Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE
Diane Papan, Chair
AB 929 (Connolly) – As Amended March 24, 2025

SUBJECT: Sustainable groundwater management: managed wetlands

SUMMARY: Exempts groundwater use by managed wetlands and small community water systems serving a disadvantaged community (DAC) from a groundwater sustainability agency's (GSA) authority to regulate groundwater pumping and assess fees under the Sustainable Groundwater Management Act (SGMA). Specifically, **this bill**:

1) Provides that a GSA's authority to regulate groundwater usage through the establishment of groundwater pumping allocations shall not apply to small community water systems serving DACs with water from permitted public water supply wells nor to managed wetland extractors. Provides, however, that a GSA may regulate any groundwater pumping by small community water systems and managed wetland extractors that exceeds their historic pumping levels.

2) Permits a GSA to require that a small community water system or managed wetland extractor demonstrate their historic groundwater usage.

3) Provides that a small community water system serving a DAC or managed wetland extractor may receive a groundwater recharge credit established by a GSA.

4) Provides that a GSA may exercise its authority to regulate groundwater pumping for a managed wetland if the GSA reasonably determines that groundwater pumping for the managed wetland is directly causing undesirable results. In doing so, the GSA may develop and implement corrective actions in cooperation with the managed wetland extractor.

5) Provides that if a person pumps groundwater for both managed wetland and other purposes (e.g., agricultural use), the exemptions under this bill only apply to the groundwater pumped for managed wetland purposes.

6) Provides that a GSA shall not impose a fee on groundwater pumping for small community water systems serving DACs or managed wetland purposes unless pumping for either of these purposes exceeds what was historically required to support the small community water system or managed wetland.

7) Requires a groundwater sustainability plan (GSP) to include, where appropriate, the following additional elements:

    a) Water supply and economic impacts on managed wetlands and managed wetland extractors;

    b) Water supply and economic impacts on small community water systems serving DACs;

    c) A list of small community water systems that serve DACs and pump groundwater in the basin, the estimated population served by each such system, and the water consumption of each such system; and

d) A list of managed wetlands subject to the GSP, the acreage of each such wetland, and the water consumption of each such wetland.

8) Defines the following terms for the purposes of this bill:

a) "Disadvantaged community," consistent with Water Code § 79505.5, as a community with an annual median household income that is less than 80% of the statewide annual median.

b) "Managed wetland" as the portion of public or private property that is flooded to promote habitat and food production and that is designated or administered as any of the following: a state wildlife area or ecological reserve, a national wildlife refuge, a Central Valley Project Improvement Act (CVPIA) of 1992 wetland habitat area, a conservation easement held by a public agency or nongovernmental conservation organization, or a wildlife habitat contract of no less than 10 years in duration administered by specified agencies;

c) "Managed wetland extractor" as a person who extracts groundwater for managed wetlands; and

d) "Small community water system" as a system serving no more than 3,300 connections or a year-long population of no more than 10,000 individuals consistent with Health and Safety Code § 116275.

9) Makes findings and declarations regarding the challenges faced by small community water systems, failure of many GSPs to adequately consider groundwater needs of small community water systems, the value and importance of wetlands, and the significant loss of wetlands.

EXISTING LAW:

1) Provides, under SGMA, that local agencies must sustainably manage groundwater in high- or medium-priority basins by 2040. Defines sustainable management of groundwater as the avoidance of the following six "undesirable results:" (a) chronic lowering of groundwater levels; (b) reduction of groundwater storage; (c) seawater intrusion; (d) degraded water quality; (e) land subsidence; and (f) depletions of interconnected surface water (Water Code § 10720 *et seq.*).

2) Requires critically overdrafted groundwater basins to be managed under a groundwater sustainability plan (GSP) by January 31, 2020 and high- or medium-priority groundwater basins to be managed under a GSP by January 31, 2022 (Water Code § 10720.7).

3) Requires a GSA to consider the interests of all beneficial uses and users of groundwater in implementing SGMA (Water Code § 10723.2).

4) Grants various authorities to GSAs including the authority to impose spacing requirements on groundwater wells, to regulate, limit, or suspend pumping from groundwater wells, and to establish groundwater allocations and accounting rules for carrying over or transferring groundwater pumping extractions (Water Code § 10726.4).

5) Requires a GSA in a basin subject to SGMA to develop a GSP that has various components including, a description of the physical setting of the basin, measureable objectives to achieve sustainable management, how groundwater levels and quality will be monitored, and monitoring sites and protocols (Water Code § 10727).

6) Requires GSAs to encourage the involvement of diverse social, cultural, and economic elements of a basin's population during development and implementation of a GSP (Water Code § 10727.8).

7) Provides that a GSA may impose fees on groundwater extraction to fund the costs of groundwater management (Water Code § 10730.2).

8) Defines "de minimis extractor" as a person who pumps two acre-feet (AF) or less of groundwater annually for domestic purposes (Water Code § 10721).

9) Defines "small community water system" as a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons (Health and Safety Code § 116275).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

1) **Purpose of this bill**. SGMA requires GSAs to identify all groundwater users and uses in their GSPs; however, now that all GSPs have been submitted to DWR for review, it is apparent that the majority of submitted GSPs did not thoroughly identify these users or their groundwater needs. This bill's intent is to ensure these users can continue to pump the groundwater they need without incurring penalties under SGMA. According to the author, "Wetlands are a critical natural resource for our state, and small, rural communities are being hit the hardest by the state's depleting groundwater resources. These [DACs] usually depend on a single source for their water supply, leaving them vulnerable to drought and affordability challenges. [This bill] brings California closer to protecting safe and clean water accessibility for all California communities and maintaining precious wetland habitat before it permanently disappears."

2) **Background**. Passed in 2014, SGMA provides a comprehensive framework to manage groundwater resources in overdrafted groundwater basins (i.e., those basins deemed high- or medium-priority by DWR). To comply with SGMA, local agencies in overdrafted basins had to form a GSA by 2017 and develop GSPs by 2020 or 2022 that will lead to sustainable groundwater management over 20 years. SGMA defines sustainable groundwater management as the avoidance of "undesirable results" (see #1, above, under Existing Law). SGMA's explicit intent is to keep management of groundwater resources at the local level while allowing for state intervention if local agencies are unsuccessful or get off track in meeting their sustainability goals. SGMA also intends for GSAs to have flexibility to address conditions unique to their particular basin and states that it does not alter groundwater rights.

   One of the first steps GSAs have to take is to identify groundwater users and uses in their basins and develop a corresponding groundwater budget. In many instances GSAs have developed, or are still developing, groundwater pumping allocations that apportion an

allowable amount of groundwater pumping to groundwater users in the basin that the GSA manages. GSPs vary, but in many cases the groundwater pumping allocation represents the amount of groundwater a user may pump in a given year without incurring fees or penalties. Oftentimes, a user may pump and use more groundwater than their allocation, but the GSA will typically charge a pumper a significant fee per AF of water pumped in excess of their allocation in order to dissuade groundwater pumpers from exceeding their pumping allocations (in some GSPs, certain groundwater users have received a pumping allocation of zero and typically have to pay fees for every AF of groundwater pumped and used). GSAs may also permit the trade or sale of groundwater pumping extractions amongst users in their basin. A groundwater pumping allocation does not determine a given landowner's groundwater rights.

GSPs. GSPs for critically over-drafted basins were submitted to DWR in January 2020 and GSPs for the remaining high- and medium- priority basins were submitted to DWR in January 2022. As of today, 86 groundwater basins are being operated under "adequate" GSPs. Seven basins have GSPs deemed "inadequate" (Tule, Tulare Lake, Kern County, Kaweah, Delta-Mendota, Chowchilla, Pleasant Valley) and have been referred to the State Water Resources Control Board (State Water Board) for further corrections and/or designation as a probationary basin. Of these "inadequate" basins, the State Water Board has designated two as "probationary" (Tule and Tulare Lake) and taken steps to manage them on an interim basis. Adequate GSPs for critically over-drafted basins are currently undergoing their first five-year review by DWR as required under SGMA.

DWR cites various deficiencies in the GSPs for the seven inadequate basins. The majority do not adequately address chronic lowering of groundwater levels and land subsidence; several that involve multiple agencies do not use consistent data or definitions of undesirable results; the Chowchilla GSP does not adequately examine whether there are interconnected surface waters in the basin; and the Tule and Tulare Lake GSPs do not adequately address degraded water quality, among other deficiencies. Generally, these inadequate GSPs do not adequately account for groundwater use by small community water systems serving DACs or managed wetlands, but DWR does not identify these as deficiencies that need to be corrected in the GSPs either.

Central Valley wetlands. According to the 2020 Central Valley Joint Venture (CVJV) Implementation Plan, roughly 220,000 acres of managed wetlands remain in the Central Valley. This number represents less than 5% of the Central Valley's historic wetlands. The Implementation Plan estimates that wetlands need between 2.5 AF and 7.4 AF per acre annually depending on habitat type (5.1 AF for seasonal wetlands, 7.4 AF for semi-permanent wetlands, 2.5 AF for winter flooding of rice fields, and 5 AF for rice growing), time of year, and other factors. A lot of this water demand is met with surface water supplied through the federal Central Valley Project as required under CVPIA. Under CVPIA, refuges are supposed to receive their historical average supplies ("Level 2") of 422,251 AF annually and incremental ("Level 4") supplies of an additional 133,264 AF. Level 4 supplies usually go unmet, particularly in dry years. What portion of the remaining wetland need is met by surface water and groundwater supplies is not well-defined.

The CVJV Implementation Plan does note that SGMA implementation is likely to pose challenges for wetland managers, particularly in the southern San Joaquin Valley as these wetlands "rely on groundwater as a source – and for some the only source – of water

supply…. Implementation of SGMA in these areas is likely to reduce groundwater availability to a fraction of what is needed to manage wetlands." Finally, the CVJV Implementation Plan contends that it will be difficult for wetland managers to compete with other users (e.g., agriculture) in the groundwater trading programs that many GSPs are proposing.

No net loss of wetlands state policy. Governor Wilson issued Executive Order (EO) W-59-93 in 1993 that put in place the "California Wetlands Conservation Policy" that rests on three primary objectives: (a) to ensure no net loss and long-term gain of wetlands acreage and values; (b) to reduce complexity in the administration of state and federal wetlands conservation programs; and (c) to encourage partnerships, landowner incentives, and cooperative planning the basis of wetlands conservation. The EO calls for, among other things, an inventory and accounting system for wetlands, state assistance for local wetland planning efforts, development of a consistent definition of wetlands, development of consistent standards and guidelines concerning wetland mitigation and monitoring of mitigation and restoration efforts, and increased efficiency of wetlands-related permitting processes. AB 2875 (Friedman) codified this policy in 2024 (see "Related legislation," below).

Small community water systems. A recent analysis finds that the thresholds in current GSPs will lead to the de-watering (defined as when groundwater levels fall below the depth of a groundwater well) of 15% of public supply wells in the Central Valley (the analysis covers 5,300 public supply wells).[1] This bill will apply to some of these public supply wells (those that are used by a small community water system to provide water to DAC) and exempt them from a GSA's authority to regulate groundwater pumping. It is challenging to estimate how much groundwater pumping by small community water systems will be affected by this bill. A typical rule of thumb is that one AF of water is sufficient to meet the needs of two average California households for one year; however, water use varies greatly across regions and between rural and urban settings. If a system serves several hundred (or more) connections and relies exclusively on groundwater, it would represent a not insignificant use of groundwater in a basin's overall groundwater budget.

3) **Arguments in support**. Audubon California is the sponsor of this bill and maintains it is necessary because GSAs generally did not do an adequate job of identifying small community water systems and managed wetlands in their GSPs and did not analyze the impacts GSPs will have on these groundwater users. Audubon California argues small community water systems in DACs "are especially vulnerable to drought and over-pumping by neighboring water users" and "are also often faced with affordability challenges to accessing water, which will be aggravated if GSAs can sharply curtail their water allocations and charge high fees to communities just trying to meet their basic water needs." Finally, Audubon California contends managed wetlands are especially important given that California has lost more than 90% of its historic wetlands and notes that "these declines are projected to worsen due to ongoing habitat loss and climate change."

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[1] Darcy Bostic, Linda Mendez-Barrientos, Rich Pauloo, Kristin Dobbin, and Victoria MacClements, "Thousands of Domestic and Public Supply Wells Face Failure Despite Groundwater Sustainability Reform in California's Central Valley," *Scientific Reports*, 13, 14797 (2023).

4) **Arguments in opposition**. The California Groundwater Coalition (CGC) opposes this bill and argues that it will limit the ability of GSAs to manage groundwater sustainably and add additional requirements for which GSAs will be unable to recoup costs: "this is information that the GSA may not have and given the exclusion of [small community water systems and managed wetlands] for the GSA's fee structure, this additional cost will fall on the rest of the water users in the basin." In addition, CGC notes that the Governor vetoed AB 828 last year that was very similar to this bill and maintains that "nothing has changed since the veto."

5) **Proposed committee amendments**. Add a three-year sunset date to this bill.

6) **Related legislation**. AB 828 (Connolly) of 2023 was substantially similar to this bill except that the major provisions of AB 828 would not have applied to groundwater basins with a GSP approved by the Department of Water Resources after January 1, 2025 or that are being managed under an interim plan adopted by the State Water Board. AB 828 was vetoed by the Governor on September 25, 2024. The Governor's veto message stated:

> This bill excludes small community water systems serving [DACs] and managed wetlands from [GSA] extraction limits and fees.
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> Ensuring safe and reliable drinking water for disadvantaged communities remains a key priority for this Administration. In the last five years, we have distributed more than $1 billion in grants to disadvantaged communities to rectify failing drinking water systems. While I appreciate the author's intent to address the needs of small water systems serving these communities, excluding some groundwater extractors from GSAs does not align with the goals of [SGMA] to analyze groundwater basins comprehensively to ensure future long-term sustainability.
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> Groundwater accounts for 40 to 60% of our water supplies, and many communities, especially in the Central Valley, are groundwater-dependent. SGMA serves as a critical buffer to protect drinking water supplies against the impacts of drought and climate change. Successful implementation of SGMA is also integral to protecting state infrastructure from the effects of subsidence.
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> On September 16th, we marked the 10-year anniversary of the enactment of SGMA. While I am proud of all the milestones we have met, and the investments my Administration has made, I also recognize there is still much we need to accomplish. I believe we should continue to implement the SGMA framework as is without creating exceptions for certain groundwater extractors.

AB 2875 (Friedman), Chapter 579, Statutes of 2024, declares it is state policy to ensure no net loss, and long-term gain, in the quantity, quality, and permanence of wetlands acreage.

AB 321 (Mathis), Chapter 67, Statutes of 2017, clarifies the definition of "agricultural users" to include "farmers, ranchers, and dairy professionals" for the purposes of defining the beneficial users of groundwater that a GSA must consider in the implementation of SGMA.

REGISTERED SUPPORT / OPPOSITION:

Support

Audubon California (sponsor)
Alianza Coachella Valley
Alta Peak Chapter, California Native Plant Society
Cactustocloud Institute
California Waterfowl Association
CleanEarth4Kids.org
ECO San Diego
Environmental Protection Information Center
Friends of Harbors, Beaches and Parks
Friends of the Dunes
Grassland Water District
Outward Bound Adventures
Resource Renewal Institute
Santa Clara Valley Bird Alliance
Sierra Club California
The Nature Conservancy

Opposition

California Groundwater Coalition
Mission Springs Water District
Valley Ag Water Coalition

Oppose Unless Amended

California Chamber of Commerce
California Farm Bureau Federation
California Municipal Utilities Association
Western Growers Association

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