

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 300**

**Introduced by Assembly Member Caballero**

February 17, 2009

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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 amended, 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~~ 2017, the public water system, or the local agency if there is no public water system, to review, verify for accuracy, and approve, as specified, the subdivider's water

savings projections attributable to voluntary demand management measures, as defined. The public water agency would be authorized to collect fees necessary to provide the additional analysis of the voluntary demand management measures. This bill would provide that a water supply assessment completed, as specified, satisfies the existing requirement of verifying sufficient water supply, except as specified with regard to new information or water savings projections. ~~Water savings projections~~ *The public water system would be required to determine the projected water savings for the voluntary demand management measures that will be incorporated into the subdivision. The projected water savings would be authorized to be calculated using specified data compiled or maintained by the public water system or 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 a mutual 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, and to provide copies of the report or the public water system, the public water system's determination of the projected water savings would be required to be made based on documented methodologies or calculations submitted in the record. The public water system would be required to report on the monitoring and compliance of voluntary water demand management measures and to determine whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets. The bill would require copies of the first report prepared 5 years after the project has been fully developed to be provided to the project applicant, the city or county that approved the subdivision map, the California Urban Water Conservation Council, and the Department of Water Resources. The bill would also require, at the time of final inspection, that a manual providing, among other things, directions to the owner or occupant on~~

~~the proper use of water conservation devices and systems be placed in the dwelling~~ *the public water system to document the measured annual water use of the subdivision in comparison to the projected demand associated with the subdivision, and to calculate the water savings attributable to the demand management measures financed by the Voluntary Water Demand Mitigation Fund for the subdivision. The bill would further require a builder, prior to the close of escrow, to give a purchaser a manual of documents that would be required to be included in a maintenance manual that informs the purchaser of the existence of the home's unique water saving devices, including specified information. The bill would also encourage the public water system to commit to carrying out the water conservation measures funded by the Voluntary Water Demand Mitigation Fund within 24 months of the sale of the last unit of the proposed subdivision. The bill would provide that the sole remedy for the failure of a public water system to implement the water conservation measures would be for an interested party to seek a writ of mandamus to compel the public water system to comply. The bill would require the public water system to choose water conservation measures that are the least expensive and most cost-effective means to yield water. The bill would authorize expenditures from the fund to be made within the subdivision or elsewhere within the service area of the public water supplier, at its discretion.* 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~~ 2017, if the project applicant elects to include voluntary demand management measures, 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, regulatory, and local ordinance requirements based on the project applicant's voluntary water demand management measures, as defined. The bill would authorize the applicant to enter into a mutual agreement with the public water system to mitigate ~~or offset~~ the water demand associated with a proposed subdivision by depositing funds in a Voluntary Water Demand

Mitigation Fund, as defined. The fees paid into the Voluntary Water Demand Mitigation Fund would be prohibited from exceeding the amount necessary to offset the actual or percentage of actual water demand impacts determined according to *agreed upon in the agreement* between the applicant and the public water system. ~~The fees would be prohibited from exceeding the amount of all capacity charges and other water service fees applicable to the subdivision, and the public water system would have discretion to reduce those capacity charges to the extent that contributions are made to the Voluntary Water Demand Mitigation Fund. The bill would authorize, at the discretion of the public water system, the amount required for the Voluntary Water Demand Mitigation Fund to be reduced by a portion of the normally required system capacity charges that finance future water supplies. The bill would also authorize any reduction in the capacity charge to be calculated using the amount of water projected to be conserved using the Voluntary Water Demand Mitigation Fund at the cost determined by the public water system for developing new water supplies through water conservation. The bill would not require the total reduction in system capacity charges to be equal to the amount paid into the Voluntary Water Demand Mitigation Fund. The bill would prohibit a project from being disapproved due to the applicant's refusal to use voluntary mitigation measures. The bill would require the public water system to determine the projected water savings for the voluntary demand management measures that will be incorporated into the subdivision. The public water system would be required to expend all funds from the Voluntary Water Demand Mitigation Fund on water conservation measures that will reduce the projected demand associated with the subdivision, or on water conservation programs in any disadvantaged community. The public water system would be prohibited from using any funds from the Voluntary Water Conservation Mitigation Fund to supplant funding for water conservation programs required by existing law or paid for by existing customers through water rates and surcharges. The bill would require the public water system to choose water conservation measures that are the least expensive and most cost-effective means to yield water. The bill would authorize expenditures from the fund to be made within the subdivision or elsewhere within the service area of the public water supplier, at its discretion. Water savings projections would be authorized to be calculated using specified data compiled or maintained by the public water system or 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 a mutual 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

1 innovative new water conservation technology, water use  
2 efficiency, and water management techniques to meet customer  
3 needs throughout the differing hydrologic regions of the state.

4 (e) Encouraging widespread use of voluntary water conservation  
5 measures will assist water agencies and the state in documenting  
6 the potential water savings from new water use efficiency projects  
7 and programs in a manner that will promote successful water  
8 conservation strategies and discourage ineffective ones.

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

13 (g) More efficient use of water statewide also will reduce the  
14 energy necessary to pump, transport, and treat water with  
15 potentially significant corresponding reductions in greenhouse gas  
16 emissions.

17 SEC. 2. Section 66473.7 of the Government Code is amended  
18 to read:

19 66473.7. (a) For the purposes of this section, the following  
20 definitions apply:

21 (1) "Subdivision" means a proposed residential development  
22 of more than 500 dwelling units, except that for a public water  
23 system that has fewer than 5,000 service connections, "subdivision"  
24 means any proposed residential development that would account  
25 for an increase of 10 percent or more in the number of the public  
26 water system's existing service connections.

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

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

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

1 (C) The reduction in water supply allocated to a specific water  
2 use sector pursuant to a resolution or ordinance adopted, or a  
3 contract entered into, by the public water system, as long as that  
4 resolution, ordinance, or contract does not conflict with Section  
5 354 of the Water Code.

6 (D) The amount of water that the water supplier can reasonably  
7 rely on receiving from other water supply projects, such as  
8 conjunctive use, reclaimed water, water conservation, and water  
9 transfer, including programs identified under federal, state, and  
10 local water initiatives such as CALFED and Colorado River  
11 tentative agreements, to the extent that these water supplies meet  
12 the criteria of subdivision (d).

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

18 (4) “Projected demand associated with the proposed subdivision”  
19 means the anticipated water demand for the project, given current  
20 statutory, regulatory, and local ordinance requirements, reduced  
21 by the amount of voluntary demand management measures.

22 (5) “Voluntary demand management measures” means water  
23 use efficiency measures that are permanently fixed to residential,  
24 commercial, industrial, or other real property that will reduce the  
25 subdivision’s water demand below the applicable statutory,  
26 regulatory, and local ordinance requirements for water  
27 conservation, and may include, but are not limited to, all of the  
28 following:

29 (A) Smart irrigation controllers.

30 (B) Waterless urinals.

31 (C) Ultralow flow and dual flow toilets.

32 (D) Recycled water facilities.

33 (E) Rainwater capture and reuse facilities.

34 (F) Any other measure that will prevent the waste of water or  
35 promote the reasonable and efficient use and reuse of available  
36 water supplies by the subdivision or the public. For the purposes  
37 of this chapter, water recycling shall be eligible as a water  
38 conservation measure.

39 (G) Voluntary mitigation measures may include, at the  
40 applicant’s sole discretion, water conservation offsets which

1 minimize a percentage of a project’s impact on the public water  
2 system, as determined by the applicant and agreed upon by the  
3 public water system. The applicant may enter into a mutual  
4 agreement with the public water system to mitigate water demand  
5 associated with a proposed subdivision by depositing funds into  
6 a Voluntary Water Demand Mitigation Fund. The fees paid into  
7 the Voluntary Water Demand Mitigation Fund shall not exceed  
8 an amount necessary to offset the actual or percentage of actual  
9 water demand impacts agreed upon in the agreement between the  
10 applicant and the public water system. The fees may not exceed  
11 the amount of all capacity charges and other water service fees  
12 applicable to the subdivision. At the discretion of the public water  
13 system, the amount required for the Voluntary Water Demand  
14 Mitigation Fund may be reduced by a portion of the normally  
15 required system capacity charges that finance future water storage  
16 and distribution supplies. *Any reduction in the capacity charge  
17 may be calculated using the amount of water projected to be  
18 conserved using the Voluntary Water Demand Mitigation Fund at  
19 the cost determined by the public water system for developing new  
20 water supplies through water conservation. Because the cost varies  
21 for developing different sources of future water supplies, including  
22 through water conservation, the total reduction in system capacity  
23 charges may or may not be equal to the amount paid into the  
24 Voluntary Water Demand Mitigation Fund.* A tentative map that  
25 includes a subdivision may not be disapproved due to the  
26 applicant’s refusal to use voluntary mitigation measures.

27 (6) “Voluntary Water Demand Mitigation Fund” means the fund  
28 used to finance ~~water conservation and~~ *verifiable and quantifiable*  
29 *water conservation or* water supply augmentation measures by the  
30 public water system that mitigate or offset an agreed upon  
31 percentage of the projected water demand impacts from the  
32 ~~subdivision, at the discretion of the applicant~~ *subdivision.*

33 (b) (1) The legislative body of a city or county or the advisory  
34 agency, to the extent that it is authorized by local ordinance to  
35 approve, conditionally approve, or disapprove the tentative map,  
36 shall include as a condition in any tentative map that includes a  
37 subdivision a requirement that a sufficient water supply shall be  
38 available. Proof of the availability of a sufficient water supply  
39 shall be requested by the subdivision applicant or local agency, at  
40 the discretion of the local agency, and shall be based on written

1 verification from the applicable public water system within 90  
2 days of a request. The water savings projection attributable to  
3 voluntary demand management measures shall be contained in the  
4 written verification and shall be verified for accuracy and approved  
5 by the public water system, or, if there is no public water system,  
6 the local agency. The public water agency may collect fees  
7 necessary to provide additional analysis of voluntary demand  
8 management measures required by this section, pursuant to Section  
9 66014. A water supply assessment that is completed pursuant to  
10 Part 2.10 (commencing with Section 10910) of Division 6 of the  
11 Water Code satisfies the requirements of this section, unless the  
12 public water agency receives new information or otherwise alters  
13 its water savings projections after the assessment is completed.

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

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

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

36 (5) ~~Water savings projections~~ *The public water system shall*  
37 *make the determination of the projected water savings for the*  
38 *measures that will be incorporated into the subdivision. The*  
39 *projected water savings may be calculated using water efficiency*  
40 *program data compiled or maintained by the public water system*

1 or the water savings projections adopted by the California Urban  
2 Water Conservation Council. ~~Water savings projections for~~  
3 ~~measures for which the California Urban Water Conservation~~  
4 ~~Council does not have adopted findings shall be based on~~  
5 ~~substantial evidence in the record and included in the water supply~~  
6 ~~assessment adopted by the water supplier Council, including~~  
7 ~~estimates of normal performance decline of specific water demand~~  
8 ~~management measures.~~ If a project applicant proposes to use a  
9 new voluntary water reduction demand management measure that  
10 is not based on water savings projections adopted by the California  
11 Urban Water Conservation Council, the legislative body of a city  
12 or county or the advisory agency shall require the project applicant  
13 to enter into an agreement with the water utility to implement and  
14 monitor the actual water savings over time through conditions of  
15 approval for the project, which may include the adoption of legally  
16 enforceable mechanisms, including, but not limited to, inclusion  
17 in covenants, conditions, and restrictions. Water budgets may also  
18 be used to monitor the water savings. The public water system  
19 shall prepare a written report of the projected water demand versus  
20 the actual water use five years after the project has been fully  
21 developed. Copies of the report ~~Council or the public water system,~~  
22 ~~the public water system's determination of the projected water~~  
23 ~~savings shall be made based on documented methodologies or~~  
24 ~~calculations submitted in the record. These methodologies may~~  
25 ~~include, but are not limited to, water efficiency program~~  
26 ~~implementation data and projections calculated by the public water~~  
27 ~~system or the applicant, or by the California Water Conservation~~  
28 ~~Council, or data that demonstrates that water efficiencies are~~  
29 ~~quantifiable and verifiable when the determination is made.~~  
30 Pursuant to Part 2.6 (commencing with Section 10610) of Division  
31 6 of the Water Code, the public water system shall report on the  
32 monitoring and compliance of voluntary water demand  
33 management measures and determine whether they have resulted  
34 in the water savings necessary to achieve the agreed upon water  
35 demand offsets. The public water system shall do both of the  
36 following:

37 (A) Document the measured annual water use of the subdivision  
38 in comparison to the projected demand associated with the  
39 subdivision.

1 (B) Calculate the water savings attributable to the demand  
2 management measures financed by the Voluntary Water Demand  
3 Mitigation Fund for the subdivision.

4 (6) Copies of the first report, prepared five years after the  
5 project has been fully developed, shall be provided to the project  
6 applicant, the city or county that approved the subdivision map,  
7 the California Urban Water Conservation Council, and the  
8 Department of Water Resources.

9 ~~(6)~~

10 (7) Prior to the close of escrow, a builder shall give to a  
11 purchaser a manual of documents that shall be included in a  
12 maintenance manual that informs the purchaser of the existence  
13 of the home's unique water saving devices, including information  
14 regarding their benefits, maintenance requirements, and proper  
15 use.

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

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

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

28 (3) Other information relating to the sufficiency of the water  
29 supply that contains analytical information that is substantially  
30 similar to the assessment required by Section 10635 of the Water  
31 Code.

32 (d) When the written verification pursuant to subdivision (b)  
33 relies on projected water supplies that are not currently available  
34 to the public water system, to provide a sufficient water supply to  
35 the subdivision, the written verification as to those projected water  
36 supplies shall be based on all of the following elements, to the  
37 extent each is applicable:

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

- 1 (2) Copies of a capital outlay program for financing the delivery  
2 of a sufficient water supply that has been adopted by the applicable  
3 governing body.
- 4 (3) Securing of applicable federal, state, and local permits for  
5 construction of necessary infrastructure associated with supplying  
6 a sufficient water supply.
- 7 (4) Any necessary regulatory approvals that are required in order  
8 to be able to convey or deliver a sufficient water supply to the  
9 subdivision.
- 10 (e) If there is no public water system, the local agency shall  
11 make a written finding of sufficient water supply based on the  
12 evidentiary requirements of subdivisions (b), (c), and (d) and  
13 identify the mechanism for providing water to the subdivision.
- 14 (f) In making any findings or determinations under this section,  
15 a local agency, or designated advisory agency, may work in  
16 conjunction with the project applicant and the public water system  
17 to secure water supplies sufficient to satisfy the demands of the  
18 proposed subdivision. If the local agency secures water supplies  
19 pursuant to this subdivision, which supplies are acceptable to and  
20 approved by the governing body of the public water system as  
21 suitable for delivery to customers, it shall work in conjunction  
22 with the public water system to implement a plan to deliver that  
23 water supply to satisfy the long-term demands of the proposed  
24 subdivision.
- 25 (g) The written verification prepared under this section also  
26 shall include a description, to the extent that data is reasonably  
27 available based on published records maintained by federal and  
28 state agencies, and public records of local agencies, of the  
29 reasonably foreseeable impacts of the proposed subdivision on the  
30 availability of water resources for agricultural and industrial uses  
31 within the public water system’s service area that are not currently  
32 receiving water from the public water system but are utilizing the  
33 same sources of water. To the extent that those reasonably  
34 foreseeable impacts have previously been evaluated in a document  
35 prepared pursuant to the California Environmental Quality Act  
36 (Division 13 (commencing with Section 21000) of the Public  
37 Resources Code) or the National Environmental Policy Act (P.L.  
38 91-190) for the proposed subdivision, the public water system may  
39 utilize that information in preparing the written verification.

1 (h) Where a water supply for a proposed subdivision includes  
2 groundwater, the public water system serving the proposed  
3 subdivision shall evaluate, based on substantial evidence, the extent  
4 to which it or the landowner has the right to extract the additional  
5 groundwater needed to supply the proposed subdivision. Nothing  
6 in this subdivision is intended to modify state law with regard to  
7 groundwater rights.

8 (i) This section shall not apply to any residential project  
9 proposed for a site that is within an urbanized area and has been  
10 previously developed for urban uses, or where the immediate  
11 contiguous properties surrounding the residential project site are,  
12 or previously have been, developed for urban uses, or housing  
13 projects that are exclusively for very low and low-income  
14 households.

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

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

24 (1) A regional growth management strategy that provides for a  
25 comprehensive regional strategy and a coordinated economic  
26 development and growth management program has been developed  
27 pursuant to Proposition C as approved by the voters of the County  
28 of San Diego in November 1988, which required the development  
29 of a regional growth management plan and directed the  
30 establishment of a regional planning and growth management  
31 review board.

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

36 (3) The approval or conditional approval of tentative maps for  
37 subdivisions, as defined in this section, by the County of San Diego  
38 and the cities within the county requires written communications  
39 to be made by the public water system to the city or county, in a  
40 format and with content that is substantially similar to the

1 requirements contained in this section, with regard to the  
 2 availability of a sufficient water supply, or the reliance on projected  
 3 water supplies to provide a sufficient water supply, for a proposed  
 4 subdivision.

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

9 (m) Nothing in this section shall be construed to create a right  
 10 or entitlement to water service or any specific level of water  
 11 service.

12 (n) Nothing in this section is intended to change existing law  
 13 concerning a public water system’s obligation to provide water  
 14 service to its existing customers or to any potential future  
 15 customers.

16 (o) Any action challenging the sufficiency of the public water  
 17 system’s written verification of a sufficient water supply shall be  
 18 governed by Section 66499.37.

19 (p) (1) For purposes of a Voluntary Water Demand Mitigation  
 20 Fund held by a public water system, the public water system shall  
 21 be required to expend all funds from the Voluntary Water Demand  
 22 Mitigation Fund on water conservation measures that will reduce  
 23 the projected demand associated with the subdivision. Water  
 24 conservation measures shall be chosen that are the least expensive,  
 25 most cost-effective means to yield water. The expenditure may be  
 26 made within the subdivision or elsewhere within the service area  
 27 of the public water supplier, at its discretion. ~~Moneys in the~~  
 28 ~~Voluntary Water Demand Mitigation Fund may be directed to~~  
 29 ~~water conservation programs in any disadvantaged community,~~  
 30 ~~as defined in Section 75005 of the Public Resources Code.~~

31 (2) The public water system shall be prohibited from using funds  
 32 from the Voluntary Water Conservation Mitigation Fund to  
 33 supplant funding for water conservation programs required by  
 34 existing law or paid for by existing customers through water rates  
 35 and surcharges.

36 (3) The public water system should commit to carrying out the  
 37 water conservation measures funded by the Voluntary Water  
 38 Demand Mitigation Fund within 24 months of the sale of the last  
 39 unit of the proposed subdivision. However, the public water  
 40 system’s failure to implement the water conservation measures

1 shall not result in the revocation, denial, or delay of any legislative,  
2 adjudicatory, ministerial, or discretionary act, permit, or approval  
3 necessary for the planning, use, development, construction,  
4 occupancy, or operation of the proposed subdivision or any  
5 improvement thereon. The sole remedy for the failure of a public  
6 water system to implement the water conservation measures shall  
7 be for an interested party to seek a writ of mandamus to compel  
8 the public water system to comply.

9 ~~(q) This section shall remain in effect only until January 1, 2020,~~

10 *(q) (1) Not less than 40 percent of the proceeds from the*  
11 *Voluntary Water Demand Mitigation Fund shall be directed to*  
12 *water conservation programs in any disadvantaged community,*  
13 *as defined in Section 75005 of the Public Resources Code, within*  
14 *the service area of the public water system.*

15 *(2) The governing body of the public water system may make a*  
16 *finding based on substantial evidence that no disadvantaged*  
17 *community exists within the service area or that the capacity for*  
18 *water conservation within all disadvantaged communities within*  
19 *the service area has been exhausted. Substantial evidence*  
20 *demonstrating that no disadvantaged community exists within the*  
21 *service area shall include federal census data. When the public*  
22 *water system makes this finding, the use of the water demand*  
23 *mitigation funds shall be exempt from the requirements of*  
24 *paragraph (1).*

25 *(r) Notwithstanding subdivision (q), the amount of water savings*  
26 *attributable to the payment of fees into the Voluntary Water*  
27 *Demand Mitigation Fund shall be based upon the least expensive,*  
28 *most cost-effective means to yield water.*

29 *(s) This section shall remain in effect only until January 1, 2017,*  
30 *and as of that date is repealed, unless a later enacted statute, that*  
31 *is enacted before January 1, 2020 2017, deletes or extends that*  
32 *date.*

33 SEC. 3. Section 66473.7 is added to the Government Code, to  
34 read:

35 66473.7. (a) For the purposes of this section, the following  
36 definitions apply:

37 (1) "Subdivision" means a proposed residential development  
38 of more than 500 dwelling units, except that for a public water  
39 system that has fewer than 5,000 service connections, "subdivision"  
40 means any proposed residential development that would account

1 for an increase of 10 percent or more in the number of the public  
2 water system’s existing service connections.

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

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

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

16 (C) The reduction in water supply allocated to a specific water  
17 use sector pursuant to a resolution or ordinance adopted, or a  
18 contract entered into, by the public water system, as long as that  
19 resolution, ordinance, or contract does not conflict with Section  
20 354 of the Water Code.

21 (D) The amount of water that the water supplier can reasonably  
22 rely on receiving from other water supply projects, such as  
23 conjunctive use, reclaimed water, water conservation, and water  
24 transfer, including programs identified under federal, state, and  
25 local water initiatives such as CALFED and Colorado River  
26 tentative agreements, to the extent that these water supplies meet  
27 the criteria of subdivision (d).

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

33 (b) (1) The legislative body of a city or county or the advisory  
34 agency, to the extent that it is authorized by local ordinance to  
35 approve, conditionally approve, or disapprove the tentative map,  
36 shall include as a condition in any tentative map that includes a  
37 subdivision a requirement that a sufficient water supply shall be  
38 available. Proof of the availability of a sufficient water supply  
39 shall be requested by the subdivision applicant or local agency, at  
40 the discretion of the local agency, and shall be based on written

1 verification from the applicable public water system within 90  
2 days of a request.

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

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

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

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

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

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

37 (3) Other information relating to the sufficiency of the water  
38 supply that contains analytical information that is substantially  
39 similar to the assessment required by Section 10635 of the Water  
40 Code.

1 (d) When the written verification pursuant to subdivision (b)  
2 relies on projected water supplies that are not currently available  
3 to the public water system, to provide a sufficient water supply to  
4 the subdivision, the written verification as to those projected water  
5 supplies shall be based on all of the following elements, to the  
6 extent each is applicable:

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

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

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

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

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

23 (f) In making any findings or determinations under this section,  
24 a local agency, or designated advisory agency, may work in  
25 conjunction with the project applicant and the public water system  
26 to secure water supplies sufficient to satisfy the demands of the  
27 proposed subdivision. If the local agency secures water supplies  
28 pursuant to this subdivision, which supplies are acceptable to and  
29 approved by the governing body of the public water system as  
30 suitable for delivery to customers, it shall work in conjunction  
31 with the public water system to implement a plan to deliver that  
32 water supply to satisfy the long-term demands of the proposed  
33 subdivision.

34 (g) The written verification prepared under this section also  
35 shall include a description, to the extent that data is reasonably  
36 available based on published records maintained by federal and  
37 state agencies, and public records of local agencies, of the  
38 reasonably foreseeable impacts of the proposed subdivision on the  
39 availability of water resources for agricultural and industrial uses  
40 within the public water system's service area that are not currently

1 receiving water from the public water system but are utilizing the  
2 same sources of water. To the extent that those reasonably  
3 foreseeable impacts have previously been evaluated in a document  
4 prepared pursuant to the California Environmental Quality Act  
5 (Division 13 (commencing with Section 21000) of the Public  
6 Resources Code) or the National Environmental Policy Act (P.L.  
7 91-190) for the proposed subdivision, the public water system may  
8 utilize that information in preparing the written verification.

9 (h) Where a water supply for a proposed subdivision includes  
10 groundwater, the public water system serving the proposed  
11 subdivision shall evaluate, based on substantial evidence, the extent  
12 to which it or the landowner has the right to extract the additional  
13 groundwater needed to supply the proposed subdivision. Nothing  
14 in this subdivision is intended to modify state law with regard to  
15 groundwater rights.

16 (i) This section shall not apply to any residential project  
17 proposed for a site that is within an urbanized area and has been  
18 previously developed for urban uses, or where the immediate  
19 contiguous properties surrounding the residential project site are,  
20 or previously have been, developed for urban uses, or housing  
21 projects that are exclusively for very low and low-income  
22 households.

23 (j) The determinations made pursuant to this section shall be  
24 consistent with the obligation of a public water system to grant a  
25 priority for the provision of available and future water resources  
26 or services to proposed housing developments that help meet the  
27 city's or county's share of the regional housing needs for lower  
28 income households, pursuant to Section 65589.7.

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

32 (1) A regional growth management strategy that provides for a  
33 comprehensive regional strategy and a coordinated economic  
34 development and growth management program has been developed  
35 pursuant to Proposition C as approved by the voters of the County  
36 of San Diego in November 1988, which required the development  
37 of a regional growth management plan and directed the  
38 establishment of a regional planning and growth management  
39 review board.

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

5 (3) The approval or conditional approval of tentative maps for  
6 subdivisions, as defined in this section, by the County of San Diego  
7 and the cities within the county requires written communications  
8 to be made by the public water system to the city or county, in a  
9 format and with content that is substantially similar to the  
10 requirements contained in this section, with regard to the  
11 availability of a sufficient water supply, or the reliance on projected  
12 water supplies to provide a sufficient water supply, for a proposed  
13 subdivision.

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

18 (m) Nothing in this section shall be construed to create a right  
19 or entitlement to water service or any specific level of water  
20 service.

21 (n) Nothing in this section is intended to change existing law  
22 concerning a public water system's obligation to provide water  
23 service to its existing customers or to any potential future  
24 customers.

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

28 (p) This section shall become operative on January 1, ~~2020~~  
29 2017.

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

31 10910. (a) Any city or county that determines that a project,  
32 as defined in Section 10912, is subject to the California  
33 Environmental Quality Act (Division 13 (commencing with Section  
34 21000) of the Public Resources Code) under Section 21080 of the  
35 Public Resources Code shall comply with this part.

36 (b) The city or county, at the time that it determines whether an  
37 environmental impact report, a negative declaration, or a mitigated  
38 negative declaration is required for any project subject to the  
39 California Environmental Quality Act pursuant to Section 21080.1  
40 of the Public Resources Code, shall identify any water system that

1 is, or may become as a result of supplying water to the project  
2 identified pursuant to this subdivision, a public water system, as  
3 defined in Section 10912, that may supply water for the project.  
4 If the city or county is not able to identify any public water system  
5 that may supply water for the project, the city or county shall  
6 prepare the water assessment required by this part after consulting  
7 with any entity serving domestic water supplies whose service  
8 area includes the project site, the local agency formation  
9 commission, and any public water system adjacent to the project  
10 site.

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

18 (2) If the projected water demand associated with the proposed  
19 project was accounted for in the most recently adopted urban water  
20 management plan, the public water system may incorporate the  
21 requested information from the urban water management plan in  
22 preparing the elements of the assessment required to comply with  
23 subdivisions (d), (e), (f), and (g).

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

34 (4) If the city or county is required to comply with this part  
35 pursuant to subdivision (b), the water supply assessment for the  
36 project shall include a discussion with regard to whether the total  
37 projected water supplies, determined to be available by the city or  
38 county for the project during normal, single dry, and multiple dry  
39 water years during a 20-year projection, will meet the projected  
40 water demand associated with the proposed project, in addition to

1 existing and planned future uses, including agricultural and  
 2 manufacturing uses.

3 (5) If an applicant elects to include voluntary demand  
 4 management measures, the projected water demand shall be  
 5 reduced for the project to an amount below the current statutory,  
 6 regulatory, and local ordinance requirements, based on the project  
 7 applicant’s voluntary water demand management measures. The  
 8 public water system, or, if there is no public water system, the  
 9 local agency, shall quantify the reduction of anticipated water  
 10 demand attributable to the voluntary demand management  
 11 measures. For purposes of this section, “voluntary water demand  
 12 management measures” means water use efficiency measures that  
 13 exceed current statutory, regulatory, and local ordinance  
 14 requirements, and that are permanently fixed to residential,  
 15 commercial, industrial, or other real property that will reduce  
 16 projected water demand, and may include, but are not limited to,  
 17 all of the following:

- 18 (A) Smart irrigation controllers.
- 19 (B) Waterless urinals.
- 20 (C) Ultralow flow and dual flow toilets.
- 21 (D) Recycled water facilities.
- 22 (E) Rainwater capture and reuse facilities.
- 23 (F) Any other measure that will prevent the waste of water or  
 24 promote the reasonable and efficient use and reuse of available  
 25 water supplies by the subdivision or the public. For the purposes  
 26 of this chapter, water recycling shall be eligible as a water  
 27 conservation measure.
- 28 (G) Voluntary mitigation measures may include, at the  
 29 applicant’s sole discretion conservation offsets that reduce a  
 30 project’s impact to the public water system, as determined by the  
 31 applicant and agreed upon by the public water system. The  
 32 applicant may enter into a mutual agreement with the public water  
 33 system to mitigate water demand associated with a proposed  
 34 subdivision by depositing funds into a Voluntary Water Demand  
 35 Mitigation Fund. The fees paid into the Voluntary Water Demand  
 36 Mitigation Fund shall not exceed an amount necessary to offset  
 37 the actual or percentage of actual water demand impacts agreed  
 38 upon in the agreement between the applicant and the public water  
 39 system. At the discretion of the public water system, the amount  
 40 required for the Voluntary Water Demand Mitigation Fund may

1 be reduced by a portion of the normally required system capacity  
2 charges that finance future water ~~storage or distribution~~ *supplies*.  
3 *Any reduction in the capacity charge may be calculated using the*  
4 *amount of water projected to be conserved using the Voluntary*  
5 *Water Demand Mitigation Fund at the cost determined by the*  
6 *public water system for developing new water supplies through*  
7 *water conservation. Because the cost varies for developing different*  
8 *sources of future water supplies, including through water*  
9 *conservation, the total reduction in system capacity charges may*  
10 *or may not be equal to the amount paid into the Voluntary Water*  
11 *Demand Mitigation Fund. A project may not be disapproved due*  
12 *to the applicant’s refusal to use voluntary mitigation measures.*

13 (6) “Voluntary Water Demand Mitigation Fund” means the fund  
14 used to finance ~~water conservation and verifiable and quantifiable~~  
15 *water conservation or water supply augmentation measures by the*  
16 *public water system that mitigate or offset a percentage of the*  
17 *projected water demand impacts from the subdivision, as agreed*  
18 ~~*upon by the public water agency and the applicant.*~~ *the subdivision.*

19 (7) ~~Water savings projections~~ *The public water system shall*  
20 *make the determination of the projected water savings for the*  
21 *measures that will be incorporated into the subdivision. The*  
22 *projected water savings may be calculated using water efficiency*  
23 *program data compiled or maintained by the public water system*  
24 *or the water savings projections adopted by the California Urban*  
25 ~~*Water Conservation Council. Water savings projections for*~~  
26 ~~*measures for which the California Urban Water Conservation*~~  
27 ~~*Council does not have adopted findings shall be based on*~~  
28 ~~*substantial evidence in the record and included in the water supply*~~  
29 ~~*assessment adopted by the water supplier Council, including*~~  
30 ~~*estimates of normal performance decline of specific water demand*~~  
31 ~~*management measures.*~~ If a project applicant proposes to use a  
32 new voluntary water reduction demand management measure that  
33 is not based on water savings projections adopted by the California  
34 Urban Water Conservation Council, the legislative body of a city  
35 or county or the advisory agency shall require the project applicant  
36 to enter into an agreement with the water utility to implement and  
37 monitor the actual water savings over time through conditions of  
38 approval for the project, which may include the adoption of legally  
39 enforceable mechanisms including, but not limited to, inclusion  
40 in covenants, conditions, and restrictions. Water budgets may also

1 ~~be used to monitor the water savings. The public water system~~  
2 ~~shall prepare a written report of the projected water demand versus~~  
3 ~~the actual water use five years after the project has been fully~~  
4 ~~developed. Copies of the report Council or the public water system,~~  
5 *the public water system's determination of the projected water*  
6 *savings shall be made based on documented methodologies or*  
7 *calculations submitted in the record. These methodologies may*  
8 *include, but are not limited to, water efficiency program*  
9 *implementation data and projections calculated by the public water*  
10 *system or the applicant, or by the California Water Conservation*  
11 *Council, or data that demonstrates that water efficiencies are*  
12 *quantifiable and verifiable when the determination is made.*  
13 *Pursuant to Part 2.6 (commencing with Section 10610) of Division*  
14 *6 of the Water Code, the public water system shall report on the*  
15 *monitoring and compliance of voluntary demand management*  
16 *measures and determine whether they have resulted in the water*  
17 *savings necessary to achieve the agreed upon water demand offsets.*  
18 *The public water system shall do both of the following:*

19 (A) *Document the measured annual water use of the subdivision*  
20 *in comparison to the projected demand associated with the*  
21 *subdivision.*

22 (B) *Calculate the water savings attributable to the demand*  
23 *management measures financed by the Voluntary Water Demand*  
24 *Mitigation Fund for the subdivision.*

25 (8) *Copies of the first report, prepared five years after the*  
26 *project has been fully developed, shall be provided to the project*  
27 *applicant, the city or county that approved the subdivision map,*  
28 *the California Urban Water Conservation Council, and the*  
29 *Department of Water Resources.*

30 ~~(8)~~

31 (9) *Prior to the close of escrow, a builder shall give to a*  
32 *purchaser a manual of documents that shall be included in a*  
33 *maintenance manual that informs the purchaser of the existence*  
34 *of the home's unique water saving devices, including information*  
35 *regarding their benefits, maintenance requirements, and proper*  
36 *use.*

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) (1) For purposes of a Voluntary Water Demand Mitigation  
5 Fund held by a public water system, the public water system shall  
6 be required to expend all funds from the Voluntary Water Demand  
7 Mitigation Fund on water conservation measures that will reduce  
8 the projected demand associated with the subdivision. Water  
9 conservation measures shall be chosen that are the least expensive,  
10 most cost-effective means to yield water. The expenditures may  
11 be made within the subdivision or elsewhere within the service  
12 area of the public water supplier at its discretion. ~~Moneys in the~~  
13 ~~Voluntary Water Demand Mitigation Fund may be directed to~~  
14 ~~water conservation programs in any disadvantaged community,~~  
15 ~~as defined in Section 75005 of the Public Resources Code.~~

16 (2) The public water system shall be prohibited from using funds  
17 from the Voluntary Water Conservation Mitigation Fund to  
18 supplant funding for water conservation programs required by  
19 existing law or paid for by existing customers through water rates  
20 and surcharges.

21 (3) The public water system should commit to carrying out the  
22 water conservation measures funded by the Voluntary Water  
23 Demand Mitigation Fund within 24 months of the sale of the last  
24 unit of the proposed subdivision. However, the public water  
25 system's failure to implement the water conservation measures  
26 shall not result in the revocation, denial, or delay of any legislative,  
27 adjudicatory, ministerial, or discretionary act, permit, or approval  
28 necessary for the planning, use, development, construction,  
29 occupancy, or operation of the proposed subdivision or any  
30 improvement thereon. The sole remedy for the failure of a public  
31 water system to implement the water conservation measures shall  
32 be for an interested party to seek a writ of mandamus to compel  
33 the public water system to comply.

34 ~~(j) This section shall remain in effect only until January 1, 2020,~~

35 ~~(j) (1) Not less than 40 percent of the proceeds from the~~  
36 ~~Voluntary Water Demand Mitigation Fund shall be directed to~~  
37 ~~water conservation programs in any disadvantaged community,~~  
38 ~~as defined in Section 75005 of the Public Resources Code, within~~  
39 ~~the service area of the public water system.~~

1     (2) *The governing body of the public water system may make a*  
2 *finding based on substantial evidence that no disadvantaged*  
3 *community exists within the service area or that the capacity for*  
4 *water conservation within all disadvantaged communities within*  
5 *the service area has been exhausted. Substantial evidence*  
6 *demonstrating that no disadvantaged community exists within the*  
7 *service area shall include federal census data. When the public*  
8 *water system makes this finding, the use of the water demand*  
9 *mitigation funds shall be exempt from the requirements in*  
10 *paragraph (1).*

11     (k) *Notwithstanding subdivision (j), the amount of water savings*  
12 *attributable to the payment of fees into the Voluntary Water*  
13 *Demand Mitigation Fund shall be based upon the least expensive,*  
14 *most cost-effective means to yield water.*

15     (l) *This section shall remain in effect only until January 1, 2017,*  
16 *and as of that date is repealed, unless a later enacted statute, that*  
17 *is enacted before January 1, ~~2020~~ 2017, deletes or extends that*  
18 *date.*

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

20     10910. (a) Any city or county that determines that a project,  
21 as defined in Section 10912, is subject to the California  
22 Environmental Quality Act (Division 13 (commencing with Section  
23 21000) of the Public Resources Code) under Section 21080 of the  
24 Public Resources Code shall comply with this part.

25     (b) The city or county, at the time that it determines whether an  
26 environmental impact report, a negative declaration, or a mitigated  
27 negative declaration is required for any project subject to the  
28 California Environmental Quality Act pursuant to Section 21080.1  
29 of the Public Resources Code, shall identify any water system that  
30 is, or may become as a result of supplying water to the project  
31 identified pursuant to this subdivision, a public water system, as  
32 defined in Section 10912, that may supply water for the project.  
33 If the city or county is not able to identify any public water system  
34 that may supply water for the project, the city or county shall  
35 prepare the water assessment required by this part after consulting  
36 with any entity serving domestic water supplies whose service  
37 area includes the project site, the local agency formation  
38 commission, and any public water system adjacent to the project  
39 site.

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

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

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

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

33 (d) (1) The assessment required by this section shall include  
34 an identification of any existing water supply entitlements, water  
35 rights, or water service contracts relevant to the identified water  
36 supply for the proposed project, and a description of the quantities  
37 of water received in prior years by the public water system, or the  
38 city or county if either is required to comply with this part pursuant  
39 to subdivision (b), under the existing water supply entitlements,  
40 water rights, or water service contracts.

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

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

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

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

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

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

28 (f) If a water supply for a proposed project includes  
29 groundwater, the following additional information shall be included  
30 in the water supply assessment:

31 (1) A review of any information contained in the urban water  
32 management plan relevant to the identified water supply for the  
33 proposed project.

34 (2) A description of any groundwater basin or basins from which  
35 the proposed project will be supplied. For those basins for which  
36 a court or the board has adjudicated the rights to pump  
37 groundwater, a copy of the order or decree adopted by the court  
38 or the board and a description of the amount of groundwater the  
39 public water system, or the city or county if either is required to  
40 comply with this part pursuant to subdivision (b), has the legal

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

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

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

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

36 (g) (1) Subject to paragraph (2), the governing body of each  
37 public water system shall submit the assessment to the city or  
38 county not later than 90 days from the date on which the request  
39 was received. The governing body of each public water system,  
40 or the city or county if either is required to comply with this act

1 pursuant to subdivision (b), shall approve the assessment prepared  
2 pursuant to this section at a regular or special meeting.

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

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

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

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

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

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

37 (i) This section shall become operative on January 1, ~~2020~~ 2017.

38 SEC. 6. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 a local agency or school district has the authority to levy service

- 1 charges, fees, or assessments sufficient to pay for the program or
- 2 level of service mandated by this act, within the meaning of Section
- 3 17556 of the Government Code.

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