

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Saldana

February 23, 2009

An act to amend Section 65352 of, and to add Section 65352.6 to, the Government Code, and to add Section 13142.1 to the Water Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as introduced, Saldana. Local planning: water supplies.

(1) The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a conservation element that considers, among other things, the identification of rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management and a discussion and evaluation of water supply and demand. Before adopting or amending the general plan, the planning agency is required to refer the proposed action to specified entities.

This bill would require the planning agency to additionally notify the California regional water quality control board servicing the area before adopting or amending the general plan. The bill would require the regional board, upon receiving this notice, to provide the planning agency with certain information regarding implementation of low-impact development water management to increase local water supplies by increasing stormwater recharge and reuse. By imposing new duties on local public officials, the bill would create a state-mandated local program.

(2) The existing Porter-Cologne Water Quality Control Act requires the State Water Resources Control Board to formulate and adopt state policy for water quality control.

This bill would require the state board to increase, on or before January 1, 2015, the sustainable local water supplies available for meeting existing and future beneficial uses in this state by an unspecified amount of acre-feet per year, in excess of the 2002 levels of sustainable local water supply and would specify the methods to be used, pursuant to its existing authority, in meeting this goal.

(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. Section 65352 of the Government Code is
2 amended to read:

3 65352. (a) Prior to action by a legislative body to adopt or
4 substantially amend a general plan, the planning agency shall refer
5 the proposed action to all of the following entities:

6 (1) A city or county, within or abutting the area covered by the
7 proposal, and any special district that may be significantly affected
8 by the proposed action, as determined by the planning agency.

9 (2) An elementary, high school, or unified school district within
10 the area covered by the proposed action.

11 (3) The local agency formation commission.

12 (4) An areawide planning agency whose operations may be
13 significantly affected by the proposed action, as determined by the
14 planning agency.

15 (5) A federal agency if its operations or lands within its
16 jurisdiction may be significantly affected by the proposed action,
17 as determined by the planning agency.

18 (6) (A) The branches of the United States Armed Forces that
19 have provided the Office of Planning and Research with a
20 California mailing address pursuant to subdivision (d) of Section
21 65944 when the proposed action is within 1,000 feet of a military

1 installation, or lies within special use airspace, or beneath a
2 low-level flight path, as defined in Section 21098 of the Public
3 Resources Code, provided that the United States Department of
4 Defense provides electronic maps of low-level flight paths, special
5 use airspace, and military installations at a scale and in an
6 electronic format that is acceptable to the Office of Planning and
7 Research.

8 (B) Within 30 days of a determination by the Office of Planning
9 and Research that the information provided by the Department of
10 Defense is sufficient and in an acceptable scale and format, the
11 office shall notify cities, counties, and cities and counties of the
12 availability of the information on the Internet. Cities, counties, and
13 cities and counties shall comply with subparagraph (A) within 30
14 days of receiving this notice from the office.

15 (7) A public water system, as defined in Section 116275 of the
16 Health and Safety Code, with 3,000 or more service connections,
17 that serves water to customers within the area covered by the
18 proposal. The public water system shall have at least 45 days to
19 comment on the proposed plan, in accordance with subdivision
20 (b), and to provide the planning agency with the information set
21 forth in Section 65352.5.

22 (8) The Bay Area Air Quality Management District for a
23 proposed action within the boundaries of the district.

24 (9) On and after March 1, 2005, a California Native American
25 tribe, that is on the contact list maintained by the Native American
26 Heritage Commission, with traditional lands located within the
27 city or county's jurisdiction.

28 (10) The Central Valley Flood Protection Board for a proposed
29 action within the boundaries of the Sacramento and San Joaquin
30 Drainage District, as set forth in Section 8501 of the Water Code.

31 *(11) The California regional water quality control board serving*
32 *the area affected by the proposal.*

33 (b) Each entity receiving a proposed general plan or amendment
34 of a general plan pursuant to this section shall have 45 days from
35 the date the referring agency mails it or delivers it in which to
36 comment unless a longer period is specified by the planning
37 agency.

38 (c) (1) This section is directory, not mandatory, and the failure
39 to refer a proposed action to the other entities specified in this
40 section does not affect the validity of the action, if adopted.

1 (2) To the extent that the requirements of this section conflict
2 with the requirements of Chapter 4.4 (commencing with Section
3 65919), the requirements of Chapter 4.4 shall prevail.

4 SEC. 2. Section 65352.6 is added to the Government Code, to
5 read:

6 65352.6. (a) The Legislature finds and declares that it is vital
7 that there be close coordination and consultation between
8 California's water supply agencies and California's land use
9 approval agencies to ensure clean, sustainable, local supplies of
10 water.

11 (b) It is, therefore, the intent of the Legislature to provide a
12 standardized process for determining the adequacy of city and
13 county general plans to achieve and promote clean, sustainable,
14 local water supplies consistent with the goal set forth in Section
15 13142.1 of the Water Code.

16 (c) Upon receiving a notice pursuant to paragraph (11) of
17 subdivision (a) of Section 65352 of a city's or a county's proposed
18 action to adopt or substantially amend a general plan, the California
19 regional water quality control board serving the area affected by
20 the plan shall provide the planning agency with the following
21 information, as is appropriate and relevant:

22 (1) Recommendations on amendments to the general plan that
23 would facilitate and expedite implementation of low-impact
24 development water management strategies that increase local water
25 supplies and decrease pollution. These recommendations may be
26 based on the May 2008 report of the California Ocean Protection
27 Council "Resolution Regarding Low-Impact Development," the
28 State Water Resources Control Board report "Review of Low
29 Impact Development Policies: Removing Institutional Barriers To
30 Adoption" of December 2007, and the stormwater guidance
31 document prepared by the State Water Resources Control Board
32 July 1, 2009, pursuant to Section 13383.7 of the Water Code.

33 (2) Any additional information that is relevant to the
34 implementation of low-impact development water management
35 to increase local water supplies by increasing stormwater recharge
36 and reuse.

37 SEC. 3. Section 13142.1 is added to the Water Code, to read:

38 13142.1. (a) The state board shall take appropriate actions,
39 pursuant to this division and consistent with the 2008–12 Strategic
40 Plan, to increase, on or before January 1, 2015, the sustainable

1 local water supplies available for meeting existing and future
2 beneficial uses in this state in the amount of _____ acre-feet per
3 year, in excess of the 2002 level of sustainable local water supply.

4 (b) The board shall achieve the water supply goal specified in
5 subdivision (a) pursuant to the existing authority provided by this
6 division, through a combination of increasing conservation,
7 recycled water use, and stormwater recharge and reuse, by using
8 low-impact development water management strategies.

9 SEC. 4. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of Section
14 17556 of the Government Code.

O