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SB-779 Water. (2019-2020)

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Senate Bill No. 779

CHAPTER 255

An act to amend Sections 1705 and 10722.5 of, to amend the heading of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of, and to add Sections 1700.4 and 1700.6 to, the Water Code, relating to water.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 779, Committee on Natural Resources and Water. Water.

(1) Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Existing law authorizes an applicant, permittee, or licensee to change the point of diversion, place of use, or purpose of use from that specified in the application, permit, or license, upon permission of the board, as specified. Existing law after a hearing authorizes the board to grant or refuse as the facts warrant permission to change the point of diversion, place of use, or purpose of use.

This bill would authorize the board, after a hearing, to change any other provision or condition.

Existing law requires a petition for change of point of diversion, place of use, or purpose of use to meet certain requirements and authorizes the board to request additional information, as prescribed. Existing law requires the board to find that the change will not operate to the injury of any legal user of the water involved and to allow any interested person within a certain time to file a written protest against approval of the petition.

This bill would authorize an applicant, permittee, or licensee to initiate the making of, or consent to the making of, a minor change to an application, permit, or license without requiring the filing of a petition for change if the board makes specified findings, including that the change does not have the potential to adversely affect the water supply of other legal users of water or instream beneficial uses. The bill would require the board to provide notice, as prescribed, and to allow at least 15 days for public comment before making a minor change to an application, permit, or license.

(2) 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 requires the boundaries of a basin to be as identified in a specified report of the department, unless other basin boundaries are established, as prescribed. Existing law divides the San Luis Rey Valley Groundwater Basin into an upper and lower subbasin, as prescribed, and designates the subbasins as medium priority until the department reassesses basin prioritization.

This bill would revise the boundary between the upper and lower subbasins of the San Luis Rey Valley Groundwater Basin.

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

SECTION 1. The heading of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of the Water Code is amended to read:

CHAPTER 10. Change to an Application, Permit, or License

SEC. 2. Section 1700.4 is added to the Water Code, to read:

1700.4. (a) After notice of an application is given, the board may make a minor change to the application without requiring the filing of a petition for change if the board finds all of the following:

- (1) The change does not enlarge or increase the authorized rate, amount, or season of diversion.
- (2) The change does not increase the total area subject to inundation by water diverted to storage or the area where facilities will be constructed.
- (3) The change is not substantial or constitutes a reduction, agreed to by the applicant, in the authorized diversion, affected area, or other feature of the application.
- (4) The change does not have the potential to adversely affect the water supply of other legal users of water or instream beneficial uses.

(b) (1) A minor change under this section may be initiated by the applicant or, with the applicant's consent, the board. The board may obtain the applicant's consent informally through an oral conversation or other informal means, but promptly shall confirm that consent by mail or electronic mail directed to the applicant.

(2) Before making a minor change under this section, the board shall provide notice as described in paragraph (3) and allow at least 15 days for public comment.

(3) The board shall provide notice by mail or electronic mail to the applicant and any person who has filed a protest against the application and shall post notice on its internet website.

SEC. 3. Section 1700.6 is added to the Water Code, to read:

1700.6. (a) The board may make a minor change to a permit or license without requiring the filing of a petition for change if the board finds all of the following:

- (1) The change involves a minor adjustment of the point of diversion, place of use, or purpose of use.
- (2) The change will not result in an increase in consumptive use.
- (3) The change does not have the potential to adversely affect the water supply of other legal users of water or instream beneficial uses.

(b) (1) A minor change under this section may be initiated by the permittee or licensee or, with the permittee's or licensee's consent, the board. The board may obtain the permittee's or licensee's consent informally through an oral conversation or other informal means, but promptly shall confirm that consent in mail or electronic mail directed to the permittee or licensee.

(2) Before making a minor change under this section, the board shall provide notice as described in paragraph (3) and allow at least 15 days for public comment.

(3) The board shall provide notice by mail or electronic mail to the permittee or licensee and any person who has filed a comment concerning the proposed minor change and shall post notice on its internet website.

(c) For purposes of this section, a "minor change" means a change in the permit or license that will not in effect initiate a new appropriative right and will meet the requirements of subdivision (a).

SEC. 4. Section 1705 of the Water Code is amended to read:

1705. After the hearing, the board shall grant or refuse, as the facts warrant, permission to change the point of diversion, place of use, purpose of use, or any other provision or condition.

SEC. 5. Section 10722.5 of the Water Code is amended to read:

10722.5. (a) The San Luis Rey Valley Groundwater Basin, identified as Basin 9-007 in Bulletin 118 (2016), shall be divided into an upper and lower subbasin at the east line of the western boundary of Section 6, Range 2 West, Township 10 South, San Bernardino Meridian. The portion of the basin to the west of the dividing line shall be the Lower San Luis Rey Valley Groundwater Subbasin and the portion of the basin to the east of the dividing line shall be the Upper San Luis Rey Valley Groundwater Subbasin. Until the department reassesses prioritization pursuant to subdivision (c) of Section 10722.4, both subbasins shall be designated medium priority.

(b) (1) Notwithstanding any other law, water beneath the surface of the ground within the Upper San Luis Rey Valley Groundwater Subbasin shall be included within the definition of groundwater for the purposes of this part by any groundwater sustainability agency developing or implementing a groundwater sustainability plan, except for water beneath the surface of the ground downstream of the confluence of San Luis Rey River and Frey Creek that is extracted and used as authorized under an existing appropriative water right.

(2) The Legislature finds and declares that in light of the unique circumstances in the Upper San Luis Rey Valley Groundwater Subbasin it is necessary to include certain water within the subbasin flowing in known and definite channels in the subbasin's groundwater that is subject to this part and that this subdivision applies to only the Upper San Luis Rey Valley Groundwater Subbasin.

(c) Nothing in this section alters any water right or the priority of any water right under state or federal law, or alters the application of Division 2 (commencing with Section 1000) to water within the Lower and Upper San Luis Rey Valley Groundwater Subbasins.