



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**AB-779 Groundwater: adjudication.** (2023-2024)

SHARE THIS:  

Date Published: 10/12/2023 02:00 PM

**Assembly Bill No. 779**

**CHAPTER 665**

An act to amend Sections 840 and 850 of, and to add Section 831.5 to, the Code of Civil Procedure, and to amend Section 10737.4 of, and to add Sections 10737.3 and 10737.9 to, the Water Code, relating to groundwater.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 779, Wilson. Groundwater: adjudication.

(1) Existing law establishes various methods and procedures for a comprehensive adjudication of groundwater rights in civil court.

This bill would require the court, in an adjudication action for a basin required to have a groundwater sustainability plan, to appoint one party to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency within 10 business days of issuance. The bill would require the court to allocate payment of the costs incurred by the party appointed to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency among the parties in an amount and a manner that the court deems equitable. The bill would require the groundwater sustainability agency to post the documents on its internet website in the interest of transparency and accessibility within 20 business days of receipt from a party, as specified. The bill would authorize the court to refer the matter to the State Water Resources Control Board for investigation and report in order to assist the court in making findings pursuant to these provisions, and would authorize a party to request that the court refer the matter to the board for these purposes, as specified. The bill would require the court to consider the water use of and accessibility of water for small farmers and disadvantaged communities, as those terms are defined, before entering a judgment.

(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 to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans, except as specified. Existing law authorizes any local agency or combination of local agencies overlying a groundwater basin to decide to become a groundwater sustainability agency for that basin and imposes specified duties upon that agency or combination of agencies, as provided. Existing law requires, among other duties, a groundwater sustainability agency to evaluate its groundwater sustainability plan periodically. Existing law requires a groundwater sustainability agency, on the April 1 following the adoption of a groundwater sustainability plan and annually thereafter, to report specified information about the groundwater basin to the department.

This bill would require a groundwater sustainability agency to submit copies of those reports to the court during the duration of an adjudication proceeding. The bill would require all monitoring and reporting required under a groundwater sustainability plan or an interim plan for a basin subject to an adjudication to continue throughout the duration of the adjudication proceeding.

The bill would require a groundwater sustainability agency, upon receiving notice that an adjudication has commenced in its basin, to host a public meeting to explain the adjudication process and the status of the adjudication to water users within the

basin and the public. The bill would require a recording or summary of the meeting to be posted to a public internet website hosted by either the groundwater sustainability agency or the watermaster of the basin. The bill would authorize a groundwater sustainability agency to invite the state board or the department to send a representative to the meeting in order to help explain the adjudication process. The bill would apply these provisions only to basins in which a comprehensive adjudication has not been commenced by January 1, 2024.

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

---

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

### **SECTION 1.** Section 831.5 is added to the Code of Civil Procedure, to read:

**831.5.** (a) In an adjudication action for a basin required to have a groundwater sustainability plan under the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code), the court shall appoint one party to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency within 10 business days of issuance. The groundwater sustainability agency shall post the documents on its internet website in the interest of transparency and accessibility within 20 business days of receipt from a party. This section does not apply to any documents that have been sealed by the court.

(b) For a basin that has multiple groundwater sustainability agencies, the groundwater sustainability agencies, in consultation with the parties to the adjudication, shall select which agency will post these documents on its internet website.

(c) The court shall allocate payment of the costs incurred by the party appointed to forward all case management orders, judgments, and interlocutory orders to the groundwater sustainability agency among the parties in an amount and a manner that the court deems equitable.

### **SEC. 2.** Section 840 of the Code of Civil Procedure is amended to read:

**840.** (a) In managing a comprehensive adjudication, the court shall do both of the following:

(1) Convene a case management conference as provided by the California Rules of Court.

(2) In an adjudication action for a basin required to have a groundwater sustainability plan under the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code), manage the case in accordance with Section 10737.2 of the Water Code.

(b) In an initial case management conference, or as soon as practicable, the court may consider the following in addition to other matters:

(1) Determining whether to seek adjustment of the basin boundaries pursuant to Section 841.

(2) Staying the action pursuant to Section 848.

(3) Appointing a special master pursuant to Section 845.

(4) Scheduling a hearing on a preliminary injunction pursuant to Section 847.

(5) Dividing the case into phases to resolve legal and factual issues.

(6) Issuing orders to ensure that issues resolved in one phase are not relitigated in another phase.

(7) Limiting discovery to correspond to the phases.

(8) Scheduling early resolution of claims to prescriptive rights.

(9) Forming a class or classes of overlying groundwater rights holders pursuant to the criteria specified in Section 382.

### **SEC. 3.** Section 850 of the Code of Civil Procedure is amended to read:

**850.** (a) The court may enter a judgment in a comprehensive adjudication if the court finds that the judgment meets all of the following criteria:

(1) It is consistent with Section 2 of Article X of the California Constitution.

(2) It is consistent with the water right priorities of all nonstipulating parties and any persons who have claims that are exempted pursuant to Section 833 in the basin.

(3) It treats all objecting parties and any persons who have claims that are exempted pursuant to Section 833 equitably as compared to the stipulating parties.

(4) It considers the water use of and accessibility of water for small farmers and disadvantaged communities. This consideration shall be consistent with the conditions identified in this subdivision.

(b) The court may enter judgment in an adjudication action for a basin required to have a groundwater sustainability plan under the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code), if in addition to the criteria enumerated in subdivision (a), the court also finds that the judgment will not substantially impair the ability of a groundwater sustainability agency, the State Water Resources Control Board, or the department to comply with the Sustainable Groundwater Management Act and to achieve sustainable groundwater management.

(c) (1) In order to assist the court in making the findings required by this section, the court may refer the matter to the State Water Resources Control Board for investigation and report pursuant to Section 2001 of the Water Code. A party may request that the court refer the matter to the State Water Resources Control Board pursuant to this subdivision.

(2) Notwithstanding any inconsistencies with Article 2 (commencing with Section 2010) of Chapter 1 of Part 3 of Division 2 of the Water Code, for a reference undertaken by the State Water Resources Control Board under paragraph (1), the State Water Resources Control Board and Department of Water Resources shall jointly investigate and submit the report under paragraph (1).

(d) If a party or group of parties submits a proposed stipulated judgment that is supported by more than 50 percent of all parties who are groundwater extractors in the basin or use the basin for groundwater storage and is supported by groundwater extractors responsible for at least 75 percent of the groundwater extracted in the basin during the five calendar years before the filing of the complaint, the court may adopt the proposed stipulated judgment, as applied to the stipulating parties, if the proposed stipulated judgment meets the criteria described in subdivision (a). A party objecting to a proposed stipulated judgment shall demonstrate, by a preponderance of evidence, that the proposed stipulated judgment does not satisfy one or more criteria described in subdivision (a) or that it substantially violates the water rights of the objecting party. If the objecting party is unable to make this showing, the court may impose the proposed stipulated judgment on the objecting party. An objecting party may be subject to a preliminary injunction issued pursuant to Section 847 while their objections are being resolved.

(e) For purposes of this section the following definitions apply:

(1) "Disadvantaged communities" means communities identified by the California Environmental Protection Agency as disadvantaged communities pursuant to Section 39711 of the Health and Safety Code.

(2) "Small farmers" means farmers with between ten thousand dollars (\$10,000) and four hundred thousand dollars (\$400,000) in gross farm sales, as referenced in the Department of Food and Agriculture's California Underserved and Small Producers Program.

**SEC. 4.** Section 10737.3 is added to the Water Code, to read:

**10737.3.** (a) (1) Unless otherwise ordered by the court, all monitoring and reporting required under all groundwater sustainability plans approved by the department, or submitted to and awaiting approval by the department, for a basin subject to an adjudication, or under any interim plan adopted by the board pursuant to Section 10735.8 for a basin subject to an adjudication, shall continue throughout the duration of the adjudication proceeding.

(2) All groundwater sustainability agencies required to submit reports to the department pursuant to Section 10728 regarding a basin subject to adjudication shall submit copies of the reports to the court during the duration of the adjudication proceeding. The court may order more frequent reporting than the reports required pursuant to Section 10728.

(3) The board shall submit to the court during the duration of the adjudication proceeding the information it receives from a person required to submit monitoring program reports to the board pursuant to Section 10736.6 regarding a basin subject to adjudication. If, during the proceeding, the board prepares a report regarding the subject basin containing information listed in Section 10728, the board shall submit a copy of that report to the court.

(b) (1) Throughout the duration of the adjudication proceeding, a party to the adjudication, and any other person extracting water from the basin, shall comply with the groundwater sustainability plan or plans for the subject basin or the interim plan for the subject basin adopted by the board pursuant to Section 10735.8, except as may be authorized by the court pursuant to Section 847 of the Code of Civil Procedure or other injunctive relief.

(2) For purposes of this subdivision, the terms of a groundwater sustainability plan, interim plan, or preliminary injunction shall not determine the rights in a final judgment of the comprehensive adjudication.

(c) Throughout the duration of the adjudication proceeding, a party to the adjudication, and any other person extracting water from the basin, shall not use new or increased groundwater use to establish a new claim of prescription during the proceeding.

**SEC. 5.** Section 10737.4 of the Water Code is amended to read:

**10737.4.** (a) Chapter 11 (commencing with Section 10735) shall not apply to a judgment approved by the court pursuant to Section 850 of the Code of Civil Procedure if both of the following apply:

(1) A local agency or a party directed by the court to file the submission submits the judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(2) The department determines that the judgment satisfies the objectives of this part for the basin.

(b) A party or group of parties proposing a stipulated judgment pursuant to subdivision (d) of Section 850 of the Code of Civil Procedure may submit the proposed stipulated judgment to the department for evaluation and assessment pursuant to paragraph (2) of subdivision (b) of Section 10733.6.

(c) Notwithstanding subdivision (c) of Section 10733.6, a judgment or proposed stipulated judgment pursuant to this section may be submitted to the department after January 1, 2017.

(d) A determination of the department on a submission pursuant to this section is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. Venue shall be in the court with jurisdiction over the adjudication action and the case shall be coordinated with the adjudication action.

**SEC. 6.** Section 10737.9 is added to the Water Code, to read:

**10737.9.** (a) (1) Upon receiving notice that an adjudication has commenced in its basin, a groundwater sustainability agency shall host a public meeting to explain the adjudication process and the status of the adjudication to water users within the basin and the public.

A groundwater sustainability agency may invite the state board or the department to send a representative to the meeting in order to help explain the adjudication process.

(2) A recording or summary of the meeting shall be posted to a public internet website hosted by either the groundwater sustainability agency or the watermaster of the basin.

(3) For a basin that has multiple groundwater sustainability agencies, the groundwater sustainability agencies may hold a public meeting jointly or individually in furtherance of this subdivision.

(b) This section shall only apply to basins in which a comprehensive adjudication has not been commenced by January 1, 2024.