has the authority to impose its own “interim” plan until an acceptable GSP is in place in accordance with the Act.

### *Effects on Local Agencies*

Before July 1, 2017, local agencies in California with water supply, water management, or land use responsibilities must decide whether to be the GSA for their groundwater basin, either alone or in conjunction with other similar local agencies overlying the basin. If the local agency wishes to be the GSA, it must commence the procedures for doing so under the Act. Once the GSA is formed, it must adopt a GSP by the deadlines described above.

### *Effects on Groundwater Extractors*

Individuals and entities that extract groundwater in a high- or medium-priority basin in California will be subject to the rules and regulations adopted by the GSA for their basin, including the “sustainability goal” set forth in the GSP, once formed and adopted. Given the goals and intent of the Act, it is likely that restrictions on the total amount of groundwater extracted and fees for groundwater extraction will be imposed. Other rules and regulations can be expected as well and will depend on the specifics of the particular groundwater basin in question. However, domestic users of less than 652,000 gallons of groundwater will not be required to comply with any reporting or monitoring requirements imposed by a GSA for their groundwater basin. Therefore, while most domestic users will be exempt from reporting and monitoring requirements, certain institutions, users, and local agencies will be impacted by the new laws.

### *Future State Action*

Governor Jerry Brown stated in his signing statement for the legislation implementing the Act that he will propose legislation in the next session to streamline the process for judicial adjudication of groundwater rights in the state.

It is very important to develop a strategy early to best protect and benefit your agency as the Act is implemented. If you have any questions regarding the Act, please contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).