APPROVED
by the Board of Directors of
The Metropolitan Water District
of Southern California
at its meeting held

JUN 14 1994 8-15

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EXECUTIVE SECRETARY

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Office of the General Manager

June 7, 1994

To: Board of Directors (Committee on Legislation--Action)

From: General Manager

Subject: Assembly Bill 2673 (Cortese--San Jose)

Background

Current law requires that a public water system, upon receiving notification of a city or county's proposed action to adopt or substantially amend its general plan, submit information regarding its current and future water supplies. That law, however, does not appear to apply to a wholesaler-like water system but applies to public water systems with 3,000 or more service connections. While AB 2673 does not apply directly to Metropolitan, it does apply to many of Metropolitan's member agencies and virtually all subagencies.

AB 2673 is sponsored by the East Bay Municipal Utility District (EBMUD). At the March Board meeting, EBMUD's legislative representative presented some proposed amendments that would clarify the interpretation of the consistency provisions. The Board decided to remain neutral on AB 2673 and instructed staff to forward information on the legislation to member agencies for their consideration and to continue to monitor the bill.

Subsequent to the March Board meeting, EBMUD staff met with the Association of California Water Agencies' (ACWA) Local Government Committee, the California State Association of Counties (CSAC), and the League of California Cities (LCC) to discuss their concerns. The ACWA Local Government Committee adopted a set of policy principles regarding the issue of land use and water supply service. Those principles were incorporated into the declaratory findings portion of the March 17 amendment to AB 2673. Those findings conflicted with Metropolitan's adopted legislative growth management policy principles.

The bill was amended further on April 5. A copy of the April 8 Board letter detailing the March 17 and April 5 amendments is attached hereto as Attachment "A." On

April 13, 1994, your Board voted to oppose AB 2673 unless it was amended to apply only to EBMUD because the bill conflicted with the Board's adopted policy principles and because of the district-wide Integrated Resources Planning process underway at Metropolitan which addresses concerns that gave rise to AB 2673.

AB 2673 as Amended April 26, 1994

AB 2673 was amended again in the Assembly on April 26, 1994. A summary of those amendments is attached hereto as Attachment "B." The April 26 amendments do not give a public water system the outright authority to "veto" a proposed adoption of a general plan or general plan amendment.

AB 2673 as Amended June 1, 1994

Attached are two letters from Assemblyman Cortese dated May 9, 1994, which request Metropolitan's assistance in drafting amendments to AB 2673 (see Attachments "C" and "D"). In addition, when the bill was before the Assembly Ways and Means Committee, committee members urged Assemblyman Cortese to work on further amendments to respond to opponents' concerns, specifically those from Southern California.

AB 2673 was amended once again to address concerns of the Assembly Ways and Means Committee. The amended version of the bill was approved by the Assembly Ways and Means Committee and sent to the Assembly floor. Assemblyman Cortese was unable to secure the 41 votes necessary to pass AB 2673 to the Senate although he did receive "reconsideration" which provides another opportunity to bring the bill up on the Assembly floor. A summary of the June 1st version of the bill is attached hereto as Attachment "E."

Due to the numerous amendments made to AB 2673 since your Board's last action on the bill in April, the following options are available:

OPTION ONE: Change the Board position from "oppose unless amended" to "support if amended" provided Assemblyman Cortese accepts the following language which reflects existing requirements set forth in Section 3107 of Metropolitan's Administrative Code:

SEC. 8. A water agency shall be deemed to have complied with this Act if the water agency has adopted an annexation policy or process which considers the availability of water and insures that water purveyors and property owners within the area to be annexed incorporate into development plans water conservation measures and, where appropriate, use of reclaimed or other non-potable water.

OPTION TWO: Change the Board position of "oppose unless amended to apply only to EBMUD" to "oppose unless amended" until amendments to AB 2673 (Cortese) are crafted to conform with the principles adopted by the Water Policy Committee of the San Diego County Water Authority (see Attachment "F"). These principles will serve as a vehicle to guide Metropolitan staff in crafting amendments to AB 2673 and would replace the existing policy principles for growth management legislation adopted by your Board in April of 1993.

On June 6, 1994, the Water Policy Committee of the San Diego County Water Authority voted to oppose AB 2673 unless amended to conform with those principles.

Board Committee Assignments

This letter is referred for action to the Committee on Legislation because of its jurisdiction to review and make recommendations based upon presentations of the General Manager regarding proposals for State legislation, or amendments thereto, pursuant to Administrative Code Section 2491, subdivision (a).

Recommendation

COMMITTEE ON LEGISLATION FOR ACTION.

It is recommended that your Board adopt Option Two to enable staff to craft amendments to AB 2673 (Cortese).

John R. Wodraska

NNF:gm
judbro\ab2673.brd

Attachments:

April 8 Board letter with attachments (Attachment "A")
Summary and copy of April 26 Amendments (Attachment "B")
May 9, 1994, letter to MWD General Manager (Attachment "C")
May 9, 1994, letter to Director Luddy (Attachment "D")
Summary and copy of June 1 Amendments (Attachment "E")
General Principles for Amending AB 2673 Adopted by
SDCWA Water Policy Committee (Attachment "F")
San Francisco Chronicle Article (Attachment "G")

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 8, 1994

Board of Directors (Legislative Committee--Information)

General Manager

Assembly Bill 2673 (Cortese-San Jose) Status Report

Background

Current law requires that a public water system, upon receiving notification of a city or county's proposed action to adopt or substantially amend its general plan, submit information regarding its current and future water supplies. That law, however, does not appear to apply to a wholesaler-like water system but applies to public water systems with 3,000 or more service connections. While AB 2673 does not apply directly to Metropolitan, it does apply to many of Metropolitan's member agencies and virtually all subagencies.

AB 2673 is sponsored by the East Bay Municipal Utility District (EBMUD). At the March Board meeting, East Bay MUD's legislative representative presented some proposed amendments that would clarify the interpretation of the consistency provisions. The Board decided to remain neutral on AB 2673 and instructed staff to forward information on the legislation to member agencies for their consideration and to continue to monitor the bill.

Subsequent to the March Board meeting, EBMUD staff has met with the ACWA's Local Government Committee, CSAC, and the League of California Cities to discuss their concerns. The ACWA Local Government Committee adopted a set of policy principles regarding the issue of land use and water supply service. These principles have been incorporated into declaratory findings in the March 17 amendment to AB 2673. These findings are in conflict with Metropolitan's adopted legislative growth management policy principles. **The bill was further amended on April 5.**

Proposed Process Change by AB 2673 as amended 3/17/94

AB 2673 would add to a public water system's duties by requiring the public water system to make specified findings

(March 17th version, p. 6, lines 19-23 & p.7, lines 13-16) when a city or county general plan proposed new development outside of the area in which wate rservice is currently being provided. Such findings indicate the ability to provide water service to meet the reasonable needs, consistent with the provisions of the Urban Water Management Plan adopted by the public water system through periods of forecasted drought to certain customers within and outside the public water system's existing service area. The bill would provide procedures to be followed by the public water system if it finds that it cannot provide water service sufficient to meet these reasonable needs. The bill would also prescribe the duties of the affected city or county with respect to the public water systems's findings.

One Possible Alternative Proposal to AB 2673

AB 2673 proposes a statewide legal change and new planning/decision making process to address a local EBMUD situation. Another alternative would be to propose an amendment to the Water Code providing that a water district may not be required to provide service outside of its boundaries without the consent of its own Board of Directors. This would correspond to the present law on LAFCO annexations to a district, where the district may disapprove the proposed annexation of new territory. Government Code Section 57079.5(b)(1). **EBMUD believes this decision would come too late in the process as it would involve the LAFCO annexation process and that it would allow the county Board of Supervisors to take over the water districts role if the water district asserts it cannot provide water.**

Changes to AB 2673 as amended April 5, 1994

AB 2673 was amended again on April 5, 1994. The new amendments would: 1) Make mandatory the water supply information compiled pursuant to § 455 (heightened will-serve) be incorporated as an elemen- in a city or county's general plan, 2) llow a city or county to override the findings of the water gency by identifying a source of water exists that is not part of the water agency's wa supply, 3) Allow a city or county to approve a general plan am- ment proposing new development if it identifies water system improvements or other measures which will result in adequate water supplies to meet the development requirements.

The amendments EBMUD presented in March limited the bill to areas, outside of the Water District's service area. The April amendments expand the bill to cover all activities to plan to provide water to a existing or new service area. EBMUD believes the closer involvement of local land use and water districts in understanding the constraints on obtaining reliable water supply development is essential. Metropolitan's current growth management legislative policy principles advocate better coordination so that the water district is able to plan to provide a reliable water supply, but does not agree with EBMUD's contention that either the water district should have the option to decline to provide water service or that the local government should have the ability to seek an alternative supply. (See Contra Costa Times 4/1/94).

A hearing has been scheduled in Assembly Local Government Committee on April 13.

Board Committee Assignment

The letter is referred for information to the Committee on Legislation because it involves legislation which may affect the District, pursuant to Administrative Code Section 2491, subdivision (a).

Recommendation

As it is early in legislative process. Remain neutral and monitor AB 2673 at the Assembly Local Government Committee. Continue to participate in ACWA local government and legislative committees as the water industry continues to discuss the relationship between local governments and water agencies. This will both heighten local governments understanding of the barriers to achieving a reliable water supply and improve the communication and planning processes as they relate to development and water supply.

John R. Wodraska

AEB/rlh

Att.: ACWA Principles
AB 2673 as amended March 17, 1994
Growth Management Policy Principles
AB 2673 as amended April 5, 1994
Contra Costa Times: Delta Water May flow to Homes in Dougherty (4/1/94)

ATTACHMENT A

AB 2673 as amended March 17, 1994

SECTION 1: Declarations:

a) California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while supplies available for consumptive uses have diminished.

b) More and more often, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

c) Water supply planning to meet future growth needs has become more critical than ever, and will become an increasingly important water utility activity as we approach the 21st century.

d) Because of the diminishing water supplies available to most water agencies today, and a need to meet an ever increasingly water demand, all water agencies must plan carefully to ensure that they can meet the needs of their customers through periods of drought with minimal disruption to residential, commercial, and industrial activities within their service area.

e) Approval and construction of major new water supply facilities to maintain a reliable water delivery system has become increasingly costly, complex, and requires longer lead time in today's climate.

f) The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

g) In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must closely link their water supply planning process to the city and county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies' existing service area and sphere of influence.

h) In order for cities and counties to properly plan the timing, location, and density of new development within their jurisdiction, they must fully understand the proximate water agency's current ability to meet the water needs of its existing and potential future customers, through periods of drought.

i) In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize the hierarchy of categories of customers or potential customer along a continuum, with differing degrees of legitimacy to their claim to water service. These categories, ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them upon demand, are as follows:

1) Existing customers within the existing service area of retail water agency.

2) Future expected customers associated with new development within an existing service area of a retail water agency.

3) Future expected customers associated with new development outside of the existing service area, but within the sphere of influence, of a retail water agency.

4) Future expected customers associated with new development outside of the sphere of influence of a retail agency.

j) Absent a hierarchy of the degree of legitimacy of claims upon water service, the basic concept of a water agency's service area would be rendered meaningless. In California's current era of water scarcity, if this hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time" rather than first serving those within their service area. Planned business and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hookup when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

k) Given each of the above principles, any general planning by cities and counties for growth outside of existing water agency service areas must be conditioned upon findings by the water agency of either adequate existing water supplies or firm future water supplies to meet the water needs through

periods of drought of customers in categories (1), (2), and (3) before a growth plan outside of the existing service area, but within the water agency's sphere of influence is approved. Furthermore, before a growth plan outside of both the existing service area and the water agency's sphere of influence is approved, the water agency must find that either adequate existing water supplies or firm future water supplies exist to meet the water needs of customers in the categories specified in paragraphs (1), (2), (3) and (4) of subdivision (i).

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AB 2673 PRINCIPLES
AS MODIFIED BY ACWA LOCAL GOVERNMENT COMMITTEE
MARCH 10, 1994

Situational Background

1. Some of California's water delivery system has become less reliable over the last 20 years because demand has continued to grow while supplies available for consumptive uses have diminished.

2. More and more often, California's water agencies are required to impose rationing on their residential and business customers during our frequent and severe periods of drought.

3. Water supply planning to meet future needs has become more critical than ever and will become an increasingly important water utility activity as we approach the 21st Century.

Principles

1. Because of the diminishing water supplies available to most water agencies today and a need to meet an ever-increasing water demand, all water agencies must plan carefully to ensure they can meet the needs of their customers through periods of drought, with mimimal disruption to residential, commercial, and industrial activities within their service areas. This is being done, or should be done, through the urban water management plan process. ACWA should make sure that AB 2673 appropriately cross-references the urban water management plan, as the current bill does, and integrate AB 2673 with those plans.

2. AB 2673 should apply only to urban water suppliers as defined in Section 10617 of the Water Code, and only to extension of service outside their existing service territories.

3. The process created by AB 2673 should be limited, as the bill now generally is, to the general plan adoption or amendment process, and should only apply to developments if they are part of one of those two proceedings.

4. Approval and construction of major, new water supply facilities to maintain a reliable water delivery system has become increasingly costly, complex, and requires longer lead times in today's climate.

5. The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

6. In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must

closely link their water supply planning process to the city's or county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies' existing service areas and spheres of influence.

7. In order for cities and counties to properly plan the timing, locations, and density of new development within their jurisdictions, they must have a comprehensive understanding of the proximate water agency's current ability to serve its existing customers as well as potential future customers, through periods of drought.

8. In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize that there exists a hierarchy of categories of customers or potential customers along a continuum, with differing degrees of legitimacy to their claim to water service. These categories are ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them, upon demand:

(a) existing customers within the existing service area of a retail water agency;

(b) future, expected customers associated with new development within an existing service area of a retail water agency;

(c) future, expected customers associated with new development outside of the existing service area, but within the sphere of influence of a retail water agency;

(d) future, expected customers associated with new development outside of the sphere of influence of a retail agency.

9. If there did not exist a hierarchy of the degree of legitimacy of claims upon water service, the basic concept of a water agency's service area would be rendered without meaning. In California's current era of water scarcity, if the hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time", rather than first serving those within their service area. Planned businesses and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hook-up when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

Therefore, given each of the above principles, any general planning by cities or counties for growth outside of existing water agency service areas must be consistent with findings by the water agency that it has (i) adequate existing water supplies; or (ii) firm future water supplies to meet the water

needs through periods of drought of categories (8) (a) and (b) before a growth plan outside of the existing service area, but within the agency's sphere of influence (category 8 (c)) is approved, and that before a growth plan is approved that is outside of categories 8 (a), (b) and (c), that the water agency has (i) adequate existing water supplies or (ii) firm future water supplies to meet the water needs through drought of all 4 categories.

10. The city or county should be given the right to override the water agency's findings, based upon substantial evidence in the record, but if the city or county does so, the water agency is not to be obligated to extend service into the area outside the service area of the water agency in a manner inconsistent with the water agency's own findings.

Drafting Issues Which Need to Be Addressed:

1. The retailer-wholesaler interface

2. Definition of service area (refer first to definition of "urban water supplier", and determine whether this covers the question, or we need to expand from there)

Policy Principles for Growth Management

Adopted by Metropolitan Water District
of Southern California on April 13, 1993

Infrastructure Planning Coordination

* Water supply is not a reason in and of itself to limit or control growth in California. There are sufficient water resources to accommodate continued population and economic growth through better management, including conservation, voluntary transfers and additional storage and conveyance facilities. Water supply for urban, agricultural and environmental uses will be adequate and reliable.

* Growth management and the allocation and direction of development should be the responsibility of general purpose government. Utilities, including water purveyors, should provide adequate facilities to serve the projected growth at the state, regional and local level.

* For planning and infrastructure purposes water supply should be treated as a utility not required to be a general purpose government plan element. However, water purveyors at the state, regional and local level should be a member of any proposed infrastructure planning structure to ensure optimum coordination and infrastructure resource investment.

Infrastructure Financing

* Financing mechanisms should be developed for general purpose and special district governments to develop adequate facilities to serve the projected growth.

* Infrastructure financing programs should provide for new growth to pay "fair-share" relative to total infrastructure program.

* Market mechanisms to improve the efficiency in use of natural resources and public facilities such as water transfers should be encouraged.

Any legislation to integrate infrastructure planning and to address the financing of facilities to fund growth and new development will be brought to the Board.

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AMENDED IN ASSEMBLY MARCH 17, 1994

CALIFORNIA LEGISLATURE—1993-94 REGULAR SESSION

ASSEMBLY BILL No. 2673

Introduced by Assembly Member Cortese
(Principal coauthor: Assembly Member Campbell)
(Principal coauthor: Senator McCorquodale)
(Coauthors: Assembly Members *Bronshvag*, Gotch, Hauser, and Isenberg)
(Coauthors: Senators Kelley ~~and Petris~~, *Petris, and Presley)*

February 3, 1994

An act to *amend Section 65352 of, and to* add Section 65352.6 to, the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2673, as amended, Cortese. Local public water systems: service needs: findings of fact.

Under existing law, when a city or county proposes to adopt or substantially amend a general plan, a public water system, as defined, must provide the city's or county's planning agency with specified information relating to the availability and use of existing and planned future water supplies. *Existing law requires a planning agency to refer the proposed action to several entities, including and affected public water system, as specified.*

This bill would make legislative findings and declarations with respect to the relationship between future growth and water provision. The bill would require a city or county to refer a proposed general plan adoption or amendment to the appropriate public water system, when the area covered by the proposed action is outside the area in which water service is currently being provided, as specified.

This bill would add to these duties a *public water system's duties* by requiring the public water system to make specified findings of fact concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of certain customers within and outside the public water system's existing service area. The bill would provide procedures to be followed by the public water system if it finds that it cannot provide water service sufficient to meet these reasonable needs. The bill would also prescribe the duties of the affected city or county with respect to the public water system's findings. Because it would require cities and counties to perform new local planning duties under certain circumstances, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

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

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

SECTION 1. *The Legislature finds and declares the following:*

(a) California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while supplies available for consumptive uses have diminished.

(b) More and more often, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

(c) Water supply planning to meet future growth needs has become more critical than ever, and will become an increasingly important water utility activity as we approach the 21st century.

(d) Because of the diminishing water supplies available to most water agencies today, and a need to meet an ever increasing water demand, all water agencies must plan carefully to ensure that they can meet the needs of their customers through periods of drought with minimal disruption to residential, commercial, and industrial activities within their service areas.

(e) Approval and construction of major new water supply facilities to maintain a reliable water delivery system has become increasingly costly, complex, and requires longer lead times in today's climate.

(f) The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

(g) In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must closely link their water supply planning process to the city and county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies' existing service area and sphere of influence.

(h) In order for cities and counties to properly plan the timing, location, and density of new development within their jurisdiction, they must fully understand the proximate water agency's current ability to meet the water needs of its existing and potential future customers, through periods of drought.

(i) In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize the hierarchy of categories of customers or potential customers along a continuum, with differing

degrees of legitimacy to their claim to water service. These categories, ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them upon demand, are as follows:

(1) Existing customers within the existing service area of retail water agency.

(2) Future expected customers associated with new development within an existing service area of a retail water agency.

(3) Future expected customers associated with new development outside of the existing service area, but within the sphere of influence, of a retail water agency.

(4) Future expected customers associated with new development outside of the sphere of influence of a retail agency.

(j) Absent a hierarchy of the degree of legitimacy of claims upon water service, the basic concept of a water agency's service area would be rendered meaningless. In California's current era of water scarcity, if this hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time" rather than first serving those within their service area. Planned businesses and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hookup when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

(k) Given each of the above principles, any general planning by cities or counties for growth outside of existing water agency service areas must be conditioned upon findings by the water agency of either adequate existing water supplies or firm future water supplies to meet the water needs through periods of drought of customers in categories (1), (2), and (3) before a growth plan outside of the existing service area, but within the water agency's sphere of influence, is approved. Furthermore, before a growth plan outside of both the existing service area and the water agency's sphere of influence is approved, the water agency must find that either adequate existing water supplies or firm future water supplies exist to meet the water needs of customers in the categories specified in paragraphs (1), (2), (3), and (4) of subdivision (i).

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

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

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

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

(3) The local agency formation commission.

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

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

(6) Any public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65958.1. *If the area covered by the proposed general plan adoption or amendment is outside the area in which water service is currently being provided by any public water system, the city or county shall identify the likely public water system to provide water to this area, and refer the proposed action to that entity for its review, pursuant to Sections 65352.5 and 65352.6.*

(7) The Bay Area Air Quality Management District for

a proposed action within the boundaries of the district.

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

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

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

SEC. 3. Section 65352.6 is added to the Government Code, to read:

65352.6. (a) ~~Pursuant to the provisions of Section 65352.5, the public water system shall make findings of fact~~ *If the proposed general plan adoption or amendment proposes new development in areas outside the area in which water service is being provided by any public water system, the public water system shall make findings of fact pursuant to the provisions of Section* 65352.5 concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of the following types of customers:

(1) Existing customers within the existing service area of the public water system.

(2) Forecasted new customers within the existing service area of the public water system.

(3) Forecasted new customers outside the existing service area of the public water system, *but within that agency's sphere of influence*, including those associated with new development according to the proposed general plan amendments.

(4) Forecasted new customers outside the existing service area of the public water system and outside of its sphere of influence, including those associated with the new development, according to the proposed general plan amendment.

(b) If the public water system finds that it cannot provide water service sufficient to meet the reasonable needs of all ~~three~~ *four* categories of customers identified in subdivision (a) through periods of forecasted droughts, the public water system shall identify the improvements that would be required to its water system, and the projected timeframe for implementing these improvements, as set forth in Section 65352.5, necessary to meet the water needs of the three categories of customers identified in subdivision (a).

(c) ~~The~~ *If the general plan adoption or amendment proposes new development outside areas in which water service is currently being provided by any public water system, the* city or county shall not adopt or amend its general plan until the findings of fact of the public water system pursuant to subdivision (a) have been transmitted to the city or county and have been made part of the record. If the public water system made findings of fact that it cannot provide water service sufficient to meet the reasonable needs of all ~~three~~ *four* categories of customers identified in subdivision (a) through periods of forecasted drought, the city or county shall not adopt the general plan or its amendments, unless the general plan or amendments, including those provisions identifying the location, intensity, and timing of any new development, are consistent with the findings of the public water system.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise

specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

O

AMENDED IN ASSEMBLY APRIL 5, 1994

AMENDED IN ASSEMBLY MARCH 17, 1994

CALIFORNIA LEGISLATURE—1993–94 REGULAR SESSION

ASSEMBLY BILL No. 2673

Introduced by Assembly Member Cortese
(Principal coauthor: Assembly Member Campbell)
(Principal coauthor: Senator McCorquodale)
(Coauthors: Assembly Members Bronshvag, *Cannella*, Gotch, Hauser, and Isenberg)
(Coauthors: Senators Kelley, Petris, and Presley)

February 3, 1994

An act to amend ~~Section~~ 65352 *Sections 65302, 65352, and 65352.5* of, and to add Section 65352.6 to, the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2673, as amended, Cortese. Local public water systems: service needs: findings of fact.

Existing law requires a city or county to prepare and adopt a general plan for its jurisdiction that includes certain mandatory elements, including a land use element. Under existing law, when a city or county proposes to adopt or substantially amend a general plan, a public water system, as defined, must provide the city's or county's planning agency with specified information relating to the availability and use of existing and planned future water supplies. Existing law requires a planning agency to refer the proposed action to several entities, including and affected public water system, as specified.

This bill would make legislative findings and declarations with respect to the relationship between future growth and water provision. The bill would require *that the land use*

element of the general plan include specified information concerning water supply availability. It would also require a city or county to refer a proposed general plan adoption or amendment to the appropriate public water system, when the area covered by the proposed action is outside the area in which water service is currently being provided, as specified, *before the agency may act on the general plan or amendment.*

This bill would add to a public water system's duties *with respect to a proposed general plan adoption or amendment proposing new development,* by requiring the public water system to make specified findings of fact concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of certain customers within and outside the public water system's existing service area. The bill would provide procedures to be followed by the public water system if it finds that it cannot provide water service sufficient to meet these reasonable needs. The bill would also prescribe the duties of the affected city or county with respect to the public water system's findings, *and the circumstances under which the proposed action on the general plan or amendment may be taken.* Because it would require cities and counties to perform new local planning duties under certain circumstances, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while supplies available for consumptive uses have diminished.

(b) More and more often, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

(c) Water supply planning to meet future growth needs has become more critical than ever, and will become an increasingly important water utility activity as we approach the 21st century.

(d) Because of the diminishing water supplies available to most water agencies today, and a need to meet an ever increasing water demand, all water agencies must plan carefully to ensure that they can meet the needs of their customers through periods of drought with minimal disruption to residential, commercial, and industrial activities within their service areas.

(e) Approval and construction of major new water supply facilities to maintain a reliable water delivery system has become increasingly costly, complex, and requires longer lead times in today's climate.

(f) The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

(g) In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must closely link their water supply planning process to the city and county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies'

existing service area and sphere of influence.

(h) In order for cities and counties to properly plan the timing, location, and density of new development within their jurisdiction, they must fully understand the proximate water agency's current ability to meet the water needs of its existing and potential future customers, through periods of drought.

(i) In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize the hierarchy of categories of customers or potential customers along a continuum, with differing degrees of legitimacy to their claim to water service. These categories, ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them upon demand, are as follows:

(1) Existing customers within the existing service area of retail water agency.

(2) Future expected customers associated with new development within an existing service area of a retail water agency.

(3) Future expected customers associated with new development outside of the existing service area, but within the sphere of influence, of a retail water agency.

(4) Future expected customers associated with new development outside of the sphere of influence of a retail agency.

(j) Absent a hierarchy of the degree of legitimacy of claims upon water service, the basic concept of a water agency's service area would be rendered meaningless. In California's current era of water scarcity, if this hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time" rather than first serving those within their service area. Planned businesses and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hookup when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

(k) Given each of the above principles, any general planning by cities or counties for growth outside of existing water agency service areas must be conditioned upon findings by the water agency of either adequate existing water supplies or firm future water supplies to meet the water needs through periods of drought of customers in categories (1), (2), and (3) before a growth plan outside of the existing service area, but within the water agency's sphere of influence, is approved. Furthermore, before a growth plan outside of both the existing service area and the water agency's sphere of influence is approved, the water agency must find that either adequate existing water supplies or firm future water supplies exist to meet the water needs of customers in the categories specified in paragraphs (1), (2), (3), and (4) of subdivision (i).

SEC. 2. *Section 65302 of the Government Code is amended to read:*

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element, which ~~designates~~ *shall designate* the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding, and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to

the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5, *and shall include the information relating to water supply availability provided pursuant to Section 65352.5.*

(b) A circulation element, consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element, as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element, for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element, as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element, which shall identify and appraise

noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element, for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides;

subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are

not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

SEC. 3. Section 65352 of the Government Code is amended to read:

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

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

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

(3) The local agency formation commission.

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

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

(6) Any public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65958.1. If the area covered by the proposed general plan adoption or amendment is outside the area in which water service is currently being provided by any public water system, the city or county shall identify the likely public water system to provide

water to this area, and refer the proposed action to that entity for its review, pursuant to Sections 65352.5 and 65352.6.

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

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

(c) (1) ~~This section is~~ *Except with regard to referrals to a public water system, as set forth in paragraph (6) of subdivision (a), the provisions of this section are* directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted. *If the public water system does not respond to a referral made pursuant to this section within the 45-day time period set forth in paragraph (6) of subdivision (a), or within any longer period as may be designated by the agency, the referring agency may act on the general plan or amendment.*

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

~~SEC. 3.~~

SEC. 4. Section 65352.5 of the Government Code is amended to read:

65352.5. (a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, *or upon receiving a request from a city or county in the process of preparing a general plan or general plan amendment,* a public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 or the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(c) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

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

65352.6. (a) If the proposed general plan adoption or amendment proposes new development in areas outside the area in which water service is being provided by any public water system, the public water system shall make findings of fact pursuant to the provisions of Section 65352.5 concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of the following types of customers:

(1) Existing customers within the existing service area of the public water system.

(2) Forecasted new customers within the existing service area of the public water system.

(3) Forecasted new customers outside the existing service area of the public water system, but within that agency's sphere of influence, including those associated with new development according to the proposed general plan amendments.

(4) Forecasted new customers outside the existing service area of the public water system and outside of its sphere of influence, including those associated with the new development, according to the proposed general plan amendment.

(b) If the public water system finds that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted droughts, the public water system shall identify the improvements that would be required to its water system, and the projected timeframe for implementing these improvements, as set forth in Section 65352.5, necessary to meet the water needs of the ~~three~~ *four* categories of customers identified in subdivision (a).

(c) If the general plan adoption or amendment proposes new development outside areas in which water service is currently being provided by any public water system, the city or county shall not adopt or amend its general plan until the findings of fact of the public water system pursuant to subdivision (a) have been transmitted to the city or county and have been made part of the record. If the public water system made findings of fact that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted drought, the city or county shall not adopt the general plan or its amendments, ~~unless the~~ *unless either of the following occurs:*

(1) The general plan or amendments, including those provisions identifying the location, intensity, and timing of any new development, are consistent with the findings of the public water system.

(2) The city or county makes findings, based upon substantial evidence in the record, that a water supply, which is not a part of the commenting public water system's water supply, will be available to service that new development, and the city or county identifies the source of that water supply.

(d) A general plan identifying proposed new development outside areas where water service is currently being provided may be approved if either the findings made by the public water system, or the general plan itself, pursuant to subdivision (c), identify planned improvements, or other measures, which will result in adequate water supplies to meet the reasonable needs of the four categories of customers identified in subdivision (a). However, if the public water system finds that these improvements and measures have not yet been

completed, the general plan shall require that a development project shall not be approved until the water supply improvements and measures are completed.

~~SEC. 5.~~

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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EBMUD

The Contra Costa Times

Date 4-1-94 Page 3A

Delta water may flow to homes in Dougherty

By ARIEL AMBRUSTER
Staff writer

SAN RAMON — Future Dougherty Valley residents may be able to thank a handful of Bakersfield-area pistachio farmers for their drinking water.

The Berrenda Mesa Water District in Kern County has signed a preliminary agreement to sell the water rights needed to develop the 5,170-unit Windemere project in the Dougherty Valley east of San Ramon.

A final pact may be reached in 30 to 60 days, allowing Windemere to draw part of the Southern California irrigation district's share from the Delta.

One of the biggest barriers to developing the Dougherty Valley has been the question of water.

The environmentalist-dominated board of the East Bay Municipal Utility District doesn't want to provide water for the 11,000-home project and has sued Contra Costa County over the matter. And the only other nearby water district, the Dublin-San Ramon Services District, doesn't have enough water.

But now, after a year of looking, the Dublin-San Ramon district may have found a willing water seller on a remote stretch of farmland about 50 miles northwest of Bakersfield, near the town of Blackwells Corner.

The Dublin-San Ramon district has signed an "agreement to agree" with Berrenda Mesa, said Bert Michalczyk, the district's technical services manager.

"We took a pretty global look at water transfers, everything from the north Sacramento valley to Kern County," he said. "This seemed to fit our needs best. . . . I have a positive feeling about it. I think the district down there wants to make it happen."

"I think it looks very good," agreed Tom McCormick, a Dublin-San Ramon district board member.

"If the district is focusing on one source, it's probably a good idea. That's actually good to hear," said Dan Coleman, Windemere's water consultant.

Even an EBMUD leader appears happy with the deal. "I think it's very encouraging," said Director Stuart Flashman. "I wish the county had thought about these things early on; it would have saved everybody a hell of a lot of litigation costs."

The water would go only to the Windemere project, which is planned for 2,379 acres of the 5,000-acre Dougherty Valley. The other Dougherty Valley developer, Shapell Industries, is still hoping for EBMUD water.

Under the agreement, the Dublin-San Ramon district would buy part of Berrenda Mesa's entitlement to State Water Project water for a one-time cost of $1,000 an acre-foot. The district would then pay the state each year for the water. Windemere, which would reimburse the district, would need about 2,500 acre-feet to serve roughly 14,000 expected residents. An acre-foot amounts to about 326,000 gallons.

AB 2673 (CORTESE), AS AMENDED APRIL 26, 1994

- Requires existing water supply information compiled by a water agency be incorporated as part of a general plan.

- Requires the city or county referral of the general plan to a water agency for review ONLY WHEN DEVELOPMENT IS PROPOSED IN THOSE AREAS CURRENTLY NOT RECEIVING WATER SERVICE.

- Requires the general plan which proposes development in those areas currently not receiving water service must either:

  (a) be consistent with findings of a public water system that it can meet the water needs of 1) existing customers; 2) future expected customers within an existing service area; as well as 3) future expected customers outside of the service area, through periods of forecasted drought;

  -or-

  (b) identify its own source of water for the proposed development in those areas currently not receiving water service.

- Requires a water agency to identify system improvements and the timeframe for implementing improvements to meet the water needs associated with the proposed general plan amendments.

- Allows a city or county to approve a general plan amendment proposing new development if it identifies water system improvements or other measures which will result in adequate water supplies to serve the new development. However, the development project may not be approved and constructed until those water system improvements are completed.

- Does not change existing law concerning a water agency's duty to serve.

AMENDED IN ASSEMBLY APRIL 26, 1994
AMENDED IN ASSEMBLY APRIL 5, 1994
AMENDED IN ASSEMBLY MARCH 17, 1994

CALIFORNIA LEGISLATURE—1993–94 REGULAR SESSION

ASSEMBLY BILL No. 2673

Introduced by Assembly Member Cortese
(Principal coauthor: Assembly Member Campbell)
(Principal coauthor: Senator McCorquodale)
(Coauthors: Assembly Members Bronshvag, Cannella, Gotch, Hauser, and Isenberg)
(Coauthors: Senators Kelley, Petris, and Presley)

February 3, 1994

An act to amend Sections 65302, 65352, and 65352.5 of, and to add Section 65352.6 to, the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2673, as amended, Cortese. Local public water systems: service needs: findings of fact.

Existing law requires a city or county to prepare and adopt a general plan for its jurisdiction that includes certain mandatory elements, including a land use element. Under existing law, when a city or county proposes to adopt or substantially amend a general plan, a public water system, as defined, must provide the city's or county's planning agency with specified information relating to the availability and use of existing and planned future water supplies. Existing law requires a planning agency to refer the proposed action to several entities, including and affected public water system, as specified.

This bill would make legislative findings and declarations

with respect to the relationship between future growth and water provision. The bill would require that the land use element of the general plan include specified information concerning water supply availability. It would also require a city or county to refer a proposed general plan ~~adoption~~ or *general plan* amendment to the appropriate public water system, when the area covered by the proposed action is outside the area in which water service is currently being provided, as specified, before the agency may act on the general plan or amendment.

This bill would add to a public water system's duties with respect to a proposed general plan ~~adoption~~ or *general plan* amendment proposing new development, by requiring the public water system to make specified findings of fact concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of certain customers within and outside the public water system's existing service area. *The bill would permit the city or county to adopt the general plan or general plan amendment if the public water system fails to make these findings within specified time limits.* The bill would provide procedures to be followed by the public water system if it finds that it cannot provide water service sufficient to meet these reasonable needs. The bill would also prescribe the *necessary findings and other* duties of the affected city or county with respect to the public water system's findings, and the circumstances under which the proposed action on the general plan or amendment may be taken. Because it would require cities and counties to perform new local planning duties under certain circumstances, this bill would impose a state-mandated local program.

The bill would state that it is not intended to create a right or entitlement to water service, or to change existing law regarding a public water system's obligation to provide this service to future customers, but is intended to provide assistance carrying out long-term planning responsibilities, as specified.

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

This bill would ~~provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund~~ *state that no reimbursement is required 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:

SECTION 1. The Legislature finds and declares the following:

(a) California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while supplies available for consumptive uses have diminished.

(b) More and more often, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

(c) Water supply planning to meet future growth needs has become more critical than ever, and will become an increasingly important water utility activity as we approach the 21st century.

(d) Because of the diminishing water supplies available to most water agencies today, and a need to meet an ever increasing water demand, all water agencies must plan carefully to ensure that they can meet the needs of their customers through periods of drought with minimal disruption to residential, commercial, and industrial activities within their service areas.

(e) Approval and construction of major new water supply facilities to maintain a reliable water delivery

system has become increasingly costly, complex, and requires longer lead times in today's climate.

(f) The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

(g) In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must closely link their water supply planning process to the city and county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies' existing service area and sphere of influence.

(h) In order for cities and counties to properly plan the timing, location, and density of new development within their jurisdiction, they must fully understand the proximate water agency's current ability to meet the water needs of its existing and potential future customers, through periods of drought.

(i) In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize the hierarchy of categories of customers or potential customers along a continuum, with differing degrees of legitimacy to their claim to water service. These categories, ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them upon demand, are as follows:

(1) Existing customers within the existing service area of retail water agency.

(2) Future expected customers associated with new development within an existing service area of a retail water agency.

(3) Future expected customers associated with new development outside of the existing service area, but within the sphere of influence, of a retail water agency.

(4) Future expected customers associated with new development outside of the sphere of influence of a retail agency.

(j) Absent a hierarchy of the degree of legitimacy of

claims upon water service, the basic concept of a water agency's service area would be rendered meaningless. In California's current era of water scarcity, if this hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time" rather than first serving those within their service area. Planned businesses and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hookup when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

(k) Given each of the above principles, any general planning by cities or counties for growth outside of existing water agency service areas must be conditioned upon findings by the water agency of either adequate existing water supplies or firm future water supplies to meet the water needs through periods of drought of customers in categories (1), (2), and (3) before a growth plan outside of the existing service area, but within the water agency's sphere of influence, is approved. Furthermore, before a growth plan outside of both the existing service area and the water agency's sphere of influence is approved, the water agency must find that either adequate existing water supplies or firm future water supplies exist to meet the water needs of customers in the categories specified in paragraphs (1), (2), (3), and (4) of subdivision (i).

SEC. 2. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element, which shall designate the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty,

education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding, and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5, and shall include the information relating to water supply availability provided pursuant to Section 65352.5.

(b) A circulation element, consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element, as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element, for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the

conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element, as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element, which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element

that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element, for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for

developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

SEC. 3. Section 65352 of the Government Code is amended to read:

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

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

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

(3) The local agency formation commission.

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

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

(6) Any public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65958.1. If the area covered by the proposed general plan adoption or amendment is outside the area in which water service is currently being provided by any public water system, the city or county shall identify the likely public water system to provide water to this area, and refer the proposed action to that entity for its review, pursuant to Sections 65352.5 and 65352.6.

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

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

(c) (1) Except with regard to referrals to a public water system, as set forth in paragraph (6) of subdivision (a), the provisions of this section are directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted. If the public water system does not respond to a referral made pursuant to this section within the 45-day time period set forth in paragraph (6) of subdivision (a), or within any longer period as may be designated by the agency, the referring agency may act on the general plan or amendment.

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

SEC. 4. Section 65352.5 of the Government Code is amended to read:

65352.5. (a) The Legislature finds and declares that it

is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, or upon receiving a request from a city or county in the process of preparing a general plan or general plan amendment, a public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 or the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should

be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

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

65352.6. (a) If ~~the~~ *a* proposed general plan ~~adoption or~~ *or general plan* amendment proposes new development in ~~areas~~ *an area* outside the area in which water service is being provided by any public water system, the public water system shall make findings of fact pursuant to the provisions of Section 65352.5 concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of the following types of customers:

(1) Existing customers within the existing service area of the public water system.

(2) Forecasted new customers within the existing service area of the public water system.

(3) Forecasted new customers outside the existing service area of the public water system, but within ~~that agency's~~ *its* sphere of influence, including those

associated with new development according to the proposed general plan amendments.

(4) Forecasted new customers outside the existing service area of the public water system and outside of its sphere of influence, including those associated with the new development, according to the proposed general plan *or general plan* amendment.

(b) If the public water system finds that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted droughts, the public water system shall identify the improvements, *or other measures,* that would be required to its water system, and the projected timeframe for implementing these improvements, *or other measures,* as set forth in Section 65352.5, necessary to meet the water needs of ~~the~~ *all* four categories of customers identified in subdivision (a).

(c) If the *proposed* general plan ~~adoption or~~ *or general plan* amendment ~~proposes~~ *includes* new development outside areas in which water service is currently being provided by any public water system, the city or county shall not adopt or amend its general plan until the findings of fact of the public water system pursuant to subdivision (a) have been transmitted to the city or county and have been made part of the record. *If the public water system does not transmit findings to the city or county within 90 days after the receipt of the proposed action pursuant to Section 65352, the city or county may adopt the general plan or amendment.* If the public water system made findings of fact that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted drought, the city or county shall not adopt the ~~general plan or its amendments, unless either of the following occurs:~~

~~(1) The general plan or amendments, including those provisions identifying the location, intensity, and timing of any new development, are consistent with the findings of the public water system.~~

~~(2) The city or county makes findings, based upon substantial evidence in the record, that a water supply, which is not a part of the commenting public water system's water supply, will be available to service that new development, and the city or county identifies the source of that water supply.~~

~~(d) A general plan identifying proposed new development outside areas where water service is currently being provided may be approved if either the findings made by the public water system, or the general plan itself, pursuant to subdivision (c), identify planned improvements, or other measures, which will result in adequate water supplies to meet the reasonable needs of the four categories of customers identified in subdivision (a). However, if the public water system finds that these improvements and measures have not yet been completed, the general plan shall require that a development project shall not be approved until the water supply improvements and measures are completed.~~

~~SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.~~ *general plan or general plan amendment, unless the city or county makes one of the following findings, based on substantial evidence in the record:*

(1) The general plan or general plan amendment, including those provisions identifying the location, intensity, and timing of new development, are consistent with the findings of the public water system.

(2) Identified water supply improvements, which are not part of the public water system's water supply system, or other measures, will be available to service new development in the area covered by the general plan or general plan amendment.

(d) If a city or county makes findings pursuant to subdivision (c), the general plan or general plan amendment shall include a requirement that a development project in that area shall not be approved until the other water supply improvements, or other measures, are completed.

SEC. 6. Nothing in this act is intended to create a right or entitlement to water service. This statute is intended to provide assistance to cities, counties, and public water systems in carrying out their long-term planning responsibilities to ensure adequate water supplies to meet existing and future demand for water. Nothing in this act is intended to change existing law concerning a public water system's obligation to provide water service to future customers.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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40881

California Legislature
Assembly Committee on
Water, Parks and Wildlife

DOMINIC L. CORTESE
CHAIRMAN

LINDA S. ADAMS
CHIEF CONSULTANT
EDNA MAITA
PRINCIPAL CONSULTANT
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STATE CAPITOL
P.O. BOX 942849
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(916) 445-6184

May 9, 1994

John R. Wodraska, General Manager
Metropolitan Water District
of Southern California
Box 54153
Los Angeles, CA 90054

Dear Mr. Wodraska: Wodsky'

Thank you for the correspondence from your Legislative Advocate, Ray Corley, indicating the opposition of the Metropolitan Water District to my AB 2673, relating to water supply planning.

I am encouraged to learn that MWD has been actively involved in discussions within your service area concerning the relationship between local land use planning and water supply reliability. However, I am puzzled by MWD's opposition to AB 2673, particularly given that the bill does not apply to MWD.

The planning process you describe relates to the relationship between the wholesaler and the retailer. My bill, however, relates to the local general plan process, that is, the stage at which a city or county amends its general plan. The goal of AB 2673 is to ensure that land use planning entities make their land use decisions based on sound water supply information and that the information be incorporated in the local planning process at the earliest possible stage. I fully understand that within the MWD service area, a city may play the dual role of land use planning entity and water supply entity.

Given MWD's close relationship to its member agencies and subagencies who are primarily city retailer water suppliers, I request that you provide me with the following information so that I may fashion my bill so as to complement your planning process currently underway: 1) How many of MWD's retailers have a process for integrating water supply planning and land use planning at the time its general plan is amended? 2) Please provide me with copies or explanations of any such processes. 3) Is there a successful program among your retailers that could be incorporated into AB 2673?

ATTACHMENT "C"

My objective is, and always has been, ensuring that California's water agencies can provide reliable water service to their customers through periods of drought.

Thank you for your assistance in crafting legislation that could be applicable statewide without disrupting those entities which already have a successful program for integrating land use planning and water supply planning.

Sincerely,

DOMINIC L. CORTESE
Chairman

cc: John V. Foley
Raymond Corley Jr.

40881

California Legislature
Assembly Committee on
Water, Parks and Wildlife

DOMINIC L. CORTESE
CHAIRMAN

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STATE CAPITOL
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May 9, 1994

Mr. William Luddy, Director
Metropolitan Water District
of Southern California
P.O. Box 54153
Los Angeles, CA 90054

Dear Mr. Luddy:

I understand Mrs. Patricia Bell Hearst has been in contact with you regarding my Assembly Bill 2673, relating to water supply planning. She has asked that I forward the enclosed packet of material, which includes the most recent version of the bill, to you explaining the purpose of and need for this legislation.

Given the announcement on the national news that California is still in a drought, I am greatly concerned that we do all we can to protect the water supply of existing industry and households while ensuring an adequate supply of water to support new growth.

AB 2673 creates a partnership between local planning agencies and water districts during the general plan process for proposed developments in areas where water service is not currently being provided. My objective in authoring AB 2673 is to ensure that before we extend water delivery systems into new, totally undeveloped areas, water agencies and land use planning agencies carefully assess the adequacy of water supplies and the timetable for acquiring new supplies.

AB 2673 will not stop growth, but rather will promote growth within urban areas. California needs new developments, but they cannot be at the expense of existing businesses. AB 2673 will strengthen California's economy by guaranteeing a reliable water source to both existing and future businesses.

ATTACHMENT "D"

MWD has consistently testified in legislative hearings, before state regulatory agencies, and in the press that it has grave concerns about its ability to provide reliable water supplies to meet customer demand. Your agency has concluded that this lack of reliability warrants state action to prevent economic dislocations. I ask you why AB 2673, which requires a closer assessment of creating new demand in outlying areas, is not consistent with MWD's stated views on California's water policy.

The opposition to AB 2673 by the Metropolitan Water District of Southern California is of great concern to me given the uncertainty of future water supplies. We all understand the obligation that water agencies have to provide their customers with a reliable source of water. It is sincerely hoped that you will work with me and assist in drafting amendments to AB 2673 that will accomplish my goal and not conflict with any current planning efforts underway at the local level.

Enclosed is a copy of my letter to MWD's Chairman and General Manager requesting their assistance. I would also appreciate receiving a copy of the memo of April 14, 1994, that you faxed to Mrs. Hearst.

Sincerely,

DOMINIC L. CORTESE
Chairman

DLC:rmm

Enc.

cc: John R. Wodraska

AB 2673 (CORTESE), AS AMENDED JUNE 1, 1994

- Requires a water agency to pursue water system improvements and other measures to meet the water needs associated with the city or county's proposed general plan amendments for new development.

- Requires the city or county referral of general plan amendments to a water agency for review ONLY WHEN DEVELOPMENT IS PROPOSED IN THOSE AREAS CURRENTLY NOT RECEIVING WATER SERVICE.

- Requires that before a city or county can adopt a general plan amendment proposing development in those areas currently not receiving water service, the city or county must either:

  (a) be consistent with findings of a water agency concerning its ability to meet the water needs of 1) existing customers; 2) future expected customers within an existing service area; as well as 3) future expected customers outside of the service area, through periods of forecasted drought;

  -or-

  (b) identify its own source of water for the proposed development in those areas currently not receiving water service.

- Requires that when the city or county approves the general plan amendment proposing new development in those areas currently not receiving water service, the actual development project shall not be approved until all agreements and financing for supplemental water supplies are in place and construction of the water supply improvements has commenced.

- Requires a water agency to submit periodic reports to its city or county identifying its progress on augmenting its water supplies to meet the water needs associated with new development plans of the city or county. These reports must identify all of the water supply options which are being pursued, as well as the various regulatory, financial, and physical requirements which must be met to augment its water supplies.

- Does not change existing law concerning a water agency's duty to serve water once a development project is approved.

AMENDED IN ASSEMBLY JUNE 1, 1994
AMENDED IN ASSEMBLY APRIL 26, 1994
AMENDED IN ASSEMBLY APRIL 5, 1994
AMENDED IN ASSEMBLY MARCH 17, 1994

CALIFORNIA LEGISLATURE—1993-94 REGULAR SESSION

ASSEMBLY BILL No. 2673

Introduced by Assembly Member Cortese
(Principal coauthor: Assembly Member Campbell)
(Principal coauthor: Senator McCorquodale)
(Coauthors: Assembly Members Bronshvag, Cannella, Gotch, Hauser, ~~and Isenberg~~ *Isenberg, and Lee*)
(Coauthors: Senators Kelley, Petris, and Presley)

February 3, 1994

An act to amend Sections 65302, 65352, and 65352.5 of, and to add Section 65352.6 to, the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2673, as amended, Cortese. Local public water systems: service needs: findings of fact.

Existing law requires a city or county to prepare and adopt a general plan for its jurisdiction that includes certain mandatory elements, including a land use element. Under existing law, when a city or county proposes to adopt or substantially amend a general plan, a public water system, as defined, must provide the city's or county's planning agency with specified information relating to the availability and use of existing and planned future water supplies. Existing law requires a planning agency to refer the proposed action to several entities, including ~~and~~ *any* affected public water system, as specified. *Existing law authorizes the legislative*

body of a city or county to impose reasonable fees to support the work of the planning agency.

This bill would make legislative findings and declarations with respect to the relationship between future growth and water provision, *and the need for cities and counties to undertake necessary actions to develop additional water supplies, to the extent allowed by law, and to augment existing water supplies, as specified.* The bill would require that the land use, *circulation, or conservation* element of the general plan include specified information concerning water supply availability. It would also require a city or county to refer a proposed general plan or general plan amendment to the appropriate public water system, when the area covered by the proposed action is outside the area in which water service is currently being provided, as specified, before the agency may act on the general plan or amendment.

This bill would add to a public water system's duties with respect to a proposed general plan or general plan amendment proposing new development, by requiring the public water system to make specified findings of fact concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of certain customers within and outside the public water system's existing service area. The bill would permit the city or county to adopt the general plan or general plan amendment if the public water system fails to make these findings within specified time limits. The bill would provide procedures to be followed by the public water system if it finds that it cannot provide water service sufficient to meet these reasonable needs, *including providing periodic reports, as specified, to the city or county, identifying the public water system's progress in augmenting its water supply to meet these needs.* The bill would also prescribe the necessary findings and other duties of the affected city or county with respect to the public water system's findings, and the circumstances under which the proposed action on the general plan or amendment may be taken. Because it would require cities and counties to perform new local planning duties under certain circumstances, this

bill would impose a state-mandated local program.

The bill would state that it is not intended to create a right or entitlement to water service, or to change existing law regarding a public water system's obligation to provide this service to future customers, but is intended to provide assistance carrying out long-term planning responsibilities, as specified. *The bill would also state that it is not intended to require any city or county to adopt or amend a general plan until the city or county is otherwise required by law to do so.*

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

This bill would state that no reimbursement is required 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:

SECTION 1. The Legislature finds and declares the following:

(a) California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while supplies available for consumptive uses have diminished.

(b) More and more often, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

(c) Water supply planning to meet future growth needs has become more critical than ever, and will become an increasingly important water utility activity as we approach the 21st century.

(d) Because of the diminishing water supplies available to most water agencies today, and a need to meet an ever increasing water demand, all water

agencies must plan carefully to ensure that they can meet the needs of their customers through periods of drought with minimal disruption to residential, commercial, and industrial activities within their service areas.

(e) *As part of that planning process, all water agencies must undertake the necessary actions, to the extent permitted by law, to develop additional water supplies, as well as undertake other measures, to augment existing water supplies to support future growth within the state and provide more reliable water service to existing and future customers.*

(f) Approval and construction of major new water supply facilities to maintain a reliable water delivery system has become increasingly costly, complex, and requires longer lead times in today's climate.

~~(f)~~

(g) The basic and fundamental decisions concerning growth within a community should be made by cities and counties, the general land use authority at a local level.

~~(g)~~

(h) In order for retail water agencies to do the best possible job in planning for meeting the future water needs associated with the growth plans of their cities and counties, they must closely link their water supply planning process to the city and county's general planning process to clearly understand the projections for growth within and adjacent to the water agencies' existing service area and sphere of influence.

~~(h)~~

(i) In order for cities and counties to properly plan the timing, location, and density of new development within their jurisdiction, they must fully understand the proximate water agency's current ability to meet the water needs of its existing and potential future customers, through periods of drought.

~~(i)~~

(j) In assessing the ability of water agencies to serve customers through periods of drought, cities and counties must recognize the hierarchy of categories of customers or potential customers along a continuum, with differing

degrees of legitimacy to their claim to water service. These categories, ranked from highest degree of legitimacy to lowest degree of legitimacy in their expectation that water service must be provided to them upon demand, are as follows:

(1) Existing customers within the existing service area of retail water agency.

(2) Future expected customers associated with new development within an existing service area of a retail water agency.

(3) Future expected customers associated with new development outside of the existing service area, but within the sphere of influence, of a retail water agency.

(4) Future expected customers associated with new development outside of the sphere of influence of a retail agency.

~~(j)~~

(k) Absent a hierarchy of the degree of legitimacy of claims upon water service, the basic concept of a water agency's service area would be rendered meaningless. In California's current era of water scarcity, if this hierarchy of water claims were not in effect, water agencies would be compelled to serve the "first development in time" rather than first serving those within their service area. Planned businesses and prospective home buyers within urbanized areas would have absolutely no assurance that they would receive a water hookup when their plant or home is built and ready for occupancy. This kind of uncertainty would devastate the current local planning process upon which proper growth is based.

~~(k)~~

(l) Given each of the above principles, any general planning by cities or counties for growth outside of existing water agency service areas must be conditioned upon findings by the water agency of either adequate existing water supplies or firm future water supplies to meet the water needs through periods of drought of customers in categories (1), (2), and (3) before a growth plan outside of the existing service area, but within the water agency's sphere of influence, is approved.

Furthermore, before a growth plan outside of both the existing service area and the water agency's sphere of influence is approved, the water agency must find that either adequate existing water supplies or firm future water supplies exist to meet the water needs of customers in the categories specified in paragraphs (1), (2), (3), and (4) of subdivision ~~(i)~~ *(j)*.

SEC. 2. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element, which shall designate the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding, and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5, and shall include the information relating to water supply availability provided pursuant to Section 65352.5 *or, alternatively, the water supply availability information may be included within the circulation or conservation elements. Water availability information provided pursuant to Section 65352.5 shall be included if the general plan amendment proposes new*

development.

(b) A circulation element, consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element, as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element, for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element, as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element, which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable,

as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element, for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide

the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

SEC. 3. Section 65352 of the Government Code is amended to read:

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

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

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

(3) The local agency formation commission.

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

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

(6) Any public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section ~~65958.1~~ *65352.5*. If the area covered by the proposed general plan adoption or amendment is outside the area in which water service is currently being provided by any public water system, the city or county shall identify the likely public water system to provide water to this area, and refer the proposed action to that entity for its review, pursuant to Sections 65352.5 and 65352.6.

(7) The Bay Area Air Quality Management District for

a proposed action within the boundaries of the district.

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

(c) (1) Except with regard to referrals to a public water system, as set forth in paragraph (6) of subdivision (a), the provisions of this section are directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted. If the public water system does not respond to a referral made pursuant to this section within the 45-day time period set forth in paragraph (6) of subdivision (a), or within any longer period as may be designated by the agency, the referring agency may act on the general plan or amendment.

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

SEC. 4. Section 65352.5 of the Government Code is amended to read:

65352.5. (a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, or upon receiving a request from a city or county in the process of preparing a general plan or general plan amendment

that proposes new development, a public water system, as defined in Section 4010.1 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 or the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water

management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

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

65352.6. (a) If a proposed general plan or general plan amendment proposes new development in an area outside the area in which water service is being provided by any public water system, the public water system shall make findings of fact pursuant to the provisions of Section 65352.5 concerning its ability to provide water service to meet the reasonable needs, consistent with the provisions of the urban water management plan adopted by the public water system, through periods of forecasted drought, of the following types of customers:

(1) Existing customers within the existing service area of the public water system.

(2) Forecasted new customers within the existing service area of the public water system.

(3) Forecasted new customers outside the existing service area of the public water system, but within its sphere of influence, including those associated with new development according to the proposed general plan amendments.

(4) Forecasted new customers outside the existing service area of the public water system and outside of its sphere of influence, including those associated with the new development, according to the proposed general plan or general plan amendment.

(b) *(1)* If the public water system finds that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted droughts, the public water system shall identify the improvements, or other measures, that would be required to its water system, and the projected timeframe for implementing these improvements, or other measures, as set forth in Section 65352.5, necessary to meet the water needs of all

four categories of customers identified in subdivision (a).

(2) Within 90 days of making its findings, the public water system shall report to the city or county its progress to date in identifying the improvements, or other measures, to augment its water supplies in order to meet the water needs of all four categories of customers. After that initial report, the public water system shall report to the city or county at least every six months on its progress on augmenting its water supplies. In its report to the city or county, the public water system shall identify the various actions that must be completed by the public water system in order to augment its supplies, as well as the public water system's plans for completing these actions.

(3) (A) In its report to the city or county, the public water system shall set forth all of the options for augmenting its water supplies that have been identified by the public water system, based upon all of the following:

(i) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(ii) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.

(iii) Any additional information which it possesses that is relevant to planning for future water supplies.

(B) The public water system shall, in addition to the material set forth in subparagraph (A), also set forth in its report various regulatory, financial, and physical requirements which must be taken into account by the public water system and its plans for complying with these requirements.

(c) If the proposed general plan or general plan amendment includes new development outside areas in which water service is currently being provided by any public water system, the city or county shall not adopt or amend its general plan until the findings of fact of the public water system pursuant to subdivision (a) have

been transmitted to the city or county and have been made part of the record. If the public water system does not transmit findings to the city or county within 90 days after the receipt of the proposed action pursuant to Section 65352, the city or county may adopt the general plan or amendment. If the public water system made findings of fact that it cannot provide water service sufficient to meet the reasonable needs of all four categories of customers identified in subdivision (a) through periods of forecasted drought, the city or county shall not adopt the general plan or general plan amendment, unless the city or county makes one of the following findings, based on substantial evidence in the record:

(1) The general plan or general plan amendment, including those provisions identifying the location, intensity, and timing of new development, ~~are~~ *is* consistent with the findings of the public water system.

(2) Identified water supply improvements, which are not part of the public water system's water supply system, or other measures, will be available to service new development in the area covered by the general plan or general plan amendment.

(d) If a city or county makes findings pursuant to subdivision (c), the general plan or general plan amendment shall include a requirement that a development project in that area shall not be approved ~~until the other water supply improvements, or other measures, are completed.~~ *until all agreements and financing for supplemental water supplies are in place, and construction of the water supply improvements has commenced.*

SEC. 6. *(a)* Nothing in this act is intended to create a right or entitlement to water service. This ~~statute~~ *act* is intended to provide assistance to cities, counties, and public water systems in carrying out their long-term planning responsibilities to ensure adequate water supplies to meet existing and future demand for water. Nothing in this act is intended to change existing law concerning a public water system's obligation to provide

water service to future customers.

(b) Nothing in this act requires any city or county to adopt a general plan or to amend an existing general plan to be consistent with the requirements of this act until the city or county is otherwise required by law to adopt or amend its general plan.

~~SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.~~

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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General Principles

a) Water agencies exist to provide water service and shall plan and execute all reasonable means to provide water service at a specified level of reliability to existing customers and such future customers as may be expected based upon local general plans or regionally adopted population forecasts.

b) Water agencies must adopt a minimum level of service objective for their customers as a whole or by class of service.

c) Approval for general plans and general plan amendments should not be provided unless reasonable assurance, in the form of water resource and capital improvement programs, can be given that all expected customers of the subject water agency can be served within the adopted reliability goal of the water agency.

d) Where a water agency finds it cannot reasonably meet its reliability objective and provide service to potential future customers, it shall continue to have the discretion to deny future service.

The Land Use Planning Process - General Plans

Obligations of the Land Use Planning Agencies:

e) Prior to the adoption of a general plan or amendment to a general plan which allows for development in an area not currently served by a public water agency, local land use agencies shall identify the water agency which will likely provide service and request that agency assess whether the proposed adoption or amendment can be reasonably accommodated within the scope of its water resource and capital program.

f) Land use planning agencies shall consider the response of the water agency in considering the general plan adoption or amendment.

g) If the water agency's water resource plans and capital improvement programs cannot reasonably accommodate the level of development posed in the proposed general plan or general plan amendment, these limitations shall be made a part of the general plan decision record of the land use planning agency.

Obligations of the Water Agency:

h) Water agencies shall maintain a water resource plan and capital improvement program which identify and provide for water management and infrastructure needs which will provide reasonable assurance that the agency's adopted reliability objective can be met for all current and expected future customers. These plans may rely on actions beyond the direct control of the agencies. Retail water agencies whose reliability is dependent upon the water supply plans of a wholesaling water agency may rely on the plans of that agency to provide assurance of future reliability. Water agencies shall provide a current copy of these plans to local land use jurisdictions which they serve.

i) Upon request of a land use planning jurisdiction to review a general plan adoption or amendment, water agencies shall assess whether the adoption or amendment can be reasonably accommodated based upon their adopted water resource plan and capital program. If the adoption or amendment cannot be reasonably accommodated, the agency shall indicate what reasonable modifications to the water resource plan or capital program would be necessary to accommodate the adoption or amendment.

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

40881

Sacramento Legislative Office

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EDITORIALS

Planning for Growth In an Age of Drought

WITH ANOTHER year of drought bearing down on California, and with new projections of as many as 50 million more Californians by the year 2020, it is positively irresponsible for city and county planning officials to continue to ignore the question of water availability when making decisions about future development. The old planning philosophy of the past, which assumed that water supplies — like electricity or telephone service — could always expand to meet development needs, is downright nonsensical at a time when the state's finite water supply is actually shrinking and demand is exploding.

Water shortages have become a key reason cited by businesses for leaving California

The price of such negligence is not just higher water bills. It is the prospect of severe shortages and economic disaster. A recent survey for the state Department of Commerce showed that a 30 percent cutback of normal water supplies to manufacturing industries in Alameda County could lead to 3,500 job losses and a $500 million loss in productivity. In Santa Clara, the same scenario could cost 21,000 jobs and $1.5 billion.

Those numbers and the likelihood of such cutbacks have become key reasons cited by manufacturers for taking expansion plans — and jobs — to other states.

It would seem a simple enough matter to require that planning officials take water supplies into account when approving new developments, especially those outside existing water agency service areas. But a bill by Assemblyman Dominic Cortese, D-San Jose, that would require just such considerations has been met by a wall of opposition by the League of California Cities, which fears any loss of local powers, and the Building Industries Association, which supports unlimited development.

Assembly Bill 2673, which goes to the Ways and Means Committee tomorrow, emphatically does NOT give urban water agencies veto power over city or county planning decisions — as claimed by its opponents. But it does stipulate that local planners must at least consult with water agencies over the question of availability and then act to protect the supplies of existing customers before promising water that doesn't exist to new developments.

The bill is supported by a unique alliance of environmental and agricultural interests, both of which have paid heavily for drought-related cutbacks while urban planners continue in their profligate ways, especially in Southern California.

San Francisco, Oakland and other Northern California cities and counties should recognize that it is in their own interests to join the support for AB 2673 — at the risk of standing idly by while Northern California rivers are drained in a hopeless effort to fill the bottomless swimming pools of tomorrow's suburban sprawl.