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SB-372 San Joaquin River Exchange Contractors Groundwater Sustainability Agency. (2017-2018)

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Senate Bill No. 372

CHAPTER 357

An act to amend Section 10723 of the Water Code, and to create the San Joaquin River Exchange Contractors Groundwater Sustainability Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2017. Filed with Secretary of State September 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 372, Cannella. San Joaquin River Exchange Contractors Groundwater Sustainability Agency.

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 San Joaquin River Exchange Contractors Groundwater Sustainability Agency as the exclusive groundwater sustainability agency and successor in interest to the agency that submitted a notice of intent to become a groundwater sustainability agency to the department on December 22, 2015. The bill would establish the boundaries of the agency and would authorize the agency's boundaries to be changed. The bill 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 4-member board of directors of the agency and would require members and alternates to be chosen by member agencies, as specified. By imposing duties on the agency and the member agencies, the bill would impose a state-mandated local program.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. 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) San Joaquin River Exchange Contractors Groundwater Sustainability Agency.
- (P) Santa Clara Valley Water District.
- (Q) Sierra Valley Groundwater Management District.
- (R) 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. This section shall be known and may be cited as the San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act.

San Joaquin River Exchange Contractors Groundwater Sustainability Agency Act

Article 1. Findings and Declarations

101. The Legislature hereby finds and declares that the preservation of the groundwater resources within the boundaries 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 boundaries of the agency.

103. The Legislature further finds and declares that circumstances within the boundaries of the agency formed by this act, including longstanding joint action among the entities within the boundaries, justify the formation of the agency and the grant of powers contained in this act.

Article 2. Creation and Purposes

201. (a) A groundwater management agency is hereby created in the Counties of Fresno, Madera, Merced, and Stanislaus to be known as the San Joaquin River Exchange Contractors Groundwater Sustainability Agency.

(b) The agency shall be the successor in interest to the San Joaquin River Exchange Contractors Water Groundwater Sustainability Agency that submitted its notice of intent to become a groundwater sustainability agency to the Department of Water Resources on December 22, 2015.

(c) 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 activities 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. (a) For purposes of this act, the boundaries of the agency shall be as follows:

- (1) All land located within the boundaries of Central California Irrigation District, including Class II lands.
- (2) All land located within the boundaries of Firebaugh Canal Water District, including Class II lands.
- (3) All land located within the boundaries of San Luis Canal Company.
- (4) All land located within the boundaries of Columbia Canal Company.

(b) The lands included within the boundaries of the agency are depicted in the revised map submitted by the San Joaquin River Exchange Contractors Water Authority Groundwater Sustainability Agency to the Department of Water Resources on October 18, 2016.

(c) In the event of any ambiguity between the narrative boundary described in subdivision (a) and the map described in subdivision (b), the boundary depicted in the map shall control.

302. (a) The initial boundaries of the agency may be changed in accordance with either of the following procedures:

- (1) Upon completion of a change of organization or a reorganization to the Central California Irrigation District or the Firebaugh Canal Water District pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), the boundaries of the agency shall be automatically changed pursuant to Section 56120 of the Government Code.
- (2) Upon a proposal for a change of organization or reorganization initiated by the adoption of a resolution of application by the board and approval of the proposal by the local agency formation commission pursuant to Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code.

(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.

Article 4. Definitions

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

402. "Agency" means the San Joaquin River Exchange Contractors Groundwater Sustainability Agency established by this act.

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

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

405. "Delta-Mendota Subbasin" has the same meaning as described in the report entitled "California's Groundwater - Bulletin 118" updated in 2003, as it may be subsequently updated or revised by the Department of Water Resources in accordance with Section 12924 of the Water Code.

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

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

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

409. "Member agency" means the mutual water companies, irrigation district, and water district entitled to representation on the agency's board of directors as specified in Section 501.

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

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

412. "Plan" has the same meaning as defined in Section 10721 of the Water Code.

Article 5. General Provisions

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

(1) One member shall be chosen by the Central California Irrigation District.

(2) One member shall be chosen by the Firebaugh Canal Water District.

(3) One member shall be chosen by the San Luis Canal Company.

(4) One member shall be chosen by the Columbia Canal Company.

(b) The governing board of each member agency shall choose a board member for the purpose of subdivision (a) from the member agency's board members.

(c) There shall be an alternate for each board member, chosen in the same manner and by the same entity 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.

(d) Initial members and their alternates shall be chosen on or before July 1, 2018.

502. It shall not be a conflict of interest for any board member to simultaneously serve on the agency board, the board of directors of the San Joaquin River Exchange Contractors Water Authority, and the board of directors of any member agency, or any combination of those offices.

503. Members of the board shall serve for a four-year term of office or until the member is no longer a board member of the member agency that appointed him or her. A member may serve for more than one term of office.

504. (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, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may 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.

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

506. No provision of this act shall be construed as denying any member agency or the San Joaquin River Exchange Contractors Water Authority any rights or powers that they already have or that they may be granted.

507. The agency may hire contractors and consultants as it considers appropriate.

508. 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 Delta-Mendota Subbasin as required by the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code).

509. 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, licensed hydrogeologists, or other persons qualified in groundwater geology or hydrology.

602. The agency may recommend and encourage water recycling 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 the exclusive 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 Delta-Mendota Subbasin that lies within the boundaries of the agency.

703. 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.

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. The agency shall have the authority to sue and to be sued, including, but not limited to, as a party to an action pursuant to Chapter 7 (commencing with Section 830) of Title 10 of Part 2 of the Code of Civil Procedure.

902. In the event of any conflict between the San Joaquin River Exchange Contractors 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. 3. 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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the San Joaquin River Exchange Contractors Groundwater Sustainability Agency to establish itself as a groundwater sustainability agency and to begin managing the area within its boundaries without interrupting local control, it is necessary that this act take effect immediately.