SUMMARY OF
SB 1168 (PAVLEY) & AB 1739 (DICKINSON)

THESE BILLS WOULD:

Establish the Sustainable Groundwater Management Act:
- Applies to groundwater basins.
- Applies to the United States & an Indian tribe to the extent authorized under federal or tribal law.

The Act does not apply to:
- Adjudicated basins, except for the provision of the judgment or judicial order & annual reporting of groundwater use.
- Low & very low priority basins, though such basins are encouraged to adopt groundwater sustainability plans.

Timetable:
- By January 1, 2017:
  - Local agencies must identify whether they elect to be, or to form, a groundwater sustainability agency. There can be more than one groundwater sustainability agency for a basin.
  - The entire basin must be covered by one or more groundwater sustainability agencies; i.e. no “unmanaged areas.”
  - Counties are presumed to be the default groundwater sustainability agency if no other local agency identifies itself as such; counties may elect, or decline, to undertake the role.
  - If there is more than one groundwater sustainability agency for a basin, the agencies must coordinate their planning.
- By January 1, 2020:
  - Each high & medium priority basin must be covered by an adopted groundwater sustainability plan.
  - If there is more than one adopted groundwater sustainability plan for a basin, the plans must use common data & demonstrate how they are coordinated with each other to achieve the basin objectives.
- Annually, upon adoption of a groundwater sustainability plan:
  - Each groundwater sustainability agency would report to DWR groundwater data, including elevation, aggregate extraction, water usage & change in groundwater storage. Note: additional refinements will be made in the bill to address reporting requirements.
- Every 5 years after 2020:
  - Each groundwater sustainability agency and each local agency with a functional equivalent would recertify it is making progress towards achieving groundwater sustainability.
- By January 1, 2040:
  - Each high & medium priority basin shall achieve its sustainability goals.
  - DWR may grant an extension of up to 10 years upon a showing of good cause.
The groundwater sustainability agency shall:

- Consider the interests of all beneficial uses & users of groundwater, as well as those responsible for implementing groundwater sustainability plans. These interests include, but are not limited to, all of the following:
  - Holders of overlying groundwater rights, including Agricultural & domestic well owners.
  - Municipal well operators.
  - Public water systems.
  - Local land use planning agencies.
  - Environmental users of groundwater.
  - Surface water users, if there is a hydrologic connection between surface & groundwater bodies.
  - The federal government, including, but not limited to, the military & managers of federal lands.
  - Indian tribes.

- Establish & maintain a list of persons interested in receiving notices regarding plan preparation, meeting announcements, & availability of draft plans, maps, & other relevant documents.

- Inform the department of its election or formation & its intent to undertake sustainable groundwater management within 30 days of its election or formation.

- Be presumed to be the County for any area within a basin that is not within the management area of an existing groundwater sustainability agency; counties may elect, or decline, to undertake the role.

Agency powers & authorities:

- In addition to any other powers & authorities an agency may have, upon becoming an groundwater sustainability agency, the agency would be authorized to do the following:
  - To prepare & adopt a groundwater sustainability plan.
  - Adopt rules, regulations, ordinances, & resolutions.
  - To propose & update fees.
  - To monitor compliance & enforcement.
  - To require registration of groundwater extraction facilities.
  - To require every groundwater extraction facility be measured.
  - To appropriate & acquire surface water or groundwater & surface water or groundwater rights, import surface water or groundwater into the agency, & conserve & store that water within or outside the agency.
  - To transport, reclaim, purify, desalinate, treat, or otherwise manage & control polluted water, wastewater, or other waters for subsequent use.
  - File an action to determine the validity of the groundwater sustainability plan.

- This Act does not grant new authorities to groundwater sustainability agencies to do any of the following:
  - Issue permits for the construction, modification, or abandonment of groundwater wells
  - However, a county may authorize a groundwater sustainability agency to issue permits for the construction, modification, or abandonment of groundwater wells.
Contents of the plans:

- A groundwater sustainability plan must include:
  - A planning & implementation horizon of at least 50 years.
  - Measurable objectives, as well as interim milestones in increments of five years, to achieve the sustainability goal in the basin within 20 years of implementing the plan.
  - A description of the physical setting & characteristics of the aquifer system underlying the basin.
  - A description of how the plan helps meet each objective & how each objective is intended to achieve the sustainability goal for the basin for long-term beneficial uses of groundwater.
  - Components relating to the monitoring & management of groundwater levels, groundwater quality degradation, inelastic land surface subsidence, & changes in surface flow & surface water quality that directly affect groundwater levels or quality or are caused by groundwater pumping in the basin.
  - Mitigation of overdraft.

- A groundwater sustainability plan may when appropriate & in collaboration with the appropriate local agencies include any of the following:
  - Control of saline water intrusion.
  - Wellhead protection areas & recharge areas.
  - Migration of contaminated groundwater.
  - A well abandonment & well destruction program.
  - Replenishment of groundwater extractions.
  - Activities implementing, opportunities for, & impediments to, conjunctive use.
  - Well construction policies.
  - Measures addressing groundwater contamination cleanup, recharge, diversions to storage, conservation, water recycling, conveyance, & extraction projects.
  - Efficient water management practices.
  - Efforts to develop relationships with state & federal regulatory agencies.
  - Processes to review land use plans & efforts to coordinate with land use planning agencies to assess activities that potentially create risks to groundwater quality or quantity.

Functional equivalence:

- Local agencies in high and medium priority groundwater basins that demonstrate that current management or operations activities have been consistent with the sustainable yield of the basin over a period of at least 10 years will be in compliance with the plan requirements. Note: additional refinements will be made in the bill to address functional equivalency.

Coordination of multiple plans for a basin:

- If multiple groundwater sustainability agencies cover a basin, there must be a coordination agreement that covers the entire basin & ensures that the plans utilize the same data for the following assumptions in developing the plan:
  - Groundwater elevation data.
  - Groundwater extraction data.
  - Surface water supply.
  - Total water use.
  - Change in groundwater storage.
DWR Review *Note: additional refinements will be made in the bill to clarify this process:*

- By June 1, 2016, DWRs shall develop guidelines for evaluating groundwater sustainability plans & groundwater sustainability programs.
- The guidelines shall identify the necessary plan components & other information that will assist local agencies in developing & implementing groundwater sustainability plans & groundwater sustainability programs.
- Upon completion of a groundwater sustainability plan, a groundwater sustainability agency shall submit the groundwater sustainability plan to DWR for review.
- DWR shall evaluate the groundwater sustainability plan within two years of its submission by a groundwater sustainability agency & issue an assessment of the plan. The assessment may include recommended corrective actions to address any deficiencies identified by DWR.
- At least every five years after submission, DWR, in consultation with the board, shall review the basin conditions and the progress in implementing a groundwater sustainability plan, or a plan or program deemed to be a functional equivalent for consistency with this part, including achieving the sustainability goal.
- DWR shall adopt a schedule of fees to recover costs incurred in carrying out this chapter.

State Intervention *Note: additional refinements will be made in the bill to clarify this process:*

- General provisions:
  - Intervention is not mandatory; the state water board always may exercise discretion.
  - The board has discretion to apply pressure incrementally.
  - 2- & 5-year safe havens for governance & plans, respectively.
- The four conditions that would allow state intervention:
  1. When local authorities fail to have subbasin-wide governance in 2 years.
  2. When local authorities fail to adopt a subbasin-wide plan in 5 years.
  3. When DWR determines that a plan is inadequate & the board determines that the basin is in a state of long-term overdraft or has significant depletions of interconnected surface water.
  4. When DWR determines that implementation is inadequate & the board determines that the basin is in a state of long-term overdraft or has significant depletions of interconnected surface water.
- The board will consult with DWR in assessing overdraft or surface water depletions.
- Long term overdraft is defined so that drought won’t trigger intervention.
- Process:
  - If any of the four above conditions apply, the board may designate a basin as a probationary basin:
    - The board is required to identify specific deficiencies.
    - Deficiencies are limited to overdraft or surface water problems – not other problems with plans.
    - Designation triggers a 180-day cure period. During the cure period, the board may appoint a mediator to assist local agencies. The board may require extractors to report extractions.
If the local agency does not cure the deficiency, the state water board may proceed with an interim plan:

- The interim plan would address the deficiencies identified in the probation designation & are thus limited to overdraft & surface water issues, not other problems.
- The board may tailor remedies within a subbasin by relying on local groundwater sustainability plans that are working well & focusing on problem areas.
- The board may stay action or rescind its interim plan if local agencies are making good progress on a groundwater sustainability plan or an adjudication, even if the progress or adjudication is incomplete.

- If it limits extractions, the board must follow water right priorities to the extent feasible.
- The board may impose fees on extractors to pay its costs.

These bills would also:

- Establish that it is the policy of the state that groundwater resources be managed sustainably for long term water supply reliability & multiple economic, social, or environmental benefits for current & future beneficial uses.
- Require a city or county planning agency, before adopting or substantially amending a general plan, to review & consider groundwater sustainability plans.
- DWR may provide technical assistance to any groundwater sustainability agency in response to that agency’s request for assistance in the development & implementation of a groundwater sustainability plan. DWR shall use its best efforts to provide the requested assistance.
- A basin’s boundaries are those identified in Bulletin 118 unless other basin boundaries are established pursuant to this Act:
  - A local agency may request DWR to revise the boundaries of a basin, including the establishment of new subbasins.
  - A local agency’s request shall be supported by information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management; technical information regarding the boundaries of, & conditions in, the proposed adjusted basin; & information demonstrating that the entity proposing the basin boundary adjustment consulted with interested local agencies & public water systems in the affected basins before filing the proposal with the department.
- DWR shall prioritize basins & subbasins as provided in CASGEM (California State Groundwater Elevation Monitoring).
- DWR, in consultation with California Department of Fish & Wildlife, shall identify & develop criteria to identify groundwater basins & subbasins that should be prioritized based on adverse impacts to habitat & surface water resources. The criteria shall be incorporated into the determination of basin & subbasin prioritization at the department’s next update of basin & subbasin prioritizations that occurs after January 1, 2017.
- Nothing in the bill prevents a legal action to adjudicate water rights.