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SB-564 North Fork Kings Groundwater Sustainability Agency Act. (2015-2016)

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Senate Bill No. 564

CHAPTER 392

An act to amend Section 10723 of the Water Code, and to create the North Fork Kings Groundwater Sustainability Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts.

[Approved by Governor September 16, 2016. Filed with Secretary of State September 16, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 564, Cannella. North Fork Kings Groundwater Sustainability Agency Act.

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. The act authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin. The act deems certain agencies created by statute to manage groundwater the exclusive local agencies within their respective statutory boundaries with powers to comply with the act and authorizes these agencies to opt out of being the exclusive groundwater management agency.

This bill would create the North Fork Kings Groundwater Sustainability Agency, would establish the initial boundaries of the agency, and would authorize the agency's boundaries to be changed by the boards of supervisors of the Counties of Fresno and Kings after a noticed public hearing, as specified. The bill would require the agency to be a groundwater sustainability agency under the Sustainable Groundwater Management Act for that portion of the Kings Subbasin that lies within the boundaries of the agency and would require the agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management within the territory of the agency. The bill would generally specify the powers and purposes of the agency. The bill would prescribe the composition of the 7-member board of directors of the agency and would require members and alternates to be chosen by certain member agencies, as specified. By imposing duties on the agency and the member agencies, the bill would impose a state-mandated local program. The bill would require the agency to establish a rural community advisory committee to assist the board of directors in considering the interests of all beneficial uses and users of groundwater and would deem the agency the exclusive local agency with powers to comply with the Sustainable Groundwater Management Act.

This bill would incorporate additional changes to Section 10723 of the Water Code proposed by both this bill and SB 37 to become operative only if both bills are enacted and become effective before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the North Fork Kings Groundwater Sustainability Agency.

North Fork Kings Groundwater Sustainability Agency

Article 1. Findings and Declarations

101. The Legislature hereby finds and declares that the preservation of the groundwater resources within the territory of the agency is in the public interest and that the creation of the agency pursuant to this act is for the common benefit.

102. The Legislature further finds and declares that the groundwater management activities of the agency benefit all operators of groundwater extraction facilities within the territory of the agency.

103. The Legislature further finds and declares that circumstances in the territory of the agency to be formed hereby, which may not exist in other locations, justify the formation of the agency and the grant of powers contained in this act. The territory of the agency to be formed hereby includes vast areas of the nation's top farm producing lands and places that have been designated by the State of California as disadvantaged communities disproportionately impacted by air quality and socioeconomic burdens. There are a number of scattered small public and private water entities in the territory of the agency that do not have the staff or resources to otherwise form a groundwater sustainability agency. These entities agree the territory is best served by a single dedicated agency to manage the groundwater resources.

Article 2. Creation and Purposes

201. (a) A groundwater management agency is hereby created in the Counties of Fresno and Kings to be known as the North Fork Kings Groundwater Sustainability Agency.

(b) The agency shall be governed by a board as specified in Section 501 and shall have the boundaries specified in Section 301. The agency shall only exercise the powers granted by this act and the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) for purposes of groundwater management within the boundaries of the agency, together with any other powers as are reasonably implied, necessary, and proper to carry out the objectives and purposes of the agency to implement the Sustainable Groundwater Management Act. The agency shall abide by the rules and regulations promulgated by the Department of Water Resources and the State Water Resources Control Board to implement the Sustainable Groundwater Management Act.

Article 3. Boundaries

301. For purposes of this act, the initial boundaries of the agency shall be as follows:

Beginning at the intersection of the southwestern boundary of Raisin City Water District (Raisin City WD) and Highway 145, the North Fork Kings Groundwater Sustainability Agency Boundary (Boundary) follows Highway 145 southwest to the southern boundary of Reclamation District 1606 (RD 1606). It then follows the southern boundaries of RD 1606 and James Irrigation District (James ID) to the intersection of the James ID boundary with the Kings Subbasin boundary. Then, it follows said subbasin boundary south and east to its intersection with the southwestern boundary of Consolidated Irrigation District (Consolidated ID). The Boundary then continues north and west following the southern Consolidated ID boundary and the southern and western Raisin City WD boundaries to the point of beginning.

302. (a) The initial boundaries of the agency may be changed upon a petition to the boards of supervisors of the Counties of Fresno and Kings after a noticed public hearing in the county in which the change is proposed. The boundaries shall be depicted on a map that shall be maintained by the boards of supervisors of those counties and thereafter recorded in the office of the county recorder of each county.

(b) The boundaries of the agency shall not be adjusted to include an area of the basin within the management area of another groundwater sustainability agency unless the agency has entered into a memorandum of agreement or other legal agreement with that groundwater sustainability agency that permits the area to be included.

(c) The boundaries of the agency shall not be adjusted to include any part of a proposed management area, as defined in a notice of intent submitted pursuant to Section 10723.8 of the Water Code, unless the agency has entered into a memorandum of agreement or other legal agreement with all agencies listed in the notice of intent that permits the area to be included.

Article 4. Definitions

401. Unless otherwise indicated by their context, the definitions set forth in this article govern the interpretation of this act.

403. "Agency" means the North Fork Kings Groundwater Sustainability Agency established by this act.

404. "Aquifer" means a geologic formation or structure that transmits water in sufficient quantities to supply pumping wells or springs.

405. "Basin" has the same meaning as defined in Section 10721 of the Water Code.

406. "Board" means the board of directors of the agency, as more particularly described in Section 501.

407. "Coordination agreement" has the same meaning as defined in Section 10721 of the Water Code.

408. "County" means either the County of Fresno or the County of Kings, as the context requires. "Counties" means the County of Fresno and the County of Kings.

409. "Extraction" means the act of obtaining groundwater by pumping or other controlled means.

410. "Groundwater" has the same meaning as defined in Section 10721 of the Water Code.

411. "Groundwater management activities" means programs, measures, or actions taken to preserve, protect, and enhance groundwater resources within the territory of the agency.

412. "Kings Subbasin" means the San Joaquin Valley Groundwater Basin Kings Subbasin.

413. "Member" means any person or entity entitled to representation on the agency's board of directors as specified in Section 501.

414. "Operator" has the same meaning as defined in Section 10721 of the Water Code.

415. "Person" has the same meaning as defined in Section 10735 of the Water Code.

416. "Plan" means a groundwater sustainability plan prepared by the agency pursuant to this act.

417. "Supplemental water" means surface water or groundwater imported from outside the watershed or watersheds of the basin or aquifer and floodwaters that are conserved and saved within the watershed or watersheds that would otherwise have been lost or would not have reached the basin or aquifer.

Article 5. General Provisions

501. (a) The agency shall be governed by a board of directors that shall consist of seven members, as follows:

(1) One member shall be a resident or landowner within the territory of the agency chosen by the County of Fresno. The member shall have experience or expertise in land use, water management, or improving access to drinking water in economically disadvantaged communities.

(2) One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

(A) Clark's Fork Reclamation District.

(B) Laguna Irrigation District.

(C) Upper San Jose Water Company.

(3) One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of special districts that are authorized to provide drinking water within the territory of the agency, who shall be chosen from the members of the governing boards of the special districts, including, but not limited to, the following special districts:

(A) Laton Community Services District.

(B) Riverdale Public Utility District.

(C) Lanare Community Services District.

(4) One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

(A) Crescent Canal Company.

(B) Stinson Canal and Irrigation Company.

(5) One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

(A) Riverdale Irrigation Company.

(B) Reed Ditch Company.

(6) One member shall be a resident or landowner within the territory of the agency chosen by the members of the governing boards of the following entities:

(A) Liberty Mill Race Company.

(B) Burrel Ditch Company.

(7) One member shall be chosen by the members of the governing boards of the following special districts, who shall be chosen from the members of the governing boards of the special districts:

(A) Liberty Water District.

(B) Liberty Canal Company.

(b) There shall be an alternate for each board member, chosen in the same manner and by the same entities as the board member. The alternate member shall act in place of the board member he or she is an alternate for in case of that board member's absence or inability to act.

(c) Initial members and their alternates shall be chosen on or before January 31, 2017.

502. The members shall serve for a four-year term of office. A member may serve for more than one term of office.

503. (a) The board may adopt an ordinance to provide compensation to members of the board in an amount not to exceed one hundred dollars (\$100) per day for each day's attendance at meetings of the board or for each day's service rendered as a member of the board by request of the board. For purposes of this section, the determination of whether a board member's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) Reimbursement for expenses of members of the board is subject to Sections 53232.2 and 53232.3 of the Government Code.

(c) The board may adopt an ordinance to increase the compensation received by members of the board above the amount of one hundred dollars (\$100) per day. The increase shall not exceed an amount equal to 5 percent, for each calendar year following the operative date of the last adjustment, of the compensation that is received when the ordinance is adopted.

(d) A board member shall not be compensated for more than a total of 10 days in any calendar month.

504. (a) The board may adopt ordinances for the purpose of regulating, conserving, managing, and controlling the use and extraction of groundwater within the territory of the agency.

(b) An ordinance adopted by the board shall become effective 30 days from the date of its passage.

(c) All ordinances shall be adopted at noticed, public hearings by a majority vote of the board. No ordinance shall be adopted by the board except at a public hearing. Notice of the hearing shall be published in a newspaper of general circulation pursuant to Section 6066 of the Government Code.

(d) The board shall provide notice of the adoption of all ordinances.

505. No provision of this act shall be construed as denying to any member agency any rights or powers that they already have or that they may be granted.

506. The agency may contract with member entities for staff and other services. The agency may hire contractors and consultants as it considers appropriate.

507. The agency shall enter into a coordination agreement with other local agencies for purposes of coordinating the agency's plan with other agencies or groundwater sustainability plans within the Kings Subbasin as required by the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code).

508. The agency may exclude from any of the requirements of this act, or the operation of any ordinance, any operator who annually extracts less than a minimum amount of groundwater as specified by an ordinance adopted by the board.

Article 6. Studies and Investigations

601. The agency may collect data and conduct technical and other investigations of all kinds in order to carry out the provisions of this act. All hydrological investigations and studies carried out by or on behalf of the agency shall be constructed by or under the supervision of licensed engineers or other persons qualified in groundwater geology or hydrology.

602. The agency may recommend and encourage water recycling, stormwater capture, and other water development projects, where those projects will enhance and contribute to the responsible management of groundwater resources, as part of its annual plan for implementation of groundwater management objectives.

Article 7. Sustainable Groundwater Management Powers

701. The agency shall develop and implement a groundwater sustainability plan pursuant to Chapter 6 (commencing with Section 10727) of Part 2.74 of Division 6 of the Water Code to achieve sustainable groundwater management within the territory of the agency.

702. The agency shall be a groundwater sustainability agency pursuant to Chapter 4 (commencing with Section 10723) of Part 2.74 of Division 6 of the Water Code for that portion of the Kings Subbasin that lies within the boundaries of the agency.

703. (a) (1) The agency may establish advisory committees that include persons representing interests of beneficial uses and users of groundwater for purposes of assisting the board in the development and operation of the groundwater sustainability agency and the development and implementation of the agency's groundwater sustainability plan.

(2) The agency shall develop rules for the operation of advisory committees. Members of the committees shall serve without compensation.

(b) (1) Pursuant to subdivision (a), the agency shall establish a rural community advisory committee for purposes of assisting the board to consider the interests of all beneficial uses and users of groundwater.

(2) The committee members shall serve at the pleasure of the board and shall include, but not be limited to, representatives of domestic well owners, municipal well operators, local land use planning agencies, residents served by a public water system that serves 200 or more connections, residents served by a small community water system, residents served by a public water system that serves fewer than 200 connections, and environmental justice organizations or community benefit organizations with demonstrated experience working with disadvantaged communities and with expertise in drinking water, groundwater, or land use.

704. The agency may exercise any of the powers described in Chapter 5 (commencing with Section 10725) of Part 2.74 of Division 6 of the Water Code and the enforcement powers described in Chapter 9 (commencing with Section 10732) of Part 2.74 of Division 6 of the Water Code.

705. The availability of supplemental water to any operator shall not subject that operator to regulations by the agency that are more restrictive than those imposed on other operators.

Article 8. Fee Authority

801. Pursuant to Chapter 8 (commencing with Section 10730) of Part 2.74 of Division 6 of the Water Code, the agency may impose fees, including, but not limited to, permit fees and fees on groundwater extraction or other regulated activity, to fund the costs of a groundwater sustainability program, that include, but are not limited to, the preparation, adoption, and amendment of a

groundwater sustainability plan, investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve.

Article 9. Miscellaneous

901. In the event of any conflict between the North Fork Kings Groundwater Sustainability Agency Act and the provisions of the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code), the provisions of the Sustainable Groundwater Management Act shall prevail.

SEC. 2. Section 10723 of the Water Code is amended to read:

10723. (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin.

(b) Before deciding to become a groundwater sustainability agency, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.

(c) (1) Except as provided in paragraph (2), the following agencies created by statute to manage groundwater shall be deemed the exclusive local agencies within their respective statutory boundaries with powers to comply with this part:

(A) Alameda County Flood Control and Water Conservation District, Zone 7.

(B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management District.

(F) Long Valley Groundwater Management District.

(G) Mendocino City Community Services District.

(H) Mono County Tri-Valley Groundwater Management District.

(I) Monterey Peninsula Water Management District.

(J) North Fork Kings Groundwater Sustainability Agency.

(K) Ojai Groundwater Management Agency.

(L) Orange County Water District.

(M) Pajaro Valley Water Management Agency.

(N) Santa Clara Valley Water District.

(O) Sierra Valley Groundwater Management District.

(P) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may opt out of being the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted on the department's Internet Web site within 15 days of receipt. If an agency identified in paragraph (1) opts out of being the exclusive groundwater management agency, any other local agency or combination of local agencies operating within the statutory boundaries of the agency that has opted out may notify the department pursuant to Section 10723.8 of its decision to be the groundwater sustainability agency.

(3) A local agency listed in paragraph (1) may comply with this part by meeting the requirements of Section 10733.6 or opting to become a groundwater sustainability agency pursuant to this section. A local agency with authority to implement a basin-specific management plan pursuant to its principal act shall not exercise any authorities granted in this part in a manner inconsistent with any prohibitions or limitations in its principal act unless the governing board of the local agency makes a finding that the agency is unable to sustainably manage the basin without the prohibited authority.

(d) The decision of a local agency or combination of agencies to become a groundwater sustainability agency shall take effect as provided in Section 10723.8.

SEC. 2.5. Section 10723 of the Water Code is amended to read:

10723. (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin.

(b) Before deciding to become a groundwater sustainability agency, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.

(c) (1) Except as provided in paragraph (2), the following agencies created by statute to manage groundwater shall be deemed the exclusive local agencies within their respective statutory boundaries with powers to comply with this part:

(A) Alameda County Flood Control and Water Conservation District, Zone 7.

(B) Alameda County Water District.

(C) Desert Water Agency.

(D) Fox Canyon Groundwater Management Agency.

(E) Honey Lake Valley Groundwater Management District.

(F) Kings River East Groundwater Sustainability Agency.

(G) Long Valley Groundwater Management District.

(H) Mendocino City Community Services District.

(I) Mono County Tri-Valley Groundwater Management District.

(J) Monterey Peninsula Water Management District.

(K) North Fork Kings Groundwater Sustainability Agency.

(L) Ojai Groundwater Management Agency.

(M) Orange County Water District.

(N) Pajaro Valley Water Management Agency.

(O) Santa Clara Valley Water District.

(P) Sierra Valley Groundwater Management District.

(Q) Willow Creek Groundwater Management Agency.

(2) An agency identified in this subdivision may opt out of being the exclusive groundwater management agency within its statutory boundaries by sending a notice to the department, which shall be posted on the department's Internet Web site within 15 days of receipt. If an agency identified in paragraph (1) opts out of being the exclusive groundwater management agency, any other local agency or combination of local agencies operating within the statutory boundaries of the agency that has opted out may notify the department pursuant to Section 10723.8 of its decision to be the groundwater sustainability agency.

(3) A local agency listed in paragraph (1) may comply with this part by meeting the requirements of Section 10733.6 or opting to become a groundwater sustainability agency pursuant to this section. A local agency with authority to implement a basin-specific management plan pursuant to its principal act shall not exercise any authorities granted in this part in a manner inconsistent with any prohibitions or limitations in its principal act unless the governing board of the local agency makes a finding that the agency is unable to sustainably manage the basin without the prohibited authority.

(d) The decision of a local agency or combination of agencies to become a groundwater sustainability agency shall take effect as provided in Section 10723.8.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 10723 of the Water Code proposed by both this bill and Senate Bill 37. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 10723 of the Water Code, and (3) this bill is enacted after Senate Bill 37, in which case Section 2 of this bill shall not become operative.

SEC. 4. 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.