Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE
Rebecca Bauer-Kahan, Chair
AB 900 (Bennett) – As Amended April 12, 2023

**SUBJECT**: Aquifer recharge

**SUMMARY**: Requires the Department of Water Resources (DWR) to complete a report outlining best practices for groundwater recharge and other specified information as well as guidelines for a streamlined granting process for recharge projects that adhere to best practices. Specifically, **this bill**:

1) Adds "aquifers" to the definition of "natural infrastructure" used for the Safeguarding California Plan.

2) Requires DWR to produce a report outlining best practices for aquifer recharge by July 1, 2024, and provides that the report shall include guidelines for a streamlined permitting practices process based on the report.

3) Requires DWR to engage stakeholders including academic institutions, farmers and ranchers, nongovernmental organizations, and local agencies to receive input on best practices for aquifer recharge.

4) Requires the report to include information regarding implementation of Executive Order (EO) N-4-23 and recommendations to the Legislature for a permanent program.

5) Requires DWR to create a grant program to implement the report's best practices and streamlined process for issuance of grant funds by July 1, 2025.

**EXISTING LAW**:

1) Provides the storing of water underground is a beneficial use of water so long as the water stored is subsequently applied to beneficial purposes (Water Code § 1242).

2) Authorizes the State Water Resources Control Board (State Water Board) to issue a temporary permit to divert water if the applicant has an urgent need to do so. Prescribes a process for the issuance of a temporary permit and provides that a temporary permit expires after 180 days unless renewed for another 180-day period (Water Code § 1425 *et seq*.).

3) Authorizes the State Water Board to issue a conditional temporary permit for diversion of surface water to groundwater storage to a groundwater sustainability agency (GSA) or local agency. Outlines an expedited permitting pathway for such permits and provides that they have a term of five years (Water Code § 1433 *et seq*.).

**FISCAL EFFECT**: Unknown. This bill is keyed fiscal.

**COMMENTS**:

1) **Purpose of this bill**. According to the author, "even with the recent massive storms, California is still facing an unprecedented and severe drought. Recently, we have become

increasingly dependent on our groundwater supply. Many of these groundwater basins have taken decades, if not centuries, to fill and we are draining the water far faster than we can replenish it. Improving groundwater recharge is a delicate balance between the need to maintain surface flows for the ecosystem and the value of capturing surplus stormwater flows to recharge basins." The author asserts that this bill will help accelerate groundwater recharge by directing DWR to develop best practices, guidelines for streamlined issuance of grant funds, and a grant program to implement its recommendations.

2) **Background**. According to DWR, groundwater supplies approximately 40 percent of California's water supply in a "normal" year and as much as 60 percent in dry years. Many of California's groundwater basins are "overdrafted," a condition where more water is extracted in a given year than is recharged by rainfall or infiltration of surface waters. The overdrafting of groundwater basins was the main cause behind the enactment of the Sustainable Groundwater Management Act (SGMA) in 2014 that requires GSAs in overdrafted basins to develop a groundwater sustainability plan (GSP) to achieve sustainable groundwater management within 20 years. In 2017, the Public Policy Institute of California estimated that the average annual groundwater deficit in the San Joaquin Valley between 1988 and 2017 was 1.8 million acre-feet.

   Groundwater recharge is an important strategy to reverse this trend and attain the goals of SGMA and virtually all of the GSPs that have been submitted to date include groundwater recharge as a management action. Despite the merits of groundwater recharge, various analyses have identified barriers to implementation of these projects. A white paper on "Flood-MAR" (managed aquifer recharge) completed by DWR in 2018 found that "complex technical, legal, and institutional barriers and challenges affect the planning and implementation of Flood-MAR." According to the white paper, these challenges fall into the following categories: (1) cooperation and governance; (2) policy; (3) legal; and (4) implementation.

   *EO N-4-23*. Issued on March 10, 2023, this broad and sweeping EO finds that "capturing and storing storm and snowpack runoff underground to recharge aquifers is an important strategy to help regions stabilize water supplies in the face of hydrologic extremes" and waives Lake and Streambed Alteration Agreement (LSAA), California Environmental Quality Act (CEQA), and water right permit requirements for water diversions for groundwater recharge projects that meet specified criteria. These criteria include: diversions between March 10, 2023 and June 1, 2023, occur after notice by a local agency, and water diverted cannot be applied to dairyland, any agricultural land where pesticide or fertilizer has been applied in the last 30 days, or any area that could damage levees or drinking water infrastructure. This bill requires DWR to report on implementation of this EO.

   *Safeguarding California Plan*. This is a climate adaptation plan for the state authored by the California Natural Resources Agency. It establishes a vision to make the state more climate resilient and identifies principles, goals, and strategies to address ongoing and future impacts of climate change. The plan includes actions that could be taken by local agencies. The plan was most recently updated in 2018 and is anticipated to be updated every three years going forward.

3) **Arguments in support**. The Climate Reality Project, California State Coalition supports this bill arguing that "stormwater capture and storage in underground basins can help mitigate the

effects of prolonged drought." The Coalition contends that groundwater basins are an essential part of California's water infrastructure and have the ability to store eight to twelve more times the water of surface storage. Finally, the Coalition maintains that "expedited permitting and grant funding will be essential to ensure that water storage goals are met."

4) **Related legislation**. AB 658 (Arambula), Chapter 678, Statutes of 2019, permits GSAs or other local agencies to apply to the State Water Board for a temporary five-year permit to divert surface water to groundwater storage during high-flow events.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

Climate Reality Project, California State Coalition

**Opposition**

None on file

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