

CHAPTER 986

An act to amend Sections 709, 709.5, 710, and 711 of, to add Section 709.7 to, to repeal Section 708 of, and to repeal and add Article 11 (commencing with Section 1101) of, the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980), relating to water resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1980 Filed with Secretary of State September 21, 1980]

LEGISLATIVE COUNSELS DIGEST

SB 1401, Nejedly, Sierra Valley Groundwater.

Chapter 449 of the Statutes of 1980 enacted the Sierra Valley Groundwater Basin Act which authorizes the creation of a district for the purposes of groundwater management within the Sierra Valley Groundwater Basin.

This bill would delete from such act specified provisions requiring the district to limit or suspend groundwater extractions by district off-basin users before extractions by overlying users, and would declare legislative intent regarding the regulation of district off-basin groundwater users. The bill would also revise provisions of the act relating to the approval of proposed development projects within the district which propose to extract groundwater for service of water.

The bill would take effect immediately as an urgency statute.

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

SECTION 1. Section 708 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is repealed.

SEC. 2. Section 709 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 709. If the evidence produced at the hearing specified in Section 707, or in any subsequent hearing, tends to show that reduction or suspension of extraction by exporters will be insufficient to eliminate existing or threatened conditions of overdraft, the district may limit or suspend extractions by district users. Any such limitation or suspension of extraction shall be done in the manner described in Section 709.5.

SEC. 3. Section 709.5 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 709.5. In the event that the district limits or suspends extractions by district users in order to eliminate existing or threatened conditions of overdraft, rights to the use of the available supply of groundwater shall be allocated primarily on the basis of the

number of acres overlying the basin or subbasin that a user owns or leases in proportion to the total number of acres overlying the basin or subbasin. The district may adjust any figure so arrived at up or down for any of the following factors:

- (1) The number of acres actually irrigated compared to the number of acres owned or leased.
- (2) Crop type.
- (3) Wasteful or inefficient use.
- (4) Reasonable need.

(5) Any other factors that the district reasonably feels it should consider in order to reach an equitable distribution within the entire district.

SEC. 4. Section 709.7 is added to the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) to read:

Sec. 709.7. (a) The Legislature, in enacting this act, intends to establish and grant to overlying groundwater users and to district off-basin groundwater users a prior right to groundwater in the district and to thereby relegate exports from the district to a junior priority to such water users, irrespective of the time such export uses are commenced. By adopting district boundaries which contain the watershed of the groundwater basin within the district, the Legislature adopts the watershed and basin as the scope of the area granted prior right to groundwater.

(b) It is further the Legislature's intent to recognize that, in general, overlying users have a prior right to groundwater within the district, but to grant the district, particularly in Article 7 (commencing with Section 601) and Article 11 (commencing with Section 1101), the authority to consider other factors and the reasonable needs of district off-basin users in allocating the available groundwater supply and to permit the district to make groundwater available to district off-basin users based on factors which indicate that such use is necessary for the equitable distribution of the groundwater resource.

SEC. 5. Section 710 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 710. If the district has imposed reductions on district users pursuant to Section 709, no operator may extract groundwater from a new, enlarged, or reactivated extraction facility for use within the district until the operator has applied for and received a permit from the district.

SEC. 6. Section 711 of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is amended to read:

Sec. 711. (a) The district shall grant the permit referred to in Section 710 upon determining the operator's share of the available supply from the groundwater basin or subbasin in the manner described in Section 709.5 and may limit the operator's right to extract groundwater to such share. To the extent necessary, the district shall adjust the authorized extractions by other district users.

(b) The district may postpone the effective date of any increase authorized in subdivision (a) to the start of the next water year. The district may also establish a date by which any application shall be submitted in order to be effective at the start of the next water year.

SEC. 7. Article 11 (commencing with Section 1101) of the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) is repealed.

SEC. 8. Article 11 (commencing with Section 1101) is added to the Sierra Valley Groundwater Basin Act (Chapter 449, Statutes of 1980) to read:

Article 11. Development Projects

Sec. 1101. After creation of the district, any person seeking approval from a local agency having land use jurisdiction of a development project proposed to be located wholly or in part within the boundaries of the district and which proposes to extract groundwater for service of water shall, at the time of filing an application with such local agency, file with the district documents describing the proposed sources of water, the amount of water required, the amounts of groundwater previously used on the property proposed to be developed, and such other information as the district may reasonably require.

Sec. 1102. The district shall be considered a "responsible agency," as defined in Section 65933 of the Government Code, and shall submit the finding described in Section 1103 within the time period established by Section 65952 of the Government Code. The application for the development project shall be deemed complete for purposes of Chapter 45 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code when the information required by Section 1101 has been provided to the district and when the information required by Section 65943 of the Government Code has been provided to the local agency with land use jurisdiction.

Sec. 1103. (a) The district shall determine whether sufficient groundwater is available for the proposed use by a development project based on the projected use of groundwater by the project. The district shall find that sufficient groundwater is available for use by a development project upon demonstration to the district's satisfaction by the person seeking approval of the development project that the development project will not use more water than is found to be available pursuant to subdivision (b).

(b) In determining whether sufficient groundwater is available for a development project, whether located on overlying or district off-basin lands, the district shall take into account that groundwater is to be allocated primarily on the basis of the number of acres overlying the basin or subbasin that the development project occupies in proportion to the total number of acres overlying the basin or subbasin, but that such allocation may be adjusted up or

down for any of the following factors:

- (1) The total number of overlying acres actually irrigated or reasonably susceptible of irrigation compared to the total number of overlying acres in the basin.
- (2) The number of overlying acres being irrigated from surface water sources.
- (3) Crop types.
- (4) Wasteful or inefficient use.
- (5) Reasonable needs of water users within the district.
- (6) Any possible reduction or suspension of exports which would allow in-district groundwater use to take place.
- (7) Any other factors that the district reasonably feels it should consider in determining whether sufficient water will be available to the development project.

Sec. 1104. (a) Notwithstanding any other provision of law, no local agency having land use jurisdiction shall approve a proposed development project which proposes to use groundwater from the basin unless:

- (1) The district has found that sufficient groundwater is available to the development project pursuant to Section 1103; or,
 - (2) The local agency having land use jurisdiction conditions their approval on the action by the district pursuant to Section 1103.
- (b) If, pursuant to paragraph (2) of subdivision (a), a local agency having land use jurisdiction conditionally approves a proposed development project, and if the district subsequently finds that sufficient groundwater is not available for the development project, the development project shall be deemed to be denied by the local agency as a matter of law without the local agency taking further action.

Sec. 1105. Nothing in this article shall be interpreted as limiting the district's general powers to regulate groundwater extraction and use in development projects in the same manner as other extractions and use within the district.

Sh.C. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide for the sound management of the groundwater resources of Sierra Valley which is suffering from special problems which immediately threaten the continued availability of groundwater in the basin, and to protect the agriculture and the economic well-being of the valley which is dependent on the groundwater resources, it is necessary that this act take effect immediately.