

Introduced by Senator Kuehl

February 14, 2001

An act to amend Section 11010 of the Business and Professions Code, and to amend Sections 65867.5 and 66474 of, and to add Section 66473.6 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 221, as introduced, Kuehl. Land use: water supplies.

(1) Under the Subdivision Map Act, a legislative body of a city or county is required to deny approval of a tentative map, or a parcel map for which a tentative map is not required, if it makes any of a number of specified findings. Under the Planning and Zoning Law, a city, county, or city and county may not approve a development agreement unless the legislative body finds that the agreement is consistent with the general plan and any applicable specific plan.

This bill would prohibit approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 200 residential units, including the design of the subdivision or the type of improvement, unless the legislative body of a city, county, or local agency makes a finding that a sufficient, reliable water supply is available that will meet the reasonable needs of the project.

By increasing the duties of local legislative bodies and local planning agencies and commissions, the bill would impose a state-mandated local program.

(2) Existing law requires any person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire that includes, among other



things, a true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

This bill would provide that for proposed subdivisions subject to specified requirements of the Subdivision Map Act, the true statement of the provisions that have been made for water is satisfied by submitting a copy of the written verification of the availability of a sufficient, reliable water supply, obtained pursuant to specified requirements as described in (1) above.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. (a) The Legislature finds that the lack of
2 coordination between general plans prepared by local
3 governments, urban water management plans prepared by water
4 districts, and the United States Department of Housing and Urban
5 Development growth forecasts for which local governments are
6 required to zone, makes it difficult to ensure that an adequate water
7 supply is available when approving new subdivisions.

8 (b) It is the intent of this bill to incorporate water supply
9 planning into the process by which new residential subdivisions
10 are planned and approved, and to coordinate the activities of the
11 federal, state, and local agencies that contribute information that
12 is used by local governments in drafting and updating general
13 plans.

14 SEC. 2. Section 11010 of the Business and Professions Code
15 is amended to read:



1 11010. (a) Except as otherwise provided pursuant to
2 subdivision (c) or elsewhere in this chapter, any person who
3 intends to offer subdivided lands within this state for sale or lease
4 shall file with the Department of Real Estate an application for a
5 public report consisting of a notice of intention and a completed
6 questionnaire on a form prepared by the department.

7 (b) The notice of intention shall contain the following
8 information about the subdivided lands and the proposed offering:

9 (1) The name and address of the owner.

10 (2) The name and address of the subdivider.

11 (3) The legal description and area of lands.

12 (4) A true statement of the condition of the title to the land,
13 particularly including all encumbrances thereon.

14 (5) A true statement of the terms and conditions on which it is
15 intended to dispose of the land, together with copies of any
16 contracts intended to be used.

17 (6) A true statement of the provisions, if any, that have been
18 made for public utilities in the proposed subdivision, including
19 water, electricity, gas, telephone, and sewerage facilities. *For*
20 *subdivisions of more than 200 residential units, the true statement*
21 *of the provisions made for water shall be satisfied by submitting a*
22 *copy of the written verification of the available water supply*
23 *obtained pursuant to subdivision (b) of Section 66473.6.*

24 (7) A true statement of the use or uses for which the proposed
25 subdivision will be offered.

26 (8) A true statement of the provisions, if any, limiting the use
27 or occupancy of the parcels in the subdivision.

28 (9) A true statement of the amount of indebtedness ~~which that~~
29 is a lien upon the subdivision or any part thereof, and ~~which that~~
30 was incurred to pay for the construction of any onsite or offsite
31 improvement, or any community or recreational facility.

32 (10) A true statement or reasonable estimate, if applicable, of
33 the amount of any indebtedness which has been or is proposed to
34 be incurred by an existing or proposed special district, entity,
35 taxing area, assessment district, or community facilities district
36 within the boundaries of which, the subdivision, or any part
37 thereof, is located, and ~~which that~~ is to pay for the construction or
38 installation of any improvement or to furnish community or
39 recreational facilities to that subdivision, and which amounts are



1 to be obtained by ad valorem tax or assessment, or by a special
2 assessment or tax upon the subdivision, or any part thereof.

3 (11) (A) As to each school district serving the subdivision, a
4 statement from the appropriate district that indicates the location
5 of each high school, junior high school, and elementary school
6 serving the subdivision, or documentation that a statement to that
7 effect has been requested from the appropriate school district.

8 (B) In the event that, as of the date the notice of intention and
9 application for issuance of a public report are otherwise deemed
10 to be qualitatively and substantially complete pursuant to Section
11 11010.2, the statement described in subparagraph (A) has not been
12 provided by any school district serving the subdivision, the person
13 who filed the notice of intention and application for issuance of a
14 public report immediately shall provide the department with the
15 name, address, and telephone number of that district.

16 (12) The location of all existing airports, and of all proposed
17 airports shown on the general plan of any city or county, located
18 within two statute miles of the subdivision.

19 (13) A true statement, if applicable, referencing any soils or
20 geologic report or soils and geologic reports that have been
21 prepared specifically for the subdivision.

22 (14) A true statement of whether or not fill is used, or is
23 proposed to be used in the subdivision and a statement giving the
24 name and the location of the public agency where information
25 concerning soil conditions in the subdivision is available.

26 (15) Any other information that the owner, his or her agent, or
27 the subdivider may desire to present.

28 (c) The commissioner may, by regulation, or on the basis of the
29 particular circumstances of a proposed offering, waive the
30 requirement of the submission of a completed questionnaire if the
31 commissioner determines that prospective purchasers or lessees of
32 the subdivision interests to be offered will be adequately protected
33 through the issuance of a public report based solely upon
34 information contained in the notice of intention.

35 SEC. 3. Section 65867.5 of the Government Code is amended
36 to read:

37 65867.5. (a) A development agreement is a legislative act
38 ~~which~~ *that* shall be approved by ordinance and is subject to
39 referendum. ~~A~~



1 (b) A development agreement shall not be approved unless the
2 legislative body finds that the provisions of the agreement are
3 consistent with the general plan and any applicable specific plan.

4 (c) A development agreement that includes a subdivision of
5 more than 200 residential units shall not be approved unless the
6 legislative body finds that the provisions of the agreement comply
7 with the requirements of Section 66473.6.

8 SEC. 4. Section 66473.6 is added to the Government Code, to
9 read:

10 66473.6. (a) No local agency may approve a subdivision of
11 more than 200 residential units unless the legislative body makes
12 a finding that a sufficient, reliable water supply is available that
13 will meet the reasonable needs of the project.

14 (b) The legislative body of a city or county shall include as a
15 condition in all tentative maps for 200 or more residential units a
16 requirement that a sufficient, reliable water supply shall be
17 available prior to the completion of the project as required by this
18 section. Proof of the availability of a sufficient, reliable water
19 supply shall be based on written verification from the applicable
20 water service provider. The applicable water service provider shall
21 be the water system that is, or may become, a public water system,
22 as defined in Section 10912 of the Water Code, that may supply
23 water for the project.

24 (c) The applicable water service provider's verification of its
25 ability or inability to provide a sufficient, reliable water supply that
26 will meet the reasonable needs of the project as required by
27 subdivision (b) shall be supported by substantial evidence based
28 upon the water service provider's most recently adopted urban
29 water management plan adopted pursuant to Part 2.6
30 (commencing with Section 10610) of the Water Code.

31 (d) When the written verification pursuant to subdivision (b)
32 relies on obtaining additional water supplies to provide a
33 sufficient, reliable water supply to the project, the written
34 verification shall be based on all of the following:

35 (1) Written contracts or other proof of entitlement to the
36 identified water supply.

37 (2) Copies of a capital outlay program for financing the
38 delivery of a sufficient, reliable water supply that has been adopted
39 by the applicable water service provider.



1 (3) Securing of applicable federal, state, and local permits for
2 construction of necessary infrastructure associated with supplying
3 a sufficient, reliable water supply.

4 (4) Any necessary regulatory approvals that are required in
5 order to be able to convey or deliver a sufficient, reliable water
6 supply to the project.

7 (e) As used in this section, a “sufficient, reliable water supply”
8 means that the applicable water service provider’s total available
9 water supply during multiple dry water years will be sufficient to
10 satisfy the demands of the proposed subdivision without impairing
11 the applicable water service provider’s ability to meet existing and
12 forecasted demands, including agricultural needs, in its service
13 area, consistent with its water supply planning criteria. The water
14 service provider’s water supply planning criteria may include
15 reasonable reductions in water deliveries during multiple dry years
16 provided that reductions are fairly apportioned and do not, unless
17 provided for in the contract, disproportionately impact
18 agricultural or other existing water users. The total available water
19 supplies of the applicable water service provider may also include
20 a sufficient, long-term supply of water to satisfy the demands of
21 the proposed project that has been identified and secured by the
22 applicable water service provider working in conjunction with the
23 applicant and the city or county that will be available prior to
24 completion of the project.

25 (f) For applicable water service providers whose water supply
26 includes water obtained from a groundwater basin, the following
27 additional information shall be used in the determination as to
28 whether a “sufficient, reliable water supply” is available:

29 (1) An identification and description of the other users of the
30 groundwater basin and the historical water use patterns of those
31 other users during normal, single-dry, and multiple-dry water
32 years.

33 (2) An estimate of the maximum quantity of water that can be
34 continuously withdrawn from the groundwater basin without
35 adverse effect (safe yield).

36 (3) An identification as to whether the groundwater basin is
37 overdrafted, a description of the known and expected effects of the
38 overdraft condition, and the likely impact of the project on the
39 water level in the groundwater basin.



1 (4) A description of any groundwater management programs
2 that have been implemented, including any strategies to monitor
3 groundwater levels and extractions and the development of any
4 cooperative arrangements among basin users to minimize or
5 eliminate problem conditions.

6 (g) This section shall not apply to any project proposed for a
7 site that meets all of the following conditions:

8 (1) The site is not more than five acres in area.

9 (2) The site can be adequately served by utilities.

10 (3) The site has no value as a wildlife habitat.

11 (4) The site is an infill site, as described in paragraph (3) of
12 subdivision (a) of Section 21080.14 of the Public Resources Code.

13 (h) The findings made pursuant to this section shall be
14 consistent with the obligation of a water service provider to grant
15 a priority for the provision of available and future water resources
16 or services to proposed housing developments that help meet the
17 city's or county's share of the regional housing needs for lower
18 income households, pursuant to Section 65589.7.

19 SEC. 5. Section 66474 of the Government Code is amended
20 to read:

21 66474. A legislative body of a city or county shall deny
22 approval of a tentative map, or a parcel map for which a tentative
23 map was not required, if it makes any of the following findings:

24 (a) ~~That the~~ *The* proposed map is not consistent with applicable
25 general and specific plans as specified in Section 65451.

26 (b) ~~That the~~ *The* design or improvement of the proposed
27 subdivision is not consistent with applicable general and specific
28 plans.

29 (c) ~~That the~~ *The* site is not physically suitable for the type of
30 development.

31 (d) ~~That the~~ *The* site is not physically suitable for the proposed
32 density of development.

33 (e) ~~That the~~ *The* design of the subdivision or the proposed
34 improvements are likely to cause substantial environmental
35 damage or substantially and avoidably injure fish or wildlife or
36 their habitat.

37 (f) ~~That the~~ *The* design of the subdivision or type of
38 improvements is likely to cause serious public health problems.

39 (g) ~~That the~~ *The* design of the subdivision or the type of
40 improvements will conflict with easements, acquired by the public



1 at large, for access through or use of, property within the proposed
 2 subdivision. In this connection, the governing body may approve
 3 a map if it finds that alternate easements, for access or for use, will
 4 be provided, and that these will be substantially equivalent to ones
 5 previously acquired by the public. This ~~subsection~~ subdivision
 6 shall apply only to easements of record or to easements established
 7 by judgment of a court of competent jurisdiction and no authority
 8 is hereby granted to a legislative body to determine that the public
 9 at large has acquired easements for access through or use of
 10 property within the proposed subdivision.

11 *(h) The design of the subdivision or the type of improvement*
 12 *does not comply with the requirements of Section 66473.6.*

13 SEC. 6. Notwithstanding Section 17610 of the Government
 14 Code, if the Commission on State Mandates determines that this
 15 act contains costs mandated by the state, reimbursement to local
 16 agencies and school districts for those costs shall be made pursuant
 17 to Part 7 (commencing with Section 17500) of Division 4 of Title
 18 2 of the Government Code. If the statewide cost of the claim for
 19 reimbursement does not exceed one million dollars (\$1,000,000),
 20 reimbursement shall be made from the State Mandates Claims
 21 Fund.

