

ASSEMBLY BILL

No. 300

Introduced by Assembly Member Caballero

February 17, 2009

An act to amend, repeal, and add Section 66473.7 of the Government Code, and to amend, repeal, and add Section 10910 of the Water Code, relating to subdivision map approvals.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as introduced, Caballero. Subdivisions: water supply.

(1) The Subdivision Map Act prohibits 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 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project.

This bill would require, until January 1, 2020, the legislative body of a city or county or the designated advisory agency to approve or disapprove the subdivider's water savings projections attributable to voluntary demand management measures, as defined, after being reviewed by the retail water supplier and verified for accuracy, as specified, by the public water system or the local agency if there is no public water system. Water savings projections would be authorized to be calculated using the water savings projections adopted by the California Urban Water Conservation Council. Water savings projections

for measures for which the California Urban Water Conservation Council does not have adopted findings would be required to be based on substantial evidence in the record and included in the water supply assessment adopted by the water supplier. If a project applicant proposes to use a new voluntary water reduction demand management measure that is not based on water savings projections adopted by the California Urban Water Conservation Council, the legislative body of a city or county or the advisory agency would be required to have the project applicant enter into an agreement with the water utility to implement and monitor the actual water savings over time, as specified. The public water system would be required to prepare a written report of the projected water demand versus the actual water use 5 years after the project has been fully developed. By adding to the duties of the public water system, this bill would impose a state-mandated local program.

(2) Existing law requires a city or county that determines a project, as defined, is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems to prepare a specified water supply assessment. If no public water system is identified, the city or county is required to prepare the water supply assessment.

This bill would require, until January 1, 2020, any city, county, or public water system preparing a water supply assessment to reduce the projected water demand for the project to an amount below the current statutory and regulatory requirements, as defined, based on the project applicant's voluntary water demand management measures, as defined. Water savings projections would be authorized to be calculated using the water savings projections adopted by the California Urban Water Conservation Council. Water savings projections for measures for which the California Urban Water Conservation Council does not have adopted findings would be required to be based on substantial evidence in the record and included in the water supply assessment adopted by the water supplier. If a project applicant proposes to use a new voluntary water reduction demand management measure that is not based on water savings projections adopted by the California Urban Water Conservation Council, the legislative body of a city or county or the advisory agency would be required to have the project applicant enter into an agreement with the water utility to implement and monitor the actual water savings over time, as specified. The public water system would be required to prepare a written report of the projected water demand versus the actual water use 5 years after the project has been fully developed. By adding

to the duties of the public water system, this bill would impose a state-mandated local program.

(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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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. The Legislature finds and declares:

2 (a) Current law requires an assessment of how new land use
3 proposals will affect water supply without recognizing the potential
4 benefits of evolving voluntary water conservation measures.

5 (b) Water conservation measures beyond those already required
6 by state law should be encouraged by accounting for their use
7 when quantifying project water demand.

8 (c) The amount of water demand reductions should be confirmed
9 by the water agencies responsible for providing water service to
10 new development in a cooperative approach with project
11 proponents and local governments that ensures projected water
12 savings are achieved.

13 (d) Water agencies and local government should provide
14 flexibility and encourage the development and implementation of
15 innovative new water conservation technology, water use
16 efficiency, and water management techniques to meet customer
17 needs throughout the differing hydrologic regions of the state.

18 (e) Encouraging widespread use of voluntary water conservation
19 measures will assist water agencies and the state in documenting
20 the potential water savings from new water use efficiency projects
21 and programs in a manner that will promote successful water
22 conservation strategies and discourage ineffective ones.

23 (f) There have been numerous water use efficiency technological
24 and management developments related to landscape irrigation in
25 recent years, and this act will promote the adoption of approaches
26 that go beyond the state's Model Landscape Ordinance.

27 (g) More efficient use of water statewide also will reduce the
28 energy necessary to pump, transport, and treat water with

1 potentially significant corresponding reductions in greenhouse gas
2 emissions.

3 SEC. 2. Section 66473.7 of the Government Code is amended
4 to read:

5 66473.7. (a) For the purposes of this section, the following
6 definitions apply:

7 (1) “Subdivision” means a proposed residential development
8 of more than 500 dwelling units, except that for a public water
9 system that has fewer than 5,000 service connections, “subdivision”
10 means any proposed residential development that would account
11 for an increase of 10 percent or more in the number of the public
12 water system’s existing service connections.

13 (2) “Sufficient water supply” means the total water supplies
14 available during normal, single-dry, and multiple-dry years within
15 a 20-year projection that will meet the projected demand associated
16 with the proposed subdivision, in addition to existing and planned
17 future uses, including, but not limited to, agricultural and industrial
18 uses. In determining “sufficient water supply,” all of the following
19 factors shall be considered:

20 (A) The availability of water supplies over a historical record
21 of at least 20 years.

22 (B) The applicability of an urban water shortage contingency
23 analysis prepared pursuant to Section 10632 of the Water Code
24 that includes actions to be undertaken by the public water system
25 in response to water supply shortages.

26 (C) The reduction in water supply allocated to a specific water
27 use sector pursuant to a resolution or ordinance adopted, or a
28 contract entered into, by the public water system, as long as that
29 resolution, ordinance, or contract does not conflict with Section
30 354 of the Water Code.

31 (D) The amount of water that the water supplier can reasonably
32 rely on receiving from other water supply projects, such as
33 conjunctive use, reclaimed water, water conservation, and water
34 transfer, including programs identified under federal, state, and
35 local water initiatives such as CALFED and Colorado River
36 tentative agreements, to the extent that these water supplies meet
37 the criteria of subdivision (d).

38 (3) “Public water system” means the water supplier that is, or
39 may become as a result of servicing the subdivision included in a
40 tentative map pursuant to subdivision (b), a public water system,

1 as defined in Section 10912 of the Water Code, that may supply
2 water for a subdivision.

3 (4) *“Projected demand associated with the proposed*
4 *subdivision” means the anticipated water demand for the project,*
5 *given current statutory and regulatory requirements, reduced by*
6 *the amount of voluntary demand management measures.*

7 (5) *“Voluntary demand management measures” means water*
8 *use efficiency measures that are permanently fixed to residential,*
9 *commercial, industrial, or other real property that will reduce the*
10 *subdivision’s water demand below the applicable statutory and*
11 *regulatory requirements for water conservation, and may include,*
12 *but are not limited to, all of the following:*

13 (A) *Smart irrigation controllers.*

14 (B) *Waterless urinals.*

15 (C) *Ultralow flow and dual flow toilets.*

16 (D) *Recycled water facilities.*

17 (E) *Rainwater capture and reuse facilities.*

18 (F) *Any other measure that will prevent the waste of water or*
19 *promote the reasonable and efficient use and reuse of available*
20 *water supplies by the subdivision or the public.*

21 (b) (1) The legislative body of a city or county or the advisory
22 agency, to the extent that it is authorized by local ordinance to
23 approve, conditionally approve, or disapprove the tentative map,
24 shall include as a condition in any tentative map that includes a
25 subdivision a requirement that a sufficient water supply shall be
26 available. Proof of the availability of a sufficient water supply
27 shall be requested by the subdivision applicant or local agency, at
28 the discretion of the local agency, and shall be based on written
29 verification from the applicable public water system within 90
30 days of a request. *The water savings projection attributable to*
31 *voluntary demand management measures shall be contained in*
32 *the written verification and verified for accuracy by the public*
33 *water system, or, if there is no public water system, the local*
34 *agency. The legislative body of a city or county or the advisory*
35 *agency shall approve or disapprove the subdivider’s water savings*
36 *projections attributable to voluntary demand management*
37 *measures after being reviewed by the public water system.*

38 (2) If the public water system fails to deliver the written
39 verification as required by this section, the local agency or any

1 other interested party may seek a writ of mandamus to compel the
2 public water system to comply.

3 (3) If the written verification provided by the applicable public
4 water system indicates that the public water system is unable to
5 provide a sufficient water supply that will meet the projected
6 demand associated with the proposed subdivision, then the local
7 agency may make a finding, after consideration of the written
8 verification by the applicable public water system, that additional
9 water supplies not accounted for by the public water system are,
10 or will be, available prior to completion of the subdivision that
11 will satisfy the requirements of this section. This finding shall be
12 made on the record and supported by substantial evidence.

13 (4) If the written verification is not provided by the public water
14 system, notwithstanding the local agency or other interested party
15 securing a writ of mandamus to compel compliance with this
16 section, then the local agency may make a finding that sufficient
17 water supplies are, or will be, available prior to completion of the
18 subdivision that will satisfy the requirements of this section. This
19 finding shall be made on the record and supported by substantial
20 evidence.

21 (5) *Water savings projections may be calculated using the water*
22 *savings projections adopted by the California Urban Water*
23 *Conservation Council. Water savings projections for measures*
24 *for which the California Urban Water Conservation Council does*
25 *not have adopted findings shall be based on substantial evidence*
26 *in the record and included in the water supply assessment adopted*
27 *by the water supplier. If a project applicant proposes to use a new*
28 *voluntary water reduction demand management measure that is*
29 *not based on water savings projections adopted by the California*
30 *Urban Water Conservation Council, the legislative body of a city*
31 *or county or the advisory agency shall require the project applicant*
32 *to enter into an agreement with the water utility to implement and*
33 *monitor the actual water savings over time through conditions of*
34 *approval for the project, which may include the adoption of legally*
35 *enforceable mechanisms, such as inclusion in covenants,*
36 *conditions, and restrictions. The public water system shall prepare*
37 *a written report of the projected water demand versus the actual*
38 *water use five years after the project has been fully developed.*

39 (c) The applicable public water system's written verification of
40 its ability or inability to provide a sufficient water supply that will

1 meet the projected demand associated with the proposed
2 subdivision as required by subdivision (b) shall be supported by
3 substantial evidence. The substantial evidence may include, but is
4 not limited to, any of the following:

5 (1) The public water system's most recently adopted urban water
6 management plan adopted pursuant to Part 2.6 (commencing with
7 Section 10610) of Division 6 of the Water Code.

8 (2) A water supply assessment that was completed pursuant to
9 Part 2.10 (commencing with Section 10910) of Division 6 of the
10 Water Code.

11 (3) Other information relating to the sufficiency of the water
12 supply that contains analytical information that is substantially
13 similar to the assessment required by Section 10635 of the Water
14 Code.

15 (d) When the written verification pursuant to subdivision (b)
16 relies on projected water supplies that are not currently available
17 to the public water system, to provide a sufficient water supply to
18 the subdivision, the written verification as to those projected water
19 supplies shall be based on all of the following elements, to the
20 extent each is applicable:

21 (1) Written contracts or other proof of valid rights to the
22 identified water supply that identify the terms and conditions under
23 which the water will be available to serve the proposed subdivision.

24 (2) Copies of a capital outlay program for financing the delivery
25 of a sufficient water supply that has been adopted by the applicable
26 governing body.

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

30 (4) Any necessary regulatory approvals that are required in order
31 to be able to convey or deliver a sufficient water supply to the
32 subdivision.

33 (e) If there is no public water system, the local agency shall
34 make a written finding of sufficient water supply based on the
35 evidentiary requirements of subdivisions ~~(e)~~ (b), (c), and (d) and
36 identify the mechanism for providing water to the subdivision.

37 (f) In making any findings or determinations under this section,
38 a local agency, or designated advisory agency, may work in
39 conjunction with the project applicant and the public water system
40 to secure water supplies sufficient to satisfy the demands of the

1 proposed subdivision. If the local agency secures water supplies
2 pursuant to this subdivision, which supplies are acceptable to and
3 approved by the governing body of the public water system as
4 suitable for delivery to customers, it shall work in conjunction
5 with the public water system to implement a plan to deliver that
6 water supply to satisfy the long-term demands of the proposed
7 subdivision.

8 (g) The written verification prepared under this section *also*
9 shall ~~also~~ include a description, to the extent that data is reasonably
10 available based on published records maintained by federal and
11 state agencies, and public records of local agencies, of the
12 reasonably foreseeable impacts of the proposed subdivision on the
13 availability of water resources for agricultural and industrial uses
14 within the public water system's service area that are not currently
15 receiving water from the public water system but are utilizing the
16 same sources of water. To the extent that those reasonably
17 foreseeable impacts have previously been evaluated in a document
18 prepared pursuant to the California Environmental Quality Act
19 (Division 13 (commencing with Section 21000) of the Public
20 Resources Code) or the National Environmental Policy Act (~~Public~~
21 ~~Law~~ (*P.L.* 91-190) for the proposed subdivision, the public water
22 system may utilize that information in preparing the written
23 verification.

24 (h) Where a water supply for a proposed subdivision includes
25 groundwater, the public water system serving the proposed
26 subdivision shall evaluate, based on substantial evidence, the extent
27 to which it or the landowner has the right to extract the additional
28 groundwater needed to supply the proposed subdivision. Nothing
29 in this subdivision is intended to modify state law with regard to
30 groundwater rights.

31 (i) This section shall not apply to any residential project
32 proposed for a site that is within an urbanized area and has been
33 previously developed for urban uses, or where the immediate
34 contiguous properties surrounding the residential project site are,
35 or previously have been, developed for urban uses, or housing
36 projects that are exclusively for very low and low-income
37 households.

38 (j) The determinations made pursuant to this section shall be
39 consistent with the obligation of a public water system to grant a
40 priority for the provision of available and future water resources

1 or services to proposed housing developments that help meet the
2 city's or county's share of the regional housing needs for lower
3 income households, pursuant to Section 65589.7.

4 (k) The County of San Diego shall be deemed to comply with
5 this section if the Office of Planning and Research determines that
6 all of the following conditions have been met:

7 (1) A regional growth management strategy that provides for a
8 comprehensive regional strategy and a coordinated economic
9 development and growth management program has been developed
10 pursuant to Proposition C as approved by the voters of the County
11 of San Diego in November 1988, which required the development
12 of a regional growth management plan and directed the
13 establishment of a regional planning and growth management
14 review board.

15 (2) Each public water system, as defined in Section 10912 of
16 the Water Code, within the County of San Diego has adopted an
17 urban water management plan pursuant to Part 2.6 (commencing
18 with Section 10610) of the Water Code.

19 (3) The approval or conditional approval of tentative maps for
20 subdivisions, as defined in this section, by the County of San Diego
21 and the cities within the county requires written communications
22 to be made by the public water system to the city or county, in a
23 format and with content that is substantially similar to the
24 requirements contained in this section, with regard to the
25 availability of a sufficient water supply, or the reliance on projected
26 water supplies to provide a sufficient water supply, for a proposed
27 subdivision.

28 (l) Nothing in this section shall preclude the legislative body of
29 a city or county, or the designated advisory agency, at the request
30 of the applicant, from making the determinations required in this
31 section earlier than required pursuant to subdivision (b).

32 (m) Nothing in this section shall be construed to create a right
33 or entitlement to water service or any specific level of water
34 service.

35 (n) Nothing in this section is intended to change existing law
36 concerning a public water system's obligation to provide water
37 service to its existing customers or to any potential future
38 customers.

1 (o) Any action challenging the sufficiency of the public water
2 system's written verification of a sufficient water supply shall be
3 governed by Section 66499.37.

4 (p) *This section shall remain in effect only until January 1, 2020,*
5 *and as of that date is repealed, unless a later enacted statute, that*
6 *is enacted before January 1, 2020, deletes or extends that date.*

7 SEC. 3. Section 66473.7 is added to the Government Code, to
8 read:

9 66473.7. (a) For the purposes of this section, the following
10 definitions apply:

11 (1) "Subdivision" means a proposed residential development
12 of more than 500 dwelling units, except that for a public water
13 system that has fewer than 5,000 service connections, "subdivision"
14 means any proposed residential development that would account
15 for an increase of 10 percent or more in the number of the public
16 water system's existing service connections.

17 (2) "Sufficient water supply" means the total water supplies
18 available during normal, single-dry, and multiple-dry years within
19 a 20-year projection that will meet the projected demand associated
20 with the proposed subdivision, in addition to existing and planned
21 future uses, including, but not limited to, agricultural and industrial
22 uses. In determining "sufficient water supply," all of the following
23 factors shall be considered:

24 (A) The availability of water supplies over a historical record
25 of at least 20 years.

26 (B) The applicability of an urban water shortage contingency
27 analysis prepared pursuant to Section 10632 of the Water Code
28 that includes actions to be undertaken by the public water system
29 in response to water supply shortages.

30 (C) The reduction in water supply allocated to a specific water
31 use sector pursuant to a resolution or ordinance adopted, or a
32 contract entered into, by the public water system, as long as that
33 resolution, ordinance, or contract does not conflict with Section
34 354 of the Water Code.

35 (D) The amount of water that the water supplier can reasonably
36 rely on receiving from other water supply projects, such as
37 conjunctive use, reclaimed water, water conservation, and water
38 transfer, including programs identified under federal, state, and
39 local water initiatives such as CALFED and Colorado River

1 tentative agreements, to the extent that these water supplies meet
2 the criteria of subdivision (d).

3 (3) “Public water system” means the water supplier that is, or
4 may become as a result of servicing the subdivision included in a
5 tentative map pursuant to subdivision (b), a public water system,
6 as defined in Section 10912 of the Water Code, that may supply
7 water for a subdivision.

8 (b) (1) The legislative body of a city or county or the advisory
9 agency, to the extent that it is authorized by local ordinance to
10 approve, conditionally approve, or disapprove the tentative map,
11 shall include as a condition in any tentative map that includes a
12 subdivision a requirement that a sufficient water supply shall be
13 available. Proof of the availability of a sufficient water supply
14 shall be requested by the subdivision applicant or local agency, at
15 the discretion of the local agency, and shall be based on written
16 verification from the applicable public water system within 90
17 days of a request.

18 (2) If the public water system fails to deliver the written
19 verification as required by this section, the local agency or any
20 other interested party may seek a writ of mandamus to compel the
21 public water system to comply.

22 (3) If the written verification provided by the applicable public
23 water system indicates that the public water system is unable to
24 provide a sufficient water supply that will meet the projected
25 demand associated with the proposed subdivision, then the local
26 agency may make a finding, after consideration of the written
27 verification by the applicable public water system, that additional
28 water supplies not accounted for by the public water system are,
29 or will be, available prior to completion of the subdivision that
30 will satisfy the requirements of this section. This finding shall be
31 made on the record and supported by substantial evidence.

32 (4) If the written verification is not provided by the public water
33 system, notwithstanding the local agency or other interested party
34 securing a writ of mandamus to compel compliance with this
35 section, then the local agency may make a finding that sufficient
36 water supplies are, or will be, available prior to completion of the
37 subdivision that will satisfy the requirements of this section. This
38 finding shall be made on the record and supported by substantial
39 evidence.

1 (c) The applicable public water system's written verification of
2 its ability or inability to provide a sufficient water supply that will
3 meet the projected demand associated with the proposed
4 subdivision as required by subdivision (b) shall be supported by
5 substantial evidence. The substantial evidence may include, but is
6 not limited to, any of the following:

7 (1) The public water system's most recently adopted urban water
8 management plan adopted pursuant to Part 2.6 (commencing with
9 Section 10610) of Division 6 of the Water Code.

10 (2) A water supply assessment that was completed pursuant to
11 Part 2.10 (commencing with Section 10910) of Division 6 of the
12 Water Code.

13 (3) Other information relating to the sufficiency of the water
14 supply that contains analytical information that is substantially
15 similar to the assessment required by Section 10635 of the Water
16 Code.

17 (d) When the written verification pursuant to subdivision (b)
18 relies on projected water supplies that are not currently available
19 to the public water system, to provide a sufficient water supply to
20 the subdivision, the written verification as to those projected water
21 supplies shall be based on all of the following elements, to the
22 extent each is applicable:

23 (1) Written contracts or other proof of valid rights to the
24 identified water supply that identify the terms and conditions under
25 which the water will be available to serve the proposed subdivision.

26 (2) Copies of a capital outlay program for financing the delivery
27 of a sufficient water supply that has been adopted by the applicable
28 governing body.

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

32 (4) Any necessary regulatory approvals that are required in order
33 to be able to convey or deliver a sufficient water supply to the
34 subdivision.

35 (e) If there is no public water system, the local agency shall
36 make a written finding of sufficient water supply based on the
37 evidentiary requirements of subdivisions (c) and (d) and identify
38 the mechanism for providing water to the subdivision.

39 (f) In making any findings or determinations under this section,
40 a local agency, or designated advisory agency, may work in

1 conjunction with the project applicant and the public water system
2 to secure water supplies sufficient to satisfy the demands of the
3 proposed subdivision. If the local agency secures water supplies
4 pursuant to this subdivision, which supplies are acceptable to and
5 approved by the governing body of the public water system as
6 suitable for delivery to customers, it shall work in conjunction
7 with the public water system to implement a plan to deliver that
8 water supply to satisfy the long-term demands of the proposed
9 subdivision.

10 (g) The written verification prepared under this section also
11 shall include a description, to the extent that data is reasonably
12 available based on published records maintained by federal and
13 state agencies, and public records of local agencies, of the
14 reasonably foreseeable impacts of the proposed subdivision on the
15 availability of water resources for agricultural and industrial uses
16 within the public water system's service area that are not currently
17 receiving water from the public water system but are utilizing the
18 same sources of water. To the extent that those reasonably
19 foreseeable impacts have previously been evaluated in a document
20 prepared pursuant to the California Environmental Quality Act
21 (Division 13 (commencing with Section 21000) of the Public
22 Resources Code) or the National Environmental Policy Act (P.L.
23 91-190) for the proposed subdivision, the public water system may
24 utilize that information in preparing the written verification.

25 (h) Where a water supply for a proposed subdivision includes
26 groundwater, the public water system serving the proposed
27 subdivision shall evaluate, based on substantial evidence, the extent
28 to which it or the landowner has the right to extract the additional
29 groundwater needed to supply the proposed subdivision. Nothing
30 in this subdivision is intended to modify state law with regard to
31 groundwater rights.

32 (i) This section shall not apply to any residential project
33 proposed for a site that is within an urbanized area and has been
34 previously developed for urban uses, or where the immediate
35 contiguous properties surrounding the residential project site are,
36 or previously have been, developed for urban uses, or housing
37 projects that are exclusively for very low and low-income
38 households.

39 (j) The determinations made pursuant to this section shall be
40 consistent with the obligation of a public water system to grant a

1 priority for the provision of available and future water resources
2 or services to proposed housing developments that help meet the
3 city's or county's share of the regional housing needs for lower
4 income households, pursuant to Section 65589.7.

5 (k) The County of San Diego shall be deemed to comply with
6 this section if the Office of Planning and Research determines that
7 all of the following conditions have been met:

8 (1) A regional growth management strategy that provides for a
9 comprehensive regional strategy and a coordinated economic
10 development and growth management program has been developed
11 pursuant to Proposition C as approved by the voters of the County
12 of San Diego in November 1988, which required the development
13 of a regional growth management plan and directed the
14 establishment of a regional planning and growth management
15 review board.

16 (2) Each public water system, as defined in Section 10912 of
17 the Water Code, within the County of San Diego has adopted an
18 urban water management plan pursuant to Part 2.6 (commencing
19 with Section 10610) of the Water Code.

20 (3) The approval or conditional approval of tentative maps for
21 subdivisions, as defined in this section, by the County of San Diego
22 and the cities within the county requires written communications
23 to be made by the public water system to the city or county, in a
24 format and with content that is substantially similar to the
25 requirements contained in this section, with regard to the
26 availability of a sufficient water supply, or the reliance on projected
27 water supplies to provide a sufficient water supply, for a proposed
28 subdivision.

29 (l) Nothing in this section shall preclude the legislative body of
30 a city or county, or the designated advisory agency, at the request
31 of the applicant, from making the determinations required in this
32 section earlier than required pursuant to subdivision (b).

33 (m) Nothing in this section shall be construed to create a right
34 or entitlement to water service or any specific level of water
35 service.

36 (n) Nothing in this section is intended to change existing law
37 concerning a public water system's obligation to provide water
38 service to its existing customers or to any potential future
39 customers.

1 (o) Any action challenging the sufficiency of the public water
2 system's written verification of a sufficient water supply shall be
3 governed by Section 66499.37.

4 (p) This section shall become operative on January 1, 2020.

5 SEC. 4. Section 10910 of the Water Code is amended to read:

6 10910. (a) Any city or county that determines that a project,
7 as defined in Section 10912, is subject to the California
8 Environmental Quality Act (Division 13 (commencing with Section
9 21000) of the Public Resources Code) under Section 21080 of the
10 Public Resources Code shall comply with this part.

11 (b) The city or county, at the time that it determines whether an
12 environmental impact report, a negative declaration, or a mitigated
13 negative declaration is required for any project subject to the
14 California Environmental Quality Act pursuant to Section 21080.1
15 of the Public Resources Code, shall identify any water system that
16 is, or may become as a result of supplying water to the project
17 identified pursuant to this subdivision, a public water system, as
18 defined in Section 10912, that may supply water for the project.
19 If the city or county is not able to identify any public water system
20 that may supply water for the project, the city or county shall
21 prepare the water assessment required by this part after consulting
22 with any entity serving domestic water supplies whose service
23 area includes the project site, the local agency formation
24 commission, and any public water system adjacent to the project
25 site.

26 (c) (1) The city or county, at the time it makes the determination
27 required under Section 21080.1 of the Public Resources Code,
28 shall request each public water system identified pursuant to
29 subdivision (b) to determine whether the projected water demand
30 associated with a proposed project was included as part of the most
31 recently adopted urban water management plan adopted pursuant
32 to Part 2.6 (commencing with Section 10610).

33 (2) If the projected water demand associated with the proposed
34 project was accounted for in the most recently adopted urban water
35 management plan, the public water system may incorporate the
36 requested information from the urban water management plan in
37 preparing the elements of the assessment required to comply with
38 subdivisions (d), (e), (f), and (g).

39 (3) If the projected water demand associated with the proposed
40 project was not accounted for in the most recently adopted urban

1 water management plan, or the public water system has no urban
2 water management plan, the water supply assessment for the project
3 shall include a discussion with regard to whether the public water
4 system's total projected water supplies available during normal,
5 single dry, and multiple dry water years during a 20-year projection
6 will meet the projected water demand associated with the proposed
7 project, in addition to the public water system's existing and
8 planned future uses, including agricultural and manufacturing uses.

9 (4) If the city or county is required to comply with this part
10 pursuant to subdivision (b), the water supply assessment for the
11 project shall include a discussion with regard to whether the total
12 projected water supplies, determined to be available by the city or
13 county for the project during normal, single dry, and multiple dry
14 water years during a 20-year projection, will meet the projected
15 water demand associated with the proposed project, in addition to
16 existing and planned future uses, including agricultural and
17 manufacturing uses.

18 (5) *The projected water demand shall be reduced for the project*
19 *to an amount below the current statutory and regulatory*
20 *requirements, as defined in Section 10912, based on the project*
21 *applicant's voluntary water demand management measures. The*
22 *public water system, or, if there is no public water system, the*
23 *local agency, shall quantify the reduction of anticipated water*
24 *demand attributable to the voluntary demand management*
25 *measures. For purposes of this section, "voluntary water demand*
26 *management measures" means water use efficiency measures*
27 *below statutory and regulatory requirements that are permanently*
28 *fixed to residential, commercial, industrial, or other real property*
29 *that will reduce projected water demand, and may include, but*
30 *are not limited to, all of the following:*

31 (A) *Smart irrigation controllers.*

32 (B) *Waterless urinals.*

33 (C) *Ultralow flow and dual flow toilets.*

34 (D) *Recycled water facilities.*

35 (E) *Rainwater capture and reuse facilities.*

36 (F) *Any other measure that will prevent the waste of water or*
37 *promote the reasonable and efficient use and reuse of available*
38 *water supplies by the subdivision or the public.*

39 (6) *Water savings projections may be calculated using the water*
40 *savings projections adopted by the California Urban Water*

1 *Conservation Council. Water savings projections for measures*
2 *for which the California Urban Water Conservation Council does*
3 *not have adopted findings shall be based on substantial evidence*
4 *in the record and included in the water supply assessment adopted*
5 *by the water supplier. If a project applicant proposes to use a new*
6 *voluntary water reduction demand management measure that is*
7 *not based on water savings projections adopted by the California*
8 *Urban Water Conservation Council, the legislative body of a city*
9 *or county or the advisory agency shall require the project applicant*
10 *to enter into an agreement with the water utility to implement and*
11 *monitor the actual water savings over time through conditions of*
12 *approval for the project, which may include the adoption of legally*
13 *enforceable mechanisms, such as inclusion in covenants,*
14 *conditions, and restrictions. The public water system shall prepare*
15 *a written report of the projected water demand versus the actual*
16 *water use five years after the project has been fully developed.*

17 (d) (1) The assessment required by this section shall include
18 an identification of any existing water supply entitlements, water
19 rights, or water service contracts relevant to the identified water
20 supply for the proposed project, and a description of the quantities
21 of water received in prior years by the public water system, or the
22 city or county if either is required to comply with this part pursuant
23 to subdivision (b), under the existing water supply entitlements,
24 water rights, or water service contracts.

25 (2) An identification of existing water supply entitlements, water
26 rights, or water service contracts held by the public water system,
27 or the city or county if either is required to comply with this part
28 pursuant to subdivision (b), shall be demonstrated by providing
29 information related to all of the following:

30 (A) Written contracts or other proof of entitlement to an
31 identified water supply.

32 (B) Copies of a capital outlay program for financing the delivery
33 of a water supply that has been adopted by the public water system.

34 (C) Federal, state, and local permits for construction of necessary
35 infrastructure associated with delivering the water supply.

36 (D) Any necessary regulatory approvals that are required in
37 order to be able to convey or deliver the water supply.

38 (e) If no water has been received in prior years by the public
39 water system, or the city or county if either is required to comply
40 with this part pursuant to subdivision (b), under the existing water

1 supply entitlements, water rights, or water service contracts, the
2 public water system, or the city or county if either is required to
3 comply with this part pursuant to subdivision (b), shall also include
4 in its water supply assessment pursuant to subdivision (c), an
5 identification of the other public water systems or water service
6 contractholders that receive a water supply or have existing water
7 supply entitlements, water rights, or water service contracts, to the
8 same source of water as the public water system, or the city or
9 county if either is required to comply with this part pursuant to
10 subdivision (b), has identified as a source of water supply within
11 its water supply assessments.

12 (f) If a water supply for a proposed project includes
13 groundwater, the following additional information shall be included
14 in the water supply assessment:

15 (1) A review of any information contained in the urban water
16 management plan relevant to the identified water supply for the
17 proposed project.

18 (2) A description of any groundwater basin or basins from which
19 the proposed project will be supplied. For those basins for which
20 a court or the board has adjudicated the rights to pump
21 groundwater, a copy of the order or decree adopted by the court
22 or the board and a description of the amount of groundwater the
23 public water system, or the city or county if either is required to
24 comply with this part pursuant to subdivision (b), has the legal
25 right to pump under the order or decree. For basins that have not
26 been adjudicated, information as to whether the department has
27 identified the basin or basins as overdrafted or has projected that
28 the basin will become overdrafted if present management
29 conditions continue, in the most current bulletin of the department
30 that characterizes the condition of the groundwater basin, and a
31 detailed description by the public water system, or the city or
32 county if either is required to comply with this part pursuant to
33 subdivision (b), of the efforts being undertaken in the basin or
34 basins to eliminate the long-term overdraft condition.

35 (3) A detailed description and analysis of the amount and
36 location of groundwater pumped by the public water system, or
37 the city or county if either is required to comply with this part
38 pursuant to subdivision (b), for the past five years from any
39 groundwater basin from which the proposed project will be
40 supplied. The description and analysis shall be based on

1 information that is reasonably available, including, but not limited
2 to, historic use records.

3 (4) A detailed description and analysis of the amount and
4 location of groundwater that is projected to be pumped by the
5 public water system, or the city or county if either is required to
6 comply with this part pursuant to subdivision (b), from any basin
7 from which the proposed project will be supplied. The description
8 and analysis shall be based on information that is reasonably
9 available, including, but not limited to, historic use records.

10 (5) An analysis of the sufficiency of the groundwater from the
11 basin or basins from which the proposed project will be supplied
12 to meet the projected water demand associated with the proposed
13 project. A water supply assessment shall not be required to include
14 the information required by this paragraph if the public water
15 system determines, as part of the review required by paragraph
16 (1), that the sufficiency of groundwater necessary to meet the initial
17 and projected water demand associated with the project was
18 addressed in the description and analysis required by paragraph
19 (4) of subdivision (b) of Section 10631.

20 (g) (1) Subject to paragraph (2), the governing body of each
21 public water system shall submit the assessment to the city or
22 county not later than 90 days from the date on which the request
23 was received. The governing body of each public water system,
24 or the city or county if either is required to comply with this act
25 pursuant to subdivision (b), shall approve the assessment prepared
26 pursuant to this section at a regular or special meeting.

27 (2) Prior to the expiration of the 90-day period, if the public
28 water system intends to request an extension of time to prepare
29 and adopt the assessment, the public water system shall meet with
30 the city or county to request an extension of time, which shall not
31 exceed 30 days, to prepare and adopt the assessment.

32 (3) If the public water system fails to request an extension of
33 time, or fails to submit the assessment notwithstanding the
34 extension of time granted pursuant to paragraph (2), the city or
35 county may seek a writ of mandamus to compel the governing
36 body of the public water system to comply with the requirements
37 of this part relating to the submission of the water supply
38 assessment.

39 (h) Notwithstanding any other provision of this part, if a project
40 has been the subject of a water supply assessment that complies

1 with the requirements of this part, no additional water supply
2 assessment shall be required for subsequent projects that were part
3 of a larger project for which a water supply assessment was
4 completed and that has complied with the requirements of this part
5 and for which the public water system, or the city or county if
6 either is required to comply with this part pursuant to subdivision
7 (b), has concluded that its water supplies are sufficient to meet the
8 projected water demand associated with the proposed project, in
9 addition to the existing and planned future uses, including, but not
10 limited to, agricultural and industrial uses, unless one or more of
11 the following changes occurs:

12 (1) Changes in the project that result in a substantial increase
13 in water demand for the project.

14 (2) Changes in the circumstances or conditions substantially
15 affecting the ability of the public water system, or the city or county
16 if either is required to comply with this part pursuant to subdivision
17 (b), to provide a sufficient supply of water for the project.

18 (3) Significant new information becomes available which was
19 not known and could not have been known at the time when the
20 assessment was prepared.

21 *(i) This section shall remain in effect only until January 1, 2020,*
22 *and as of that date is repealed, unless a later enacted statute, that*
23 *is enacted before January 1, 2020, deletes or extends that date.*

24 SEC. 5. Section 10910 is added to the Water Code, to read:

25 10910. (a) Any city or county that determines that a project,
26 as defined in Section 10912, is subject to the California
27 Environmental Quality Act (Division 13 (commencing with Section
28 21000) of the Public Resources Code) under Section 21080 of the
29 Public Resources Code shall comply with this part.

30 (b) The city or county, at the time that it determines whether an
31 environmental impact report, a negative declaration, or a mitigated
32 negative declaration is required for any project subject to the
33 California Environmental Quality Act pursuant to Section 21080.1
34 of the Public Resources Code, shall identify any water system that
35 is, or may become as a result of supplying water to the project
36 identified pursuant to this subdivision, a public water system, as
37 defined in Section 10912, that may supply water for the project.
38 If the city or county is not able to identify any public water system
39 that may supply water for the project, the city or county shall
40 prepare the water assessment required by this part after consulting

1 with any entity serving domestic water supplies whose service
2 area includes the project site, the local agency formation
3 commission, and any public water system adjacent to the project
4 site.

5 (c) (1) The city or county, at the time it makes the determination
6 required under Section 21080.1 of the Public Resources Code,
7 shall request each public water system identified pursuant to
8 subdivision (b) to determine whether the projected water demand
9 associated with a proposed project was included as part of the most
10 recently adopted urban water management plan adopted pursuant
11 to Part 2.6 (commencing with Section 10610).

12 (2) If the projected water demand associated with the proposed
13 project was accounted for in the most recently adopted urban water
14 management plan, the public water system may incorporate the
15 requested information from the urban water management plan in
16 preparing the elements of the assessment required to comply with
17 subdivisions (d), (e), (f), and (g).

18 (3) If the projected water demand associated with the proposed
19 project was not accounted for in the most recently adopted urban
20 water management plan, or the public water system has no urban
21 water management plan, the water supply assessment for the project
22 shall include a discussion with regard to whether the public water
23 system's total projected water supplies available during normal,
24 single dry, and multiple dry water years during a 20-year projection
25 will meet the projected water demand associated with the proposed
26 project, in addition to the public water system's existing and
27 planned future uses, including agricultural and manufacturing uses.

28 (4) If the city or county is required to comply with this part
29 pursuant to subdivision (b), the water supply assessment for the
30 project shall include a discussion with regard to whether the total
31 projected water supplies, determined to be available by the city or
32 county for the project during normal, single dry, and multiple dry
33 water years during a 20-year projection, will meet the projected
34 water demand associated with the proposed project, in addition to
35 existing and planned future uses, including agricultural and
36 manufacturing uses.

37 (d) (1) The assessment required by this section shall include
38 an identification of any existing water supply entitlements, water
39 rights, or water service contracts relevant to the identified water
40 supply for the proposed project, and a description of the quantities

1 of water received in prior years by the public water system, or the
2 city or county if either is required to comply with this part pursuant
3 to subdivision (b), under the existing water supply entitlements,
4 water rights, or water service contracts.

5 (2) An identification of existing water supply entitlements, water
6 rights, or water service contracts held by the public water system,
7 or the city or county if either is required to comply with this part
8 pursuant to subdivision (b), shall be demonstrated by providing
9 information related to all of the following:

10 (A) Written contracts or other proof of entitlement to an
11 identified water supply.

12 (B) Copies of a capital outlay program for financing the delivery
13 of a water supply that has been adopted by the public water system.

14 (C) Federal, state, and local permits for construction of necessary
15 infrastructure associated with delivering the water supply.

16 (D) Any necessary regulatory approvals that are required in
17 order to be able to convey or deliver the water supply.

18 (e) If no water has been received in prior years by the public
19 water system, or the city or county if either is required to comply
20 with this part pursuant to subdivision (b), under the existing water
21 supply entitlements, water rights, or water service contracts, the
22 public water system, or the city or county if either is required to
23 comply with this part pursuant to subdivision (b), shall also include
24 in its water supply assessment pursuant to subdivision (c), an
25 identification of the other public water systems or water service
26 contractholders that receive a water supply or have existing water
27 supply entitlements, water rights, or water service contracts, to the
28 same source of water as the public water system, or the city or
29 county if either is required to comply with this part pursuant to
30 subdivision (b), has identified as a source of water supply within
31 its water supply assessments.

32 (f) If a water supply for a proposed project includes
33 groundwater, the following additional information shall be included
34 in the water supply assessment:

35 (1) A review of any information contained in the urban water
36 management plan relevant to the identified water supply for the
37 proposed project.

38 (2) A description of any groundwater basin or basins from which
39 the proposed project will be supplied. For those basins for which
40 a court or the board has adjudicated the rights to pump

1 groundwater, a copy of the order or decree adopted by the court
2 or the board and a description of the amount of groundwater the
3 public water system, or the city or county if either is required to
4 comply with this part pursuant to subdivision (b), has the legal
5 right to pump under the order or decree. For basins that have not
6 been adjudicated, information as to whether the department has
7 identified the basin or basins as overdrafted or has projected that
8 the basin will become overdrafted if present management
9 conditions continue, in the most current bulletin of the department
10 that characterizes the condition of the groundwater basin, and a
11 detailed description by the public water system, or the city or
12 county if either is required to comply with this part pursuant to
13 subdivision (b), of the efforts being undertaken in the basin or
14 basins to eliminate the long-term overdraft condition.

15 (3) A detailed description and analysis of the amount and
16 location of groundwater pumped by the public water system, or
17 the city or county if either is required to comply with this part
18 pursuant to subdivision (b), for the past five years from any
19 groundwater basin from which the proposed project will be
20 supplied. The description and analysis shall be based on
21 information that is reasonably available, including, but not limited
22 to, historic use records.

23 (4) A detailed description and analysis of the amount and
24 location of groundwater that is projected to be pumped by the
25 public water system, or the city or county if either is required to
26 comply with this part pursuant to subdivision (b), from any basin
27 from which the proposed project will be supplied. The description
28 and analysis shall be based on information that is reasonably
29 available, including, but not limited to, historic use records.

30 (5) An analysis of the sufficiency of the groundwater from the
31 basin or basins from which the proposed project will be supplied
32 to meet the projected water demand associated with the proposed
33 project. A water supply assessment shall not be required to include
34 the information required by this paragraph if the public water
35 system determines, as part of the review required by paragraph
36 (1), that the sufficiency of groundwater necessary to meet the initial
37 and projected water demand associated with the project was
38 addressed in the description and analysis required by paragraph
39 (4) of subdivision (b) of Section 10631.

1 (g) (1) Subject to paragraph (2), the governing body of each
2 public water system shall submit the assessment to the city or
3 county not later than 90 days from the date on which the request
4 was received. The governing body of each public water system,
5 or the city or county if either is required to comply with this act
6 pursuant to subdivision (b), shall approve the assessment prepared
7 pursuant to this section at a regular or special meeting.

8 (2) Prior to the expiration of the 90-day period, if the public
9 water system intends to request an extension of time to prepare
10 and adopt the assessment, the public water system shall meet with
11 the city or county to request an extension of time, which shall not
12 exceed 30 days, to prepare and adopt the assessment.

13 (3) If the public water system fails to request an extension of
14 time, or fails to submit the assessment notwithstanding the
15 extension of time granted pursuant to paragraph (2), the city or
16 county may seek a writ of mandamus to compel the governing
17 body of the public water system to comply with the requirements
18 of this part relating to the submission of the water supply
19 assessment.

20 (h) Notwithstanding any other provision of this part, if a project
21 has been the subject of a water supply assessment that complies
22 with the requirements of this part, no additional water supply
23 assessment shall be required for subsequent projects that were part
24 of a larger project for which a water supply assessment was
25 completed and that has complied with the requirements of this part
26 and for which the public water system, or the city or county if
27 either is required to comply with this part pursuant to subdivision
28 (b), has concluded that its water supplies are sufficient to meet the
29 projected water demand associated with the proposed project, in
30 addition to the existing and planned future uses, including, but not
31 limited to, agricultural and industrial uses, unless one or more of
32 the following changes occurs:

33 (1) Changes in the project that result in a substantial increase
34 in water demand for the project.

35 (2) Changes in the circumstances or conditions substantially
36 affecting the ability of the public water system, or the city or county
37 if either is required to comply with this part pursuant to subdivision
38 (b), to provide a sufficient supply of water for the project.

1 (3) Significant new information becomes available which was
2 not known and could not have been known at the time when the
3 assessment was prepared.

4 (i) This section shall become operative on January 1, 2020.

5 SEC. 6. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of Section
10 17556 of the Government Code.

O