



- Board of Directors  
*Legislation Committee*

5/10/2011 Board Meeting

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**8-10**

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## **Subject**

Express support for AB 359 (Huffman, D - San Rafael) - Groundwater management plans

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## **Description**

Assembly Bill 359, as amended April 11, 2011 ([Attachment 1](#)), by Assembly Member Jared Huffman, Chair of Assembly Committee on Water, Parks and Wildlife, would add certain requirements related to development, adoption, and implementation of groundwater management plans. The bill would require a local agency preparing a groundwater management plan to do the following:

- Provide a copy of a resolution of intention to adopt a groundwater management plan to the Department of Water Resources (DWR) within 30 days of adoption of the resolution.
- Provide a copy, upon written request, of the proposed groundwater management plan to an interested person.
- Provide those interested persons with a specified notice at least 30 days prior to the commencement of the second hearing to determine whether to adopt the plan.
- Include within the plan a map of the current recharge areas and a description of how the recharge areas substantially contribute to the basin replenishment.
- Include projects that are part of an Integrated Regional Water Management Program or Plan when seeking specified state funds for certain groundwater projects.

Additionally, DWR would be required to post on its website the information it possesses regarding the local agencies that have jurisdiction to develop groundwater management plans.

## **Background**

The existing Water Code Sections 10750 to 10756 (AB 3030 (Costa), Chapter 947, Statutes 1992), provide a procedure for local agencies to develop and adopt groundwater management plans in groundwater basins defined in DWR's Bulletin 118, which includes an inventory of California's groundwater basins. The development of a groundwater management plan is voluntary; however, basins that choose not to participate are ineligible to receive state funds for groundwater projects. Such "AB 3030 plans" are not required for adjudicated basins or for basins where the Water Code provides an alternative structure for management of the groundwater basin.

Under current law, a local agency must hold a public hearing and consider a resolution of intention to adopt a groundwater management plan before a local agency can develop a plan. If the resolution of intention is adopted, the local agency must prepare the groundwater management plan within two years. Once completed, the local agency must hold a second public hearing on the groundwater management plan. If there are a majority of public protests against the plan, representing more than 50 percent of the assessed land value of the land within the local agency, the plan shall not be adopted and no new plan can be considered for a period of one year. If there is no majority opposition, the groundwater management plan can be adopted in 35 days after conclusion of the second public hearing. The local agency shall adopt rules and regulations for implementation and enforcement of the plan and may impose equitable fees and assessments for groundwater management to pay for costs of replenishment water, administration, operations, and capital facilities necessary to implement the plan.

### **Legislative Analysis**

AB 359 would amend certain sections within the existing Water Code related to development and adoption of groundwater management plans, specifically adding the following to the Water Code:

- The local agency shall provide to DWR a copy of a resolution of intention to adopt a groundwater management plan, within 30 days of the date of adoption of the resolution. The local agency shall also provide to DWR contact information for the person in charge of drafting the groundwater management plan.
- Upon written request, prior to commencement of the second hearing, the local agency shall provide an interested person with a copy of the proposed groundwater management plan and maps identifying recharge areas. Such documents are to be provided for the cost of production incurred by the local agency. (The failure to meet this requirement does not make the adoption of a groundwater management plan invalid).
- At least 30 days prior to the commencement of the second hearing, the local agency shall provide notice of the date, time, and place of the second hearing, either by mail or electronically to each interested person who requests information prior to that date. (The failure to meet this requirement does not make the adoption of a groundwater management plan invalid).
- DWR shall post on its website the information it possesses regarding the local agencies that have jurisdiction to develop groundwater management plans and maps.
- The groundwater management plan shall also include the following:
  - A description of how recharge areas identified in the plan substantially contribute to the replenishment of the groundwater basin.
  - A map identifying the current recharge areas that substantially contribute to the replenishment of the groundwater basin (commencing January 1, 2013).
- The local agencies shall provide the map of the recharge areas to local planning agencies after adoption of the groundwater management plan.

AB 359 clarifies eligibility requirements for state funding for groundwater projects administered by DWR to include projects that are part of Integrated Regional Water Management Programs or Plans.

A local agency may request state funds to map groundwater recharge areas pursuant to this bill to the extent that the request for state funds is consistent with eligibility requirements that are applicable to the use of the requested funds.

AB 359 is similar to AB 2304 (Huffman), which was passed by the Legislature last year, but subsequently vetoed by the Governor. Metropolitan supported AB 2304 because it would have provided further clarity and direction in the development of groundwater management plans by requiring a local agency to identify and map recharge areas prior to adopting the plan. This valuable information would have contributed to better water management and more accurate and relevant information on the condition of local and regional groundwater supplies.

### **Impacts to Metropolitan**

Groundwater is an essential component of the water supply portfolio within Metropolitan's 5,200 square mile service area. Groundwater basins within Metropolitan's service area are highly managed, with about 93 percent of the groundwater resources produced from an adjudicated or formally managed basin. AB 3030 groundwater basin management plan provisions do not apply to adjudicated basins or those managed by an agency created by statute (e.g., Orange County Water District and Fox Canyon Groundwater Management Agency). The provisions of AB 359 would be applicable to all other managed basins. The planning, development and adoption of AB 3030 plans, along with the requirements of AB 359, are important to Metropolitan, as groundwater accounts for more than 40 percent of the total annual water demands of the state.

AB 359 will provide further clarity and direction in the development of groundwater management plans by requiring local agencies with groundwater supplies that are interested in seeking state funds to prepare a groundwater management plan and to identify and map recharge areas prior to adopting the plan.

The existing Water Code provides for notification of land owners to participate in the hearings associated with the adoption of groundwater management plans. AB 359 would augment those notification requirements, as previously identified in this letter.

### **Staff Recommendation**

Since failure to properly manage groundwater resources throughout the state could increase statewide reliance on limited surface water resources, potentially impacting Metropolitan's water supply reliability, staff recommends support of AB 359, as amended April 11, 2011.

### **Policy**

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By Minute Item 41222, dated January 10, 1995, the Board adopted Groundwater Management Policy Principles.

By Minute Item 40188, dated April 13, 1993, and added to by the above noted Minute Item 41222, the Board adopted Water Availability and Land Use Policy Principles.

### **California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's support for AB 359, as amended April 11, 2011.

**Fiscal Impact:** None on Metropolitan

**Business Analysis:** AB 359 will provide further clarity and direction in the development of groundwater management plans statewide through requiring local agencies to preparing a groundwater management plan to identify and map recharge areas prior to adopting the plan. This valuable information will contribute to better water management and more accurate and relevant information on the condition of local and regional groundwater supplies. Better management of the state's groundwater resources will lead to better management of the state's surface water resources, contributing to Metropolitan's water supply reliability.

#### **Option #2**

Take no position on AB 359, as amended April 11, 2011

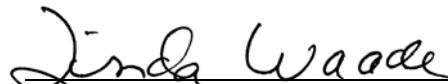
**Fiscal Impact:** None on Metropolitan

**Business Analysis:** Failure to gather critical information on the state's groundwater basins as proposed by AB 359, including mapping and descriptions of recharge areas that substantially contribute to the replenishment of the basins, will continue inefficient uses of the state's groundwater supplies, potentially resulting in increased demands on the state's surface water supplies, impacting the reliability of Metropolitan's water supplies.

**Staff Recommendation**

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Option #1

  
Linda D. Waade  
Deputy General Manager, External Affairs

5/4/2011

Date

  
Jeffrey Kightlinger  
General Manager

5/4/2011

Date

**Attachment 1 – Assembly Bill 359 (as amended 4/11/11)**

Ref# ea12612109

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011—12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 359**

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**Introduced by Assembly Member Huffman**

February 14, 2011

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An act to amend Sections 10752, 10753.2, 10753.5, and 10753.7 of the Water Code, relating to groundwater.

LEGISLATIVE COUNSEL'S DIGEST

AB 359, as amended, Huffman. Groundwater management plans.

(1) Existing law authorizes specified local agencies that provide water service to adopt and implement a groundwater management plan. Existing law requires a local agency that elects to develop a groundwater management plan to hold a hearing prior to adopting a resolution of intention to draft a plan and, after the plan is prepared, to hold a 2nd hearing to determine whether to adopt the plan. Existing law requires the local agency to publish a specified notice before each of these hearings.

This bill would require the local agency to provide a copy of a resolution of intention to the Department of Water Resources within 30 days of the date of adoption. The bill would require the local agency, upon written request, to provide a copy of the proposed groundwater management plan to an interested person. The bill would require the local agency to provide each of those interested persons with a specified notice at least 30 days prior to the commencement of the 2nd hearing to determine whether to adopt the plan. The bill would require the department to post on its Internet Web site the information the department possesses regarding the local agencies that have jurisdiction to develop groundwater management plans.

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(2) Existing law requires a local agency seeking specified state funds for certain groundwater projects to include in a groundwater management plan various components, including components relating to the monitoring and management of groundwater levels within the groundwater basin.

This bill would specify that the groundwater projects to which these requirements apply include projects that are part of an integrated regional water management program or plan. The bill, commencing January 1, 2013, would additionally require a map identifying the recharge areas, as defined, for the groundwater basin to be included in a groundwater management plan for purposes of the state funding requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10752 of the Water Code is amended to  
2 read:

3 10752. Unless the context otherwise requires, the following  
4 definitions govern the construction of this part:

5 (a) "Groundwater" means all water beneath the surface of the  
6 earth within the zone below the water table in which the soil is  
7 completely saturated with water, but does not include water ~~which~~  
8 *that* flows in known and definite channels.

9 (b) "Groundwater basin" means any basin or subbasin identified  
10 in the department's Bulletin No. 118, dated September 1975, and  
11 any amendments to that bulletin, but does not include a basin in  
12 which the average well yield, excluding domestic wells that supply  
13 water to a single-unit dwelling, is less than 100 gallons per minute.

14 (c) "Groundwater extraction facility" means a device or method  
15 for the extraction of groundwater within a groundwater basin.

16 (d) "Groundwater management plan" or "plan" means a  
17 document that describes the activities intended to be included in  
18 a groundwater management program.

19 (e) "Groundwater management program" or "program" means  
20 a coordinated and ongoing activity undertaken for the benefit of  
21 a groundwater basin, or a portion of a groundwater basin, pursuant  
22 to a groundwater management plan adopted pursuant to this part.

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1 (f) “Groundwater recharge” means the augmentation of  
2 groundwater, by natural or artificial means, with surface water or  
3 recycled water.

4 (g) “Local agency” means a local public agency that provides  
5 water service to all or a portion of its service area, and includes a  
6 joint powers authority formed by local public agencies that provide  
7 water service.

8 (h) “Recharge area” means the area that supplies water to an  
9 aquifer in a groundwater basin and includes multiple wellhead  
10 protection areas.

11 (i) “Watermaster” means a watermaster appointed by a court  
12 or pursuant to other provisions of law.

13 (j) “Wellhead protection area” means the surface and subsurface  
14 area surrounding a water well or well field that supplies a public  
15 water system through which contaminants are reasonably likely  
16 to migrate toward the water well or well field.

17 SEC. 2. Section 10753.2 of the Water Code is amended to read:

18 10753.2. (a) Prior to adopting a resolution of intention to draft  
19 a groundwater management plan, a local agency shall hold a  
20 hearing, after publication of notice pursuant to Section 6066 of  
21 the Government Code, on whether or not to adopt a resolution of  
22 intention to draft a groundwater management plan pursuant to this  
23 part for the purposes of implementing the plan and establishing a  
24 groundwater management program.

25 (b) At the conclusion of the hearing, the local agency may draft  
26 a resolution of intention to adopt a groundwater management plan  
27 pursuant to this part for the purposes of implementing the plan and  
28 establishing a groundwater management program.

29 (c) The local agency shall provide to the department a copy of  
30 a resolution of intention adopted pursuant to this section within  
31 30 days of the date of adoption. The local agency shall also provide  
32 to the department contact information for the person in charge of  
33 drafting the groundwater management plan.

34 SEC. 3. Section 10753.5 of the Water Code is amended to read:

35 10753.5. (a) After a groundwater management plan is prepared,  
36 the local agency shall hold a second hearing to determine whether  
37 to adopt the plan. Notice of the hearing shall be given pursuant to  
38 Section 6066 of the Government Code. The notice shall include a  
39 summary of the plan and shall state that copies of the plan may be

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1 obtained for the cost of reproduction at the office of the local  
2 agency.

3 (b) At the second hearing, the local agency shall consider  
4 protests to the adoption of the plan. At any time prior to the  
5 conclusion of the second hearing, any landowner within the local  
6 agency may file a written protest or withdraw a protest previously  
7 filed.

8 (c) (1) Upon receipt of a written request prior to the  
9 commencement of the second hearing, the local agency shall  
10 provide an interested person with a copy of the proposed  
11 groundwater management plan and maps identifying recharge  
12 areas that are prepared pursuant to this part. *These documents shall*  
13 *be provided for the cost of reproduction incurred by the local*  
14 *agency. If a document is requested in electronic format, the cost*  
15 *of reproduction shall be limited to the direct cost of producing a*  
16 *copy in electronic format.*

17 (2) At least 30 days prior to the commencement of the second  
18 hearing, the local agency shall provide notice of the date, time,  
19 and place of the second hearing, either by mail or electronically,  
20 to each interested person who requests information pursuant to  
21 paragraph (1) prior to that date.

22 (3) *The failure to meet the requirements of this subdivision does*  
23 *not make the adoption of a groundwater management plan invalid.*

24 (d) The department shall post on its Internet Web site, consistent  
25 with Section 10930, the information the department possesses  
26 regarding the local agencies that have jurisdiction to develop  
27 groundwater management plans and maps pursuant to this part,  
28 including information it has collected pursuant to Sections 10753.2  
29 and 10928.

30 SEC. 4. Section 10753.7 of the Water Code is amended to read:

31 10753.7. (a) For the purposes of qualifying as a groundwater  
32 management plan under this section, a plan shall contain the  
33 components that are set forth in this section. In addition to the  
34 requirements of a specific funding program, a local agency seeking  
35 state funds administered by the department for groundwater  
36 projects or groundwater quality projects, including projects that  
37 are part of an integrated regional water management program or  
38 plan, and excluding programs that are funded under Part 2.78  
39 (commencing with Section 10795), shall do all of the following:



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1 (1) Prepare and implement a groundwater management plan  
2 that includes basin management objectives for the groundwater  
3 basin that is subject to the plan. The plan shall include components  
4 relating to the monitoring and management of groundwater levels  
5 within the groundwater basin, groundwater quality degradation,  
6 inelastic land surface subsidence, changes in surface flow and  
7 surface water quality that directly affect groundwater levels or  
8 quality or are caused by groundwater pumping in the basin, and a  
9 description of how recharge areas identified in the plan  
10 substantially contribute to the replenishment of the groundwater  
11 basin.

12 (2) For purposes of implementing paragraph (1), the local agency  
13 shall prepare a plan to involve other agencies that enables the local  
14 agency to work cooperatively with other public entities whose  
15 service area or boundary overlies the groundwater basin.

16 (3) For purposes of implementing paragraph (1), the local agency  
17 shall prepare a map that details the area of the groundwater basin,  
18 as defined in the department's Bulletin No. 118, and the area of  
19 the local agency, that will be subject to the plan, as well as the  
20 boundaries of other local agencies that overlie the basin in which  
21 the agency is developing a groundwater management plan.

22 (4) (A) Commencing January 1, 2013, for purposes of  
23 implementing paragraph (1), the groundwater management plan  
24 shall include a map identifying the recharge areas for the  
25 groundwater basin.

26 (B) The local agency shall provide the map required pursuant  
27 to subparagraph (A) to the appropriate local planning agencies  
28 after adoption of the groundwater management plan.

29 (C) For purposes of this paragraph, "map identifying the  
30 recharge areas" means a map that identifies, or maps that identify,  
31 the current recharge areas that substantially contribute to the  
32 replenishment of the groundwater basin.

33 (5) The local agency shall adopt monitoring protocols that are  
34 designed to detect changes in groundwater levels, groundwater  
35 quality, inelastic surface subsidence for basins for which  
36 subsidence has been identified as a potential problem, and flow  
37 and quality of surface water that directly affect groundwater levels  
38 or quality or are caused by groundwater pumping in the basin. The  
39 monitoring protocols shall be designed to generate information  
40 that promotes efficient and effective groundwater management.

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1 (6) Local agencies that are located in areas outside the  
2 groundwater basins delineated on the latest edition of the  
3 department's groundwater basin and subbasin map shall prepare  
4 groundwater management plans incorporating the components in  
5 this subdivision, and shall use geologic and hydrologic principles  
6 appropriate to those areas.

7 (b) (1) (A) A local agency may receive state funds administered  
8 by the department for groundwater projects or for other projects  
9 that directly affect groundwater levels or quality if it prepares and  
10 implements, participates in, or consents to be subject to, a  
11 groundwater management plan, a basinwide management plan, or  
12 other integrated regional water management program or plan that  
13 meets, or is in the process of meeting, the requirements of  
14 subdivision (a). A local agency with an existing groundwater  
15 management plan that meets the requirements of subdivision (a),  
16 or a local agency that completes an update of its plan to meet the  
17 requirements of subdivision (a) within one year of applying for  
18 funds, shall be given priority consideration for state funds  
19 administered by the department over local agencies that are in the  
20 process of developing a groundwater management plan. The  
21 department shall withhold funds from the project until the update  
22 of the groundwater management plan is complete.

23 (B) Notwithstanding subparagraph (A), a local agency that  
24 manages groundwater under any other provision of existing law  
25 that meets the requirements of subdivision (a), or that completes  
26 an update of its plan to meet the requirements of subdivision (a)  
27 within one year of applying for funding, shall be eligible for  
28 funding administered by the department. The department shall  
29 withhold funds from a project until the update of the groundwater  
30 management plan is complete.

31 (C) Notwithstanding subparagraph (A), a local agency that  
32 conforms to the requirements of an adjudication of water rights in  
33 the groundwater basin is in compliance with subdivision (a). For  
34 purposes of this subparagraph, an "adjudication" includes an  
35 adjudication under Section 2101, an administrative adjudication,  
36 and an adjudication in state or federal court.

37 (D) Subparagraphs (A) and (B) do not apply to proposals for  
38 funding under Part 2.78 (commencing with Section 10795), or to  
39 funds authorized or appropriated prior to September 1, 2002.

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- 1 (E) A local agency may request state funds to map groundwater  
2 recharge areas pursuant to paragraph (4) of subdivision (a) to the  
3 extent that the request for state funds is consistent with eligibility  
4 requirements that are applicable to the use of the requested funds.
- 5 (2) Upon the adoption of a groundwater management plan in  
6 accordance with this part, the local agency shall submit a copy of  
7 the plan to the department, in an electronic format, if practicable,  
8 approved by the department. The department shall make available  
9 to the public copies of the plan received pursuant to this part.

O