

AMENDED IN SENATE JUNE 30, 2009

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

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 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, 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~~ *system* 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 unless the public water system receives specified new information.~~ The public water system would be required to determine the projected water savings ~~for~~ *attributable to* the voluntary demand management measures that will be incorporated into the subdivision. The projected water savings would be ~~authorized~~ *required* 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. 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~~ *for which neither* the California Urban Water Conservation Council ~~or nor~~ the public water system, ~~the public water system's determination of~~ *has adopted an estimate or method to calculate the projected water savings of the proposed voluntary demand management measure,* the projected water savings would be required to be made based on documented methodologies or calculations submitted in the record. ~~The~~ *Five years after the project has been fully developed,* the public water system would be required to *include within its next urban water management plan* a report on the monitoring and compliance of voluntary water demand management measures and to determine, *if practicable based on readily available information,* 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 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~~ *voluntary*

mitigation measures financed by the Voluntary Water Demand Mitigation Fund for the subdivision. *If the public water system bases its written verification of a sufficient water supply for the subdivision, in whole or in part, on the use of voluntary demand management measures within the subdivision, the written verification would be required to be conditioned on the maintenance and operation of the voluntary demand management measures, or measures that are at least as water efficient, as agreed to by the applicant and the public water system, and the recordation as a covenant running with the land for the lots within the subdivision. The bill would provide that by acceptance of a deed to a lot, each purchaser would acknowledge the obligation to comply with the voluntary demand measures for the lot as described in the covenant. These covenants would be authorized to be enforced pursuant to the existing authority of a public water system.* The bill would further require a builder, prior to the close of escrow, to give a purchaser a ~~manual of documents~~ *information* 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 *savings*. 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. *Not less than 40% of the proceeds from the voluntary water demand mitigation fund would be required to be directed to water conservation programs in any disadvantaged community, unless the public water system makes a specified finding.* 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, 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 *planned water demand reduction actions contained in an adopted urban water management plan* and 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 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 agreed upon in the agreement between the applicant and the public water system. 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~~ *or for* 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~~ *attributable to* the voluntary demand management measures that will be incorporated into the ~~subdivision~~ *project*. 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. 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 *planned water reduction actions contained in an adopted urban water management plan*, existing law, or paid for by existing

customers through water rates and surcharges. 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~~ *voluntary demand*
9 *management measures* should be confirmed by the water agencies
10 responsible for providing water service to new development in a
11 cooperative approach with project proponents and local
12 governments ~~that ensures in order to ensure that~~ projected water
13 savings are achieved.

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

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

24 (f) There have been numerous water use efficiency technological
25 and management developments related to landscape irrigation in
26 recent years, and this act will promote the adoption of approaches

1 that ~~go beyond~~ *exceed those required by* the state's Model
2 Landscape Ordinance.

3 (g) More efficient use of water statewide also will reduce the
4 energy necessary to pump, transport, and treat water with
5 potentially significant corresponding reductions in greenhouse gas
6 emissions.

7 SEC. 2. Section 66473.7 of the Government Code is amended
8 to 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 (4) “Projected demand associated with the proposed subdivision”
9 means the anticipated water demand for the project, given *planned*
10 *water demand reduction actions contained in an adopted urban*
11 *water management plan* and current statutory, regulatory, and
12 local ordinance requirements, reduced by the amount of voluntary
13 demand management measures.

14 (5) “Voluntary demand management measures” means water
15 use efficiency measures *voluntarily chosen by the applicant* that
16 are permanently fixed to residential, commercial, industrial, or
17 other real property that will reduce the subdivision’s water demand
18 below the applicable statutory, regulatory, and local ordinance
19 requirements for water conservation, and may include, but are not
20 limited to, all of the following:

21 (A) Smart irrigation controllers.

22 (B) Waterless urinals.

23 (C) Ultralow flow and dual flow toilets.

24 (D) Recycled water facilities.

25 (E) Rainwater capture and reuse facilities.

26 (F) Any other measure that will prevent the waste of water or
27 promote the reasonable and efficient use and reuse of available
28 water supplies by the subdivision or the public. For the purposes
29 of this chapter, water recycling shall be eligible as a water
30 conservation measure.

31 (G) Voluntary mitigation measures may include, at the
32 applicant’s sole discretion, water conservation offsets which
33 minimize a percentage of a project’s impact on the public water
34 system, as determined by the applicant and agreed upon by the
35 public water system. The applicant may enter into a mutual
36 agreement with the public water system to mitigate water demand
37 associated with a proposed subdivision by depositing funds into
38 a Voluntary Water Demand Mitigation Fund. The fees paid into
39 the Voluntary Water Demand Mitigation Fund shall not exceed
40 an amount necessary to offset the actual or percentage of actual

1 water demand impacts agreed upon in the agreement between the
2 applicant and the public water system. The fees may not exceed
3 the amount of all capacity charges and other water service fees
4 applicable to the subdivision. At the discretion of the public water
5 system, the amount required for the Voluntary Water Demand
6 Mitigation Fund may be reduced by a portion of the normally
7 required system capacity charges that finance future water supplies.
8 Any reduction in the capacity charge may be calculated using the
9 amount of water projected to be conserved using the Voluntary
10 Water Demand Mitigation Fund at the cost determined by the
11 public water system for developing new water supplies ~~through~~
12 ~~or for~~ water conservation. Because the cost varies for developing
13 different sources of future water supplies, including through water
14 conservation, the total reduction in system capacity charges may
15 or may not be equal to the amount paid into the Voluntary Water
16 Demand Mitigation Fund. ~~A tentative map that includes a~~
17 ~~subdivision may not be disapproved due to the applicant's refusal~~
18 ~~to use voluntary mitigation measures. An applicant's refusal to~~
19 ~~use voluntary demand management measures shall not result in~~
20 ~~any of the consequences set forth in paragraph (3) of subdivision~~
21 ~~(p).~~

22 (6) “Voluntary Water Demand Mitigation Fund” means the fund
23 used to finance verifiable and quantifiable water conservation or
24 water supply augmentation measures by the public water system
25 that mitigate or offset an agreed upon percentage of the projected
26 water demand impacts from the subdivision.

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

1 necessary to provide additional analysis of voluntary demand
2 management measures ~~required by this section, pursuant, if~~
3 ~~required by this section pursuant~~ to Section 66014. A water supply
4 assessment that is completed pursuant to Part 2.10 (commencing
5 with Section 10910) of Division 6 of the Water Code satisfies the
6 requirements of this section, unless the public water ~~agency~~
7 ~~receives new information or otherwise alters its water savings~~
8 ~~projections after the assessment is completed.~~ *system receives*
9 *significant new information that becomes available and that was*
10 *not known and could not be known at the time when the assessment*
11 *was prepared.*

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

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

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

34 (5) The public water system shall make the determination of
35 the projected water savings ~~for the~~ *attributable to the voluntary*
36 *demand management* measures that will be incorporated into the
37 subdivision. ~~The~~

38 (A) ~~The projected water savings may be calculated using water~~
39 *shall be calculated using either of the following:*

1 (i) *Water efficiency program data compiled or maintained by*
 2 *the public water system.*~~or the water~~
 3 (ii) *Water savings projections adopted by the California Urban*
 4 *Water Conservation Council, including estimates of normal*
 5 *performance decline of specific water demand management*
 6 *measures.*~~If Council.~~
 7 (B) *Notwithstanding subparagraph (A), if a project applicant*
 8 *proposes to use a new voluntary water reduction demand*
 9 *management measure that is not based on water savings projections*
 10 *adopted by demand management measure for which neither the*
 11 *California Urban Water Conservation Council or the public water*
 12 *system, the public water system's determination of the projected*
 13 *water Council nor the public water system has adopted an estimate*
 14 *or method to calculate the projected water savings of the proposed*
 15 *voluntary water demand management measure, the projected water*
 16 *savings shall be made based on documented methodologies or*
 17 *calculations submitted in the record.*~~These methodologies record.~~
 18 (i) *These methodologies or calculations may include, but are*
 19 *not limited to, water efficiency program implementation data and*
 20 *projections calculated by the public water system or system, the*
 21 *local agency, the applicant, or by the California Water*
 22 *Conservation Council, or data that demonstrates that water*
 23 *efficiencies are quantifiable and verifiable when the determination*
 24 *is made.*~~Pursuant to Council.~~
 25 (ii) *These methodologies or calculations shall demonstrate that*
 26 *the proposed voluntary water demand management measures result*
 27 *in projected water savings that are quantifiable and verifiable.*
 28 (C) *The projected water savings may also include all of the*
 29 *following:*
 30 (i) *Estimates of normal performance decline of specific water*
 31 *demand management measures.*
 32 (ii) *Adjustment factors or other estimates to reflect the uncertain*
 33 *performance of new and emerging technologies.*
 34 (6) *Five years after the project has been fully developed, the*
 35 *public water system shall include, in its next urban water*
 36 *management plan required by Part 2.6 (commencing with Section*
 37 *10610) of Division 6 of the Water Code, the public water system*
 38 *shall a report on the monitoring and compliance of voluntary water*
 39 *demand management measures and determine, if practicable based*
 40 *on readily available information, whether they have resulted in*

1 the water savings necessary to achieve the agreed upon water
2 demand offsets. ~~The~~

3 *(7) If practicable based on readily available information, the*
4 *public water system shall do both of the following:*

5 *(A) Document the measured annual water use of the subdivision*
6 *in comparison to the projected demand associated with the*
7 *subdivision.*

8 *(B) Calculate the water savings attributable to the ~~demand~~*
9 *management voluntary mitigation measures financed by the*
10 *Voluntary Water Demand Mitigation Fund for the subdivision.*

11 ~~*(6) Copies of the first report, prepared five years after the project*~~
12 ~~*has been fully developed, shall be provided to the project applicant,*~~
13 ~~*the city or county that approved the subdivision map, the California*~~
14 ~~*Urban Water Conservation Council, and the Department of Water*~~
15 ~~*Resources.*~~

16 *(8) (A) If the public water system bases its written verification*
17 *of a sufficient water supply for the subdivision, in whole or in part,*
18 *on the use of voluntary demand management measures within the*
19 *subdivision, the written verification shall be conditioned on the*
20 *maintenance and operation of the voluntary demand management*
21 *measures, or measures that are at least as water efficient, as*
22 *agreed to by the applicant and the public water system, and the*
23 *recordation as a covenant running with the land, pursuant to*
24 *Section 1468 of the Civil Code, for the lots within the subdivision.*
25 *The maintenance and operation obligations shall be contained in*
26 *the maintenance manual referred to in paragraph (9). The recorded*
27 *covenant shall include a notice of the existence of the maintenance*
28 *manual and the obligation of the purchaser to obtain the*
29 *maintenance manual from the seller. By acceptance of a deed to*
30 *a lot, each purchaser acknowledges the obligation to comply with*
31 *the voluntary demand management measures for the lot as*
32 *described in the covenant. The covenant and its obligations shall*
33 *be in effect for the time period used by the public water system for*
34 *determining the water savings attributable to the demand*
35 *management measures but not exceeding the period described in*
36 *paragraph (2) of subdivision (a).*

37 *(B) The requirements of subparagraph (A) shall be included*
38 *with the original sales documentation and shall be acknowledged*
39 *by the purchaser. The seller shall instruct the original purchaser*

1 to provide the maintenance manual to any subsequent purchaser,
2 pursuant to subdivision (h) of Section 912 of the Civil Code.

3 (C) The covenant referred to in subparagraph (A) may be
4 enforced pursuant to the existing authority of a public water
5 system.

6 (7)

7 (9) Prior to the close of escrow, a builder shall give to a
8 purchaser a manual of documents information that shall be included
9 in a maintenance manual, as described in subdivision (c) of Section
10 945.5 of the Civil Code, that informs the purchaser of the existence
11 of the home’s unique water saving devices, including information
12 regarding their benefits, maintenance requirements, and proper
13 use.

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

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

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

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

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

36 (1) Written contracts or other proof of valid rights to the
37 identified water supply that identify the terms and conditions under
38 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 *savings*. The expenditure
26 may be made within the subdivision or elsewhere within the service
27 area of the public water supplier, at its discretion. *Funds deposited*
28 *into the voluntary water demand mitigation fund shall be accounted*
29 *for in the same manner as fees imposed for water connections or*
30 *sewer connections pursuant to Section 66013.*

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~~ *planned water demand reduction actions contained*
35 *in an adopted urban water management plan, existing law,* or paid
36 for by existing customers through water rates and surcharges.

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

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

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
 16 a 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 *savings*.

29 (s) *Wherever “public water system” is used in paragraphs (5)*
 30 *and (6) of subdivision (a), paragraphs (1), (5), (6), (7), and (8) of*
 31 *subdivision (b), and subdivision (p), a local agency shall be*
 32 *substituted if there is no public water system that supplies water*
 33 *for the subdivision.*

34 (s)

35 (t) This section shall remain in effect only until January 1, 2017,
 36 and as of that date is repealed, unless a later enacted statute, that
 37 is enacted before January 1, 2017, deletes or extends that date.

38 SEC. 3. Section 66473.7 is added to the Government Code, to
 39 read:

1 66473.7. (a) For the purposes of this section, the following
2 definitions apply:

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

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

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

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

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

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

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

39 (b) (1) The legislative body of a city or county or the advisory
40 agency, to the extent that it is authorized by local ordinance to

1 approve, conditionally approve, or disapprove the tentative map,
2 shall include as a condition in any tentative map that includes a
3 subdivision a requirement that a sufficient water supply shall be
4 available. Proof of the availability of a sufficient water supply
5 shall be requested by the subdivision applicant or local agency, at
6 the discretion of the local agency, and shall be based on written
7 verification from the applicable public water system within 90
8 days of a request.

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

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

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

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

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

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

4 (3) Other information relating to the sufficiency of the water
5 supply that contains analytical information that is substantially
6 similar to the assessment required by Section 10635 of the Water
7 Code.

8 (d) When the written verification pursuant to subdivision (b)
9 relies on projected water supplies that are not currently available
10 to the public water system, to provide a sufficient water supply to
11 the subdivision, the written verification as to those projected water
12 supplies shall be based on all of the following elements, to the
13 extent each is applicable:

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

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

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

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

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

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

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

16 (h) Where a water supply for a proposed subdivision includes
17 groundwater, the public water system serving the proposed
18 subdivision shall evaluate, based on substantial evidence, the extent
19 to which it or the landowner has the right to extract the additional
20 groundwater needed to supply the proposed subdivision. Nothing
21 in this subdivision is intended to modify state law with regard to
22 groundwater rights.

23 (i) This section shall not apply to any residential project
24 proposed for a site that is within an urbanized area and has been
25 previously developed for urban uses, or where the immediate
26 contiguous properties surrounding the residential project site are,
27 or previously have been, developed for urban uses, or housing
28 projects that are exclusively for very low and low-income
29 households.

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

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

39 (1) A regional growth management strategy that provides for a
40 comprehensive regional strategy and a coordinated economic

1 development and growth management program has been developed
2 pursuant to Proposition C as approved by the voters of the County
3 of San Diego in November 1988, which required the development
4 of a regional growth management plan and directed the
5 establishment of a regional planning and growth management
6 review board.

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

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

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

24 (m) Nothing in this section shall be construed to create a right
25 or entitlement to water service or any specific level of water
26 service.

27 (n) Nothing in this section is intended to change existing law
28 concerning a public water system's obligation to provide water
29 service to its existing customers or to any potential future
30 customers.

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

34 (p) This section shall become operative on January 1, 2017.

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

36 10910. (a) Any city or county that determines that a project,
37 as defined in Section 10912, is subject to the California
38 Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code) under Section 21080 of the
40 Public Resources Code shall comply with this part.

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

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

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

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

39 (4) If the city or county is required to comply with this part
40 pursuant to subdivision (b), the water supply assessment for the

1 project shall include a discussion with regard to whether the total
2 projected water supplies, determined to be available by the city or
3 county for the project during normal, single dry, and multiple dry
4 water years during a 20-year projection, will meet the projected
5 water demand associated with the proposed project, in addition to
6 existing and planned future uses, including agricultural and
7 manufacturing uses *after taking into consideration voluntary water*
8 *demand management measures proposed to be incorporated into*
9 *the project or within the water provider's service area.*

10 (5) If an applicant elects to include voluntary demand
11 management measures, the projected water demand shall be
12 reduced for the project to an amount below *planned water demand*
13 *reduction actions contained in an adopted urban water*
14 *management plan and the current statutory, regulatory, and local*
15 *ordinance requirements, based on the project applicant's voluntary*
16 *water demand management measures. The public water system,*
17 *or, if there is no public water system, the local agency, shall*
18 *quantify the reduction of anticipated water demand attributable to*
19 *the voluntary demand management measures. For purposes of this*
20 *section, "voluntary water demand management measures*
21 *voluntarily chosen by the applicant"* means water use efficiency
22 measures that exceed current statutory, regulatory, and local
23 ordinance requirements, and that are permanently fixed to
24 residential, commercial, industrial, or other real property that will
25 reduce projected water demand, and may include, but are not
26 limited to, all of the following:

- 27 (A) Smart irrigation controllers.
- 28 (B) Waterless urinals.
- 29 (C) Ultralow flow and dual flow toilets.
- 30 (D) Recycled water facilities.
- 31 (E) Rainwater capture and reuse facilities.
- 32 (F) Any other measure that will prevent the waste of water or
33 promote the reasonable and efficient use and reuse of available
34 water supplies by the subdivision or the public. For the purposes
35 of this chapter, water recycling shall be eligible as a water
36 conservation measure.
- 37 (G) Voluntary mitigation measures may include, at the
38 applicant's sole discretion conservation offsets that reduce a
39 project's impact to the public water system, as determined by the
40 applicant and agreed upon by the public water system. The

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

25 (6) "Voluntary Water Demand Mitigation Fund" means the fund
26 used to finance verifiable and quantifiable water conservation or
27 water supply augmentation measures by the public water system
28 that mitigate or offset a percentage of the projected water demand
29 impacts from the subdivision.

30 ~~(7) The public water system shall make the determination of~~
31 ~~the projected water savings for the measures that will be~~
32 ~~incorporated into the subdivision. The projected water savings~~
33 ~~may be calculated using water efficiency program data compiled~~
34 ~~or maintained by the public water system or the water savings~~
35 ~~projections adopted by the California Urban Water Conservation~~
36 ~~Council, including estimates of normal performance decline of~~
37 ~~specific water demand management measures. If a project applicant~~
38 ~~proposes to use a new voluntary water reduction demand~~
39 ~~management measure that is not based on water savings projections~~
40 ~~adopted by the California Urban Water Conservation Council or~~

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

16 (A) Document the measured annual water use of the subdivision
17 in comparison to the projected demand associated with the
18 subdivision.

19 (B) Calculate the water savings attributable to the demand
20 management measures financed by the Voluntary Water Demand
21 Mitigation Fund for the subdivision.

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

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

33 (7) *The public water system shall make the determination of the*
34 *projected water savings attributable to the voluntary demand*
35 *management measures that will be incorporated into the project.*

36 (A) *The projected water savings shall be calculated using either*
37 *of the following:*

38 (i) *Water efficiency program data compiled or maintained by*
39 *the public water system.*

- 1 (ii) *Water savings projections adopted by the California Urban*
2 *Water Conservation Council.*
- 3 (B) *Notwithstanding subparagraph (A), if a project applicant*
4 *proposes to use a new voluntary water demand management*
5 *measure for which neither the California Urban Water*
6 *Conservation Council nor the public water system has adopted an*
7 *estimate or method to calculate the projected water savings of the*
8 *proposed voluntary water demand management measure, the*
9 *projected water savings shall be made based on documented*
10 *methodologies or calculations submitted in the record.*
- 11 (i) *These methodologies or calculations may include, but are*
12 *not limited to, water efficiency program implementation data and*
13 *projections calculated by the public water system, the local agency,*
14 *the applicant, or the California Water Conservation Council.*
- 15 (ii) *These methodologies or calculations shall demonstrate that*
16 *the proposed voluntary water demand management measures result*
17 *in projected water savings that are quantifiable and verifiable.*
- 18 (C) *The projected water savings may also include all of the*
19 *following:*
- 20 (i) *Estimates of normal performance decline of specific water*
21 *demand management measures.*
- 22 (ii) *Adjustment factors or other estimates to reflect the uncertain*
23 *performance of new and emerging technologies.*
- 24 (8) *Five years after the project has been fully developed, the*
25 *public water system shall include in its next urban water*
26 *management plan, required by Part 2.6 (commencing with Section*
27 *10610) of Division 6 of the Water Code, a report on the monitoring*
28 *and compliance of voluntary water demand management measures*
29 *and determine, if practicable based upon readily available*
30 *information, whether they have resulted in the water savings*
31 *necessary to achieve the agreed upon water demand offsets.*
- 32 (9) *If practicable based upon readily available information, the*
33 *public water system shall do both of the following:*
- 34 (A) *Document the measured annual water use of the project in*
35 *comparison to the projected demand associated with the project.*
- 36 (B) *Calculate the water savings attributable to the voluntary*
37 *mitigation measures financed by the Voluntary Water Demand*
38 *Mitigation Fund for the project.*
- 39 (10) (A) *If the public water system bases its water supply*
40 *assessment for the project, in whole or in part, on the use of*

1 *voluntary demand management measures within the project, the*
2 *assessment shall be conditioned on the maintenance and operation*
3 *of the voluntary demand management measures, or measures that*
4 *are at least as water efficient, as agreed to by the applicant and*
5 *the public water system, and the recordation as a covenant running*
6 *with the land, pursuant to Section 1468 of the Civil Code, for the*
7 *lots within the project. The maintenance and operation obligations*
8 *shall be contained in the maintenance manual referred to in*
9 *paragraph (11). The recorded covenant shall include a notice of*
10 *the existence of the maintenance manual and the obligation for a*
11 *purchaser to obtain it from the seller. By acceptance of a deed to*
12 *a lot, each purchaser acknowledges the obligation to comply with*
13 *the voluntary demand management measures for the lot as*
14 *described in the covenant. The covenant and its obligations shall*
15 *be in effect for the time period used by the public water system for*
16 *determining the water savings attributable to the demand*
17 *management measures but that time period shall not exceed the*
18 *period described in subdivision (a) of Section 10631.*

19 *(B) The requirements of paragraph (A) shall be included with*
20 *the original sales documentation and shall be acknowledged by*
21 *the purchaser. The seller shall instruct the original purchaser to*
22 *provide the maintenance manual to any subsequent purchaser,*
23 *pursuant to subdivision (h) of Section 912 of the Civil Code.*

24 *(C) The covenant referred to in paragraph (A) may be enforced*
25 *pursuant to the existing authority of a public water system.*

26 *(11) Prior to the close of escrow, a builder shall give to a*
27 *purchaser information that shall be included in a maintenance*
28 *manual as described in subdivision (c) of Section 945.5 of the Civil*
29 *Code, that informs the purchaser of the existence of the home's*
30 *unique water saving devices, including information regarding their*
31 *benefits, maintenance requirements, and proper use.*

32 *(d) (1) The assessment required by this section shall include*
33 *an identification of any existing water supply entitlements, water*
34 *rights, or water service contracts relevant to the identified water*
35 *supply for the proposed project, and a description of the quantities*
36 *of water received in prior years by the public water system, or the*
37 *city or county if either is required to comply with this part pursuant*
38 *to subdivision (b), under the existing water supply entitlements,*
39 *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) (1) For purposes of a Voluntary Water Demand Mitigation
38 Fund held by a public water system, the public water system shall
39 be required to expend all funds from the Voluntary Water Demand
40 Mitigation Fund on water conservation measures that will reduce

1 the projected demand associated with the ~~subdivision~~ *project*.
2 Water conservation measures shall be chosen that are the ~~least~~
3 ~~expensive~~, most cost-effective means to yield water *savings*. The
4 expenditures may be made within the subdivision or elsewhere
5 within the service area of the public water supplier at its discretion.
6 *Funds deposited into the voluntary water demand mitigation fund*
7 *shall be accounted for in the same manner as fees imposed for*
8 *water connections or sewer connections pursuant to Section 66013.*

9 (2) The public water system shall be prohibited from using funds
10 from the Voluntary Water Conservation Mitigation Fund to
11 supplant funding for water conservation programs required by
12 ~~existing law~~ *planned water reduction actions contained in an*
13 *adopted urban water management plan, existing law*, or paid for
14 by existing customers through water rates and surcharges.

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

28 (j) (1) Not less than 40 percent of the proceeds from the
29 Voluntary Water Demand Mitigation Fund shall be directed to
30 water conservation programs in any disadvantaged community,
31 as defined in Section 75005 of the Public Resources Code, within
32 the service area of the public water system.

33 (2) The governing body of the public water system may make
34 a finding based on substantial evidence that no disadvantaged
35 community exists within the service area or that the capacity for
36 water conservation within all disadvantaged communities within
37 the service area has been exhausted. Substantial evidence
38 demonstrating that no disadvantaged community exists within the
39 service area shall include federal census data. When the public
40 water system makes this finding, the use of the water demand

1 mitigation funds shall be exempt from the requirements in
 2 paragraph (1).

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

7 (l) *Wherever “public water system” is used in paragraphs (5),*
 8 *(6), (7), (8), (9), and (10) of subdivision (c), and subdivision (p),*
 9 *a local agency shall be substituted if there is no public water system*
 10 *that supplies water for the subdivision.*

11 ~~(t)~~
 12 (m) This section shall remain in effect only until January 1,
 13 2017, and as of that date is repealed, unless a later enacted statute,
 14 that is enacted before January 1, 2017, deletes or extends that date.

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

16 10910. (a) Any city or county that determines that a project,
 17 as defined in Section 10912, is subject to the California
 18 Environmental Quality Act (Division 13 (commencing with Section
 19 21000) of the Public Resources Code) under Section 21080 of the
 20 Public Resources Code shall comply with this part.

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

36 (c) (1) The city or county, at the time it makes the determination
 37 required under Section 21080.1 of the Public Resources Code,
 38 shall request each public water system identified pursuant to
 39 subdivision (b) to determine whether the projected water demand
 40 associated with a proposed project was included as part of the most

1 recently adopted urban water management plan adopted pursuant
2 to Part 2.6 (commencing with Section 10610).

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

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

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

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

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

- 1 (A) Written contracts or other proof of entitlement to an
2 identified water supply.
- 3 (B) Copies of a capital outlay program for financing the delivery
4 of a water supply that has been adopted by the public water system.
- 5 (C) Federal, state, and local permits for construction of necessary
6 infrastructure associated with delivering the water supply.
- 7 (D) Any necessary regulatory approvals that are required in
8 order to be able to convey or deliver the water supply.
- 9 (e) If no water has been received in prior years by the public
10 water system, or the city or county if either is required to comply
11 with this part pursuant to subdivision (b), under the existing water
12 supply entitlements, water rights, or water service contracts, the
13 public water system, or the city or county if either is required to
14 comply with this part pursuant to subdivision (b), shall also include
15 in its water supply assessment pursuant to subdivision (c), an
16 identification of the other public water systems or water service
17 contractholders that receive a water supply or have existing water
18 supply entitlements, water rights, or water service contracts, to the
19 same source of water as the public water system, or the city or
20 county if either is required to comply with this part pursuant to
21 subdivision (b), has identified as a source of water supply within
22 its water supply assessments.
- 23 (f) If a water supply for a proposed project includes
24 groundwater, the following additional information shall be included
25 in the water supply assessment:
 - 26 (1) A review of any information contained in the urban water
27 management plan relevant to the identified water supply for the
28 proposed project.
 - 29 (2) A description of any groundwater basin or basins from which
30 the proposed project will be supplied. For those basins for which
31 a court or the board has adjudicated the rights to pump
32 groundwater, a copy of the order or decree adopted by the court
33 or the board and a description of the amount of groundwater the
34 public water system, or the city or county if either is required to
35 comply with this part pursuant to subdivision (b), has the legal
36 right to pump under the order or decree. For basins that have not
37 been adjudicated, information as to whether the department has
38 identified the basin or basins as overdrafted or has projected that
39 the basin will become overdrafted if present management
40 conditions continue, in the most current bulletin of the department

1 that characterizes the condition of the groundwater basin, and a
2 detailed description by the public water system, or the city or
3 county if either is required to comply with this part pursuant to
4 subdivision (b), of the efforts being undertaken in the basin or
5 basins to eliminate the long-term overdraft condition.

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

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

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

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

38 (2) Prior to the expiration of the 90-day period, if the public
39 water system intends to request an extension of time to prepare
40 and adopt the assessment, the public water system shall meet with

1 the city or county to request an extension of time, which shall not
 2 exceed 30 days, to prepare and adopt the assessment.

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

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

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

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

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

32 (i) This section shall become operative on January 1, 2017.

33 SEC. 6. No reimbursement is required by this act pursuant to
 34 Section 6 of Article XIII B of the California Constitution because
 35 a local agency or school district has the authority to levy service
 36 charges, fees, or assessments sufficient to pay for the program or
 37 level of service mandated by this act, within the meaning of Section
 38 17556 of the Government Code.

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