

- **Board of Directors**  
**Communications, Outreach and Legislation Committee**

July 10, 2001 Board Meeting

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**10-3**

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**Subject**

Senate Bill 221 (Kuehl) and Senate Bill 610 (Costa), Legislation Regarding Land Use and Water Supply Availability

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**Description**

Last month, members of the Communications, Outreach and Legislation Committee requested a discussion at their next meeting on the pending legislation introduced by state Senator Sheila Kuehl and Senator Jim Costa. The purpose of this discussion would be to understand the proposed legislation, impacts on Metropolitan and member agencies, and potential amendments.

Senate Bill 221 ([Attachment 1](#)) and Senate Bill 610 ([Attachment 2](#)) would amend existing law on the approval of residential subdivision projects with respect to the availability of water supplies. As drafted, the bills would limit the ability of a local land use authority to approve new residential development, unless the local land use agency provides written verification and assessment from the applicable water supply provider that a sufficient and reliable supply is available for the project.

Senate Bill (SB) 221. In order to approve a tentative map, a parcel map, or a development agreement for a subdivision of property of more than 200 residential units, SB 221 requires that the legislative body of a city or county provide written verification from the applicable water service provider that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project. Under this bill, sufficient water supply means that a water service provider's total projected water supplies available during normal, single-dry, and multiple-dry years, based on the most recently adopted urban water management plan, will meet the projected water demand associated with the proposed subdivision.

Written verification of sufficient water supplies shall be based on: (1) written contracts of valid water rights; (2) copies of an adopted capital outlay program for financing the delivery of a sufficient water supply; (3) securing applicable federal, state, and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply; and/or (4) any necessary regulatory approvals required for delivering a sufficient water supply to the project. If the water supply includes groundwater, then written verification shall demonstrate that: (1) the quantity of groundwater required for a proposed subdivision is consistent with the basin adjudication; (2) the quantity of groundwater can be withdrawn within the safe yield of basins that are not adjudicated and not listed in overdraft or in critical condition in the Department of Water Resources' (DWR) Bulletin 118; or (3) the quantity of groundwater can be withdrawn as part of a basin wide groundwater management program for basins that are not adjudicated and are listed in overdraft or in critical condition in DWR Bulletin 118.

Senate Bill (SB) 610. SB 610 requires a city or county that determines a project is subject to the California Environmental Quality Act (CEQA) to identify any public water system that may supply water for the project and to request those public water systems to assess whether its total projected water supplies will meet the projected water demand associated with the proposed project. The bill would require the assessment to include identification of existing water supply entitlements, water rights, or water service contracts relevant to the identified supply for the proposed project and water deliveries received in prior years by the public water system pursuant to those entitlement, right, and contracts. The components of the assessment would be demonstrated through information similar to that required in the written verifications under SB 221.

Under this bill, every urban water supplier shall include, as part of its urban water management plan, an assessment of the reliability of its water service to its customers during normal, dry, and multiple dry water years. This assessment shall compare the total water supply sources available to the water supplier with the total projected water use over the next 20 years, in five-year increments. The added requirements also require the urban water supplier to identify whether the groundwater basin is overdrafted, and describe any groundwater management efforts in the basin to mitigate the overdraft.

Analysis. Although the bills do not obligate Metropolitan to provide written verification of sufficient water supplies for projects, many member agencies that are retail water providers will likely seek verification of supplemental supplies from Metropolitan. As such, Metropolitan is potentially impacted by the legislation and on that basis should seek clarifications. For example, the hydrologic term of “multiple dry-year” has not been well defined to ensure that water purveyors are evaluating sufficient water supplies on a consistent basis. Also, urban water management plans, which have been coordinated on the local and regional levels, are not specifically referenced as a means of verifying sufficient water supplies.

Potential Amendments. There are opportunities to amend the bills to provide the needed clarifications. These amendments could secure greater assurances for sufficient water supplies through a clearer linkage between land use and water supply planning and through validation of the planning process under the existing Urban Water Management Plan Act. Specifically, such amendments could address the following issues.

- **Improving the Linkage of Land Use Planning and Water Supply Planning.** In order to ensure coordination between these planning efforts, local agencies should first make a finding as to the consistency of a proposed project with adopted general plans and any applicable regional growth management plans before seeking a written verification on sufficient water supplies from the applicable water service provider.
- **Clarification of Responsibilities.** The determination of sufficient supplies should be the responsibility of the water purveyor, not the local agency. Local agencies should only approve a residential project if the local agency makes a finding that additional water supplies will be made available by the retail water provider or through another entity in coordination with the retail water provider.
- **Validation of the Urban Water Management Plans.** Written verification on sufficient water supply should include a written finding as to the availability of water supplies identified for the project consistent with the urban water management plans and regional urban water management plans that have been adopted by the governing bodies of water purveyors. To assure consistency with State law and uniform assumptions, the urban water management plans and regional urban water management plans should be submitted to DWR or another qualified state agency for certification that they comply with the Urban Water Management Plan Act. The reviewing agency should be required to respond within a specified time period following their submittal. The reviewing agency should also adopt clear uniform review criteria. Certified urban water management plans and regional urban water management plans should be presumed by the local agency as evidence that there is sufficient water for the project. Long-term water supply contracts that meet specified criteria (e.g., available conveyance capacity) should also be accorded such a presumption.
- **Uniform Reliability Standard.** In order to ensure consistent results from the verification process, water purveyors should demonstrate sufficient water supplies according to a uniform reliability standard. It should be clarified that determination of sufficient water supply be based on the urban water shortage contingency analysis specified under the existing Urban Water Management Plan Act. This section of the Act specifies an estimate of the minimum water supply available during each of the next three water years based on the driest three-year historic sequence for the agency’s water supply and action to be undertaken by the urban water provider to prepare for, and implement, during a catastrophic interruption of water supplies. The determination should be based on actual water supplies and related facilities, which are demonstrated to be available through either financial commitments, contracts, regulatory approvals, construction in-progress, or current on-line use. These actual supplies and facilities would therefore preclude forecasted or “paper” assets. Forecasted supplies and facilities should be identified as currently provided in the Act.

Amendments of this nature could help to ensure that the bills provide clarity to project developers, local agencies, water purveyors, and the public on the availability of water supplies for new project development. Importantly, the bills with such amendments would validate Metropolitan’s business approach to fulfilling its mission, which is to provide reliable water supplies, in coordination with its member agencies, to meet the existing and future demands of businesses and residents within the Southern California region. Metropolitan’s business approach is to invest as a region in the development of supply and infrastructure in accordance with an Integrated Resources Plan that supports the use of demand management, local resources, and imported supplies to meet regional water needs.

Staff is seeking input from various interest groups and the member agency managers on the above concept and possible amendments. Staff will report to the Communications, Outreach and Legislation Committee on any input received prior to the Committee meeting scheduled on July 9, 2001.

**Policy**

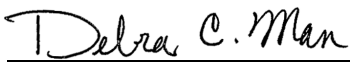
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Request by the Communications, Outreach and Legislation Committee.

**Fiscal Impact**

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None

  
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Debra C. Man, Vice President  
Water Transfers & Exchanges

6/29/2001  
Date

  
\_\_\_\_\_  
Ronald R. Jester  
Chief Executive Officer

6/29/2001  
Date

**Attachment 1: Senate Bill 221**

**Attachment 2: Senate Bill 610**

BLA #1224

AMENDED IN ASSEMBLY JUNE 25, 2001

AMENDED IN SENATE JUNE 4, 2001

AMENDED IN SENATE MAY 30, 2001

AMENDED IN SENATE MAY 17, 2001

AMENDED IN SENATE MAY 8, 2001

AMENDED IN SENATE APRIL 26, 2001

**SENATE BILL**

**No. 221**

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**Introduced by Senator Kuehl  
(Coauthors: Senators Machado and Perata)**

February 14, 2001

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An act to amend Section 11010 of the Business and Professions Code, and to amend Sections 65867.5 and 66474 of, and to add Section 66473.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 221, as amended, Kuehl. Land use: water supplies.

(1) Under the Subdivision Map Act, a legislative body of a city or county is required to deny approval of a tentative map, or a parcel map for which a tentative map is not required, if it makes any of a number of specified findings. Under the Planning and Zoning Law, a city, county, or city and county may not approve a development agreement unless the legislative body finds that the agreement is consistent with the general plan and any applicable specific plan.

This bill would prohibit approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 200 residential units,



including the design of the subdivision or the type of improvement, unless the legislative body of a city or county *or the designated advisory agency* provides written verification from the applicable water service provider that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project.

By increasing the duties of local legislative bodies and local planning agencies and commissions, the bill would impose a state-mandated local program.

(2) Existing law requires any person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire that includes, among other things, a true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

This bill would provide that for proposed subdivisions subject to specified requirements of the Subdivision Map Act, the true statement of the provisions that have been made for water is satisfied by submitting a copy of the written verification of the availability of a sufficient water supply, obtained pursuant to specified requirements as described in (1) above.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

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

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

1 ~~SECTION 1. (a) The Legislature finds that the lack of~~  
2 ~~coordination between general plans prepared by local~~  
3 ~~governments, urban water management plans prepared by water~~  
4 ~~districts, and the United States Department of Housing and Urban~~  
5 ~~Development growth forecasts for which local governments are~~  
6 ~~required to zone, makes it difficult to ensure that an adequate water~~  
7 ~~supply is available when approving new subdivisions.~~



1 ~~(b) It is the intent of this bill to incorporate water supply~~  
2 ~~planning into the process by which new residential subdivisions~~  
3 ~~are planned and approved, and to coordinate the activities of the~~  
4 ~~federal, state, and local agencies that contribute information that~~  
5 ~~is used by local governments in drafting and updating general~~  
6 ~~plans.~~

7 ~~SEC. 2.—~~

8 *SECTION 1.* Section 11010 of the Business and Professions  
9 Code is amended to read:

10 11010. (a) Except as otherwise provided pursuant to  
11 subdivision (c) or elsewhere in this chapter, any person who  
12 intends to offer subdivided lands within this state for sale or lease  
13 shall file with the Department of Real Estate an application for a  
14 public report consisting of a notice of intention and a completed  
15 questionnaire on a form prepared by the department.

16 (b) The notice of intention shall contain the following  
17 information about the subdivided lands and the proposed offering:

18 (1) The name and address of the owner.

19 (2) The name and address of the subdivider.

20 (3) The legal description and area of lands.

21 (4) A true statement of the condition of the title to the land,  
22 particularly including all encumbrances thereon.

23 (5) A true statement of the terms and conditions on which it is  
24 intended to dispose of the land, together with copies of any  
25 contracts intended to be used.

26 (6) A true statement of the provisions, if any, that have been  
27 made for public utilities in the proposed subdivision, including  
28 water, electricity, gas, telephone, and sewerage facilities. For  
29 subdivisions of more than 200 residential units, the true statement  
30 of the provisions made for water shall be satisfied by submitting  
31 a copy of the written verification of the available water supply  
32 obtained pursuant to subdivision (a) of Section 66473.7.

33 (7) A true statement of the use or uses for which the proposed  
34 subdivision will be offered.

35 (8) A true statement of the provisions, if any, limiting the use  
36 or occupancy of the parcels in the subdivision.

37 (9) A true statement of the amount of indebtedness that is a lien  
38 upon the subdivision or any part thereof, and that was incurred to  
39 pay for the construction of any onsite or offsite improvement, or  
40 any community or recreational facility.



1 (10) A true statement or reasonable estimate, if applicable, of  
2 the amount of any indebtedness which has been or is proposed to  
3 be incurred by an existing or proposed special district, entity,  
4 taxing area, assessment district, or community facilities district  
5 within the boundaries of which, the subdivision, or any part  
6 thereof, is located, and that is to pay for the construction or  
7 installation of any improvement or to furnish community or  
8 recreational facilities to that subdivision, and which amounts are  
9 to be obtained by ad valorem tax or assessment, or by a special  
10 assessment or tax upon the subdivision, or any part thereof.

11 (11) (A) As to each school district serving the subdivision, a  
12 statement from the appropriate district that indicates the location  
13 of each high school, junior high school, and elementary school  
14 serving the subdivision, or documentation that a statement to that  
15 effect has been requested from the appropriate school district.

16 (B) In the event that, as of the date the notice of intention and  
17 application for issuance of a public report are otherwise deemed  
18 to be qualitatively and substantially complete pursuant to Section  
19 11010.2, the statement described in subparagraph (A) has not been  
20 provided by any school district serving the subdivision, the person  
21 who filed the notice of intention and application for issuance of a  
22 public report immediately shall provide the department with the  
23 name, address, and telephone number of that district.

24 (12) The location of all existing airports, and of all proposed  
25 airports shown on the general plan of any city or county, located  
26 within two statute miles of the subdivision.

27 (13) A true statement, if applicable, referencing any soils or  
28 geologic report or soils and geologic reports that have been  
29 prepared specifically for the subdivision.

30 (14) A true statement of whether or not fill is used, or is  
31 proposed to be used in the subdivision and a statement giving the  
32 name and the location of the public agency where information  
33 concerning soil conditions in the subdivision is available.

34 (15) Any other information that the owner, his or her agent, or  
35 the subdivider may desire to present.

36 (c) The commissioner may, by regulation, or on the basis of the  
37 particular circumstances of a proposed offering, waive the  
38 requirement of the submission of a completed questionnaire if the  
39 commissioner determines that prospective purchasers or lessees of  
40 the subdivision interests to be offered will be adequately protected



1 through the issuance of a public report based solely upon  
2 information contained in the notice of intention.

3 ~~SEC. 3.—~~

4 *SEC. 2.* Section 65867.5 of the Government Code is amended  
5 to read:

6 65867.5. (a) A development agreement is a legislative act  
7 that shall be approved by ordinance and is subject to referendum.

8 (b) A development agreement shall not be approved unless the  
9 legislative body finds that the provisions of the agreement are  
10 consistent with the general plan and any applicable specific plan.

11 (c) A development agreement that includes a subdivision of  
12 more than 200 residential units shall not be approved unless the  
13 agreement ~~contains a provision that a sufficient water supply shall~~  
14 ~~be available as set forth in~~ *provides that any tentative map*  
15 *prepared for the subdivision will comply with the provisions of*  
16 *Section 66473.7.*

17 ~~SEC. 4.—~~

18 *SEC. 3.* Section 66473.7 is added to the Government Code, to  
19 read:

20 66473.7. (a) The legislative body of a city or county *or the*  
21 *advisory agency, to the extent that it is authorized by local*  
22 *ordinance to approve, conditionally approve, or disapprove the*  
23 *tentative map*, shall include as a condition in all tentative maps for  
24 200 or more residential units a requirement that a sufficient water  
25 supply shall be available. Proof of the availability of a sufficient  
26 water supply shall be based on either of the following:

27 (1) Written verification from the applicable water service  
28 provider.

29 (2) Written verification from the applicable water service  
30 provider, and a finding made by the local agency that additional  
31 water supplies not accounted for by the water service provider are,  
32 or will be, available prior to completion of the project that will  
33 satisfy the requirements of this section. This finding shall be made  
34 on the record and supported by substantial evidence. If the water  
35 service provider fails to deliver the written verification as required  
36 by this section, the local agency may seek a writ of mandamus to  
37 compel the water service provider to comply. The applicable water  
38 service provider shall be the water system that is, or may become,  
39 a public water system, as defined in Section 10912 of the Water  
40 Code, that may supply water for the project.





1 (b) The applicable water service provider's *written* verification  
2 of its ability or inability to provide a sufficient water supply that  
3 will meet the reasonable needs of the project as required by  
4 subdivision ~~(b)~~ (a) shall be supported by substantial evidence  
5 based upon the water service provider's most recently adopted  
6 urban water management plan adopted pursuant to Part 2.6  
7 (commencing with Section 10610) of the Water Code.

8 (c) When the written verification pursuant to subdivision ~~(b)~~  
9 (a) relies on projected water supplies to provide a sufficient water  
10 supply to the project, the written verification shall be based on all  
11 of the following:

12 (1) Written contracts or other proof of valid rights to the  
13 identified water supply.

14 (2) Copies of a capital outlay program for financing the  
15 delivery of a sufficient water supply that has been adopted by the  
16 applicable water service provider.

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

20 (4) Any necessary regulatory approvals that are required in  
21 order to be able to convey or deliver a sufficient water supply to  
22 the project.

23 (d) As used in this section, "sufficient water supply" means  
24 that a water service provider's total projected water supplies  
25 available during normal, single-dry, and multiple-dry years  
26 included in the 20-year projection, based on the most recently  
27 adopted urban water management plan, will meet the projected  
28 water demand associated with the proposed subdivision, in  
29 addition to the water service provider's existing and planned future  
30 uses, including, but not limited to, agricultural and industrial uses.  
31 *If the water service provider has no urban water management plan,*  
32 *or if there is no water service provider, a "sufficient water supply"*  
33 *shall mean the local agency has complied with subdivision (c) and*  
34 *has considered any water supply assessment that was completed*  
35 *pursuant to Part 2.10 (commencing with Section 10910) of*  
36 *Division 6 of the Water Code. The determination that a sufficient*  
37 *water supply is available may include water supply reductions,*  
38 *based on an urban water shortage contingency analysis prepared*  
39 *pursuant to Section 10632 of the Water Code, that include*



1 identified actions to be undertaken by the water service provider  
2 in response to water supply shortages.

3 ~~(e) For applicable water service providers whose water supply  
4 includes water obtained from a groundwater basin, the following  
5 additional information shall be used in the determination as to  
6 whether a “sufficient water supply” is available:~~

7 ~~(1) An identification and description of the other users of the  
8 groundwater basin and the historical water use patterns of those  
9 other users during normal, single-dry, and multiple-dry water  
10 years.~~

11 ~~(2) An estimate of the maximum quantity of water that can be  
12 continuously withdrawn from the groundwater basin without  
13 adverse effect (safe yield).~~

14 ~~(3) An identification as to whether the groundwater basin is  
15 overdrafted, a description of the known and expected effects of the  
16 overdraft condition, and the likely impact of the project on the  
17 water level in the groundwater basin.~~

18 ~~(4) A description of any groundwater management programs  
19 that have been implemented, including any strategies to monitor  
20 groundwater levels and extractions and the development of any  
21 cooperative arrangements among basin users to minimize or  
22 eliminate problem conditions.~~

23 ~~(f) This section shall not apply to any project proposed for a site  
24 that meets all of the following conditions:~~

25 ~~(1) The site is not more than five acres in area.~~

26 ~~(2) The site can be adequately served by utilities.~~

27 ~~(3) The site has no value as a wildlife habitat.~~

28 ~~(4) The site is an infill site, as described in paragraph (3) of  
29 subdivision (a) of Section 21080.14 of the Public Resources Code.~~

30 ~~(g) The findings~~

31 ~~(e) The total available water supplies of the applicable water  
32 service provider may also include a long-term supply of water  
33 secured by the water service provider that will be available prior  
34 to completion of the project, including water supplies secured by  
35 working in conjunction with the applicant and the city or county  
36 or the designated advisory agency, sufficient to satisfy the  
37 demands of the proposed project.~~

38 ~~(f) Where a water supply for a proposed subdivision includes  
39 groundwater, the amount of water available to find that a  
40 “sufficient water supply” exists shall be determined as follows:~~



1 (1) For those groundwater basins in which a court or the State  
2 Water Resources Control Board has adjudicated the rights to pump  
3 groundwater, the quantity of groundwater that may legally be  
4 provided under the court or State Water Resources Control Board  
5 order or decree to serve the proposed subdivision.

6 (2) For basins that have not been adjudicated and which the  
7 Department of Water Resources has not listed as overdrafted or in  
8 critical condition in its Bulletin 118 series, the quantity of  
9 groundwater that can be withdrawn within the safe yield of the  
10 groundwater basin and without adversely affecting the  
11 environment.

12 (3) For groundwater basins that have been adjudicated and  
13 which the Department of Water Resources has listed as overdrafted  
14 or in critical condition in its Bulletin 118 series, it shall be  
15 presumed that the use of groundwater will not be considered as  
16 part of a "sufficient water supply" absent a showing, based on  
17 substantial evidence, that the groundwater pumping is part of a  
18 basin wide groundwater management program that will eliminate  
19 the long-term overdraft and the pumping will not increase the  
20 long-term overdraft of the groundwater basin or adversely affect  
21 the environment.

22 (g) This section shall not apply to any residential project  
23 proposed for a site that is within an urbanized area, that has been  
24 previously developed for urban uses, or where the immediate  
25 contiguous properties surrounding the residential project site are,  
26 or previously have been, developed for urban uses.

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

33 (i) The County of San Diego shall be deemed to comply with  
34 this section if the Office of Planning and Research determines that  
35 all of the following conditions have been met:

36 (1) A regional growth management strategy that provides for a  
37 comprehensive regional strategy and a coordinated economic  
38 development and growth management program has been  
39 developed pursuant to Proposition C as approved by the voters of  
40 the County of San Diego in November 1988, which required the



1 *development of a regional growth management plan and directed*  
2 *the establishment of a regional planning and growth management*  
3 *review board.*

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

8 (3) *The approval or conditional approval of tentative maps for*  
9 *200 or more residential dwelling units by the County of San Diego*  
10 *and the cities within the county requires written communications*  
11 *to be made by the public water system to the city or county, in a*  
12 *format and with content that is substantially similar to the*  
13 *requirements contained in this section, with regard to the*  
14 *availability of a sufficient water supply, or the reliance on*  
15 *projected water supplies to provide a sufficient water supply, for*  
16 *a proposed subdivision.*

17 (j) *Nothing in this section shall preclude the legislative body of*  
18 *a city or county, or the designated advisory agency, at the request*  
19 *of the applicant, from making the determinations required in this*  
20 *section earlier than required pursuant to subdivision (a).*

21 (k) *Nothing in this section shall be construed to create a right*  
22 *or entitlement to water service or any specific level of water*  
23 *service.*

24 (l) *Nothing in this section is intended to change existing law*  
25 *concerning a water service provider's obligation to provide water*  
26 *service to its existing customers or to any potential future*  
27 *customers.*

28 ~~SEC. 5.—~~

29 SEC. 4. Section 66474 of the Government Code is amended  
30 to read:

31 66474. A legislative body of a city or county shall deny  
32 approval of a tentative map, or a parcel map for which a tentative  
33 map was not required, if it makes any of the following findings:

34 (a) The proposed map is not consistent with applicable general  
35 and specific plans as specified in Section 65451.

36 (b) The design or improvement of the proposed subdivision is  
37 not consistent with applicable general and specific plans.

38 (c) The site is not physically suitable for the type of  
39 development.



1 (d) The site is not physically suitable for the proposed density  
2 of development.

3 (e) The design of the subdivision or the proposed  
4 improvements are likely to cause substantial environmental  
5 damage or substantially and avoidably injure fish or wildlife or  
6 their habitat.

7 (f) The design of the subdivision or type of improvements is  
8 likely to cause serious public health problems.

9 (g) The design of the subdivision or the type of improvements  
10 will conflict with easements, acquired by the public at large, for  
11 access through or use of, property within the proposed  
12 subdivision. In this connection, the governing body may approve  
13 a map if it finds that alternate easements, for access or for use, will  
14 be provided, and that these will be substantially equivalent to ones  
15 previously acquired by the public. This subdivision shall apply  
16 only to easements of record or to easements established by  
17 judgment of a court of competent jurisdiction and no authority is  
18 hereby granted to a legislative body to determine that the public at  
19 large has acquired easements for access through or use of property  
20 within the proposed subdivision.

21 (h) The design of the subdivision or the type of improvement  
22 does not comply with the requirements of Section 66473.7.

23 ~~SEC. 6.—~~

24 *(i) The design of the subdivision or the proposed improvements*  
25 *does not incorporate reasonable or practical measures to maintain*  
26 *the physical and economic integrity of agricultural lands.*

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



AMENDED IN SENATE MAY 23, 2001

**SENATE BILL**

**No. 610**

**Introduced by Senator Costa**

February 22, 2001

An act to amend Section 21151.9 of the Public Resources Code, and to amend Sections 10635, 10910, 10911, 10912, and 10915 of, and to repeal Section 10913 of, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 610, as amended, Costa. Water supply planning.

(1) Existing law requires every urban water supplier to include as part of its urban water management plan an assessment of the reliability of its water service to its customers.

This bill would require additional information to be included as part of an urban water management plan for urban water suppliers whose water supply includes groundwater.

(2) Existing law, under certain circumstances, requires a city or county that determines an environmental impact report is required in connection with a project, as defined, to request each public water system that may supply water for the project to assess, among other things, whether its total projected water supplies will meet the projected water demand associated with the proposed project. Existing law requires the public water system to submit the assessment to the city or county not later than 30 days from the date on which the request was received and, in the absence of the submittal of an assessment, provides that it shall be assumed that the public water system has no information to submit. Existing law makes legislative findings and declarations concerning "Proposition C," a measure approved by the voters of San Diego County relating to regional growth management, and provides



## SB 610

— 2 —

that the procedures established by a specified review board established in connection with that measure are deemed to comply with the requirements described above relating to water supply planning by a city or county.

This bill would revise ~~these~~ *those* provisions. The bill, instead, would require a city or county that determines a project is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems, *under certain circumstances*, to assess whether its total projected water supplies will meet the projected water demand associated with the proposed project. The bill would require the assessment to include, *among other information*, an identification of existing water supply entitlements, water rights, or water service contracts ~~held by the public water system~~ *relevant to the identified water supply for the proposed project and prior years water deliveries so received in prior years by the public water system pursuant to those entitlements, rights, and contracts. The bill would require the city or county, if it is not able to identify any public water system that may supply water for the project, to prepare the water supply assessment.* The bill would revise the definition of “project,” for the purposes of these provisions, and make related changes.

The bill would ~~require~~ *authorize* the city or county, if a public water system does not submit the assessment within 90 days, to ~~request the Department of Water Resources to submit the assessment to the city or county not later than 90 days from the date on which the request was received. The bill would provide for the recovery of the costs incurred by the department in connection with the preparation of the assessment~~ *seek a writ of mandamus to compel the governing body of the public water system to comply with the requirements relating to the submission of the water supply assessment.* The bill would require the city or county to include the water supply assessment and *certain* other ~~prescribed~~ information in any environmental document prepared for the project pursuant to the act. By establishing duties for counties and cities, the bill would impose a state-mandated local program.

The bill would provide that the County of San Diego is deemed to comply with these water supply planning requirements if the Office of Planning and Research determines that certain requirements have been met in connection with the implementation of “Proposition C.”

(3) ~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~



~~Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that 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 the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

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

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The length and severity of droughts in California cannot be
- 4 predicted with any accuracy.
- 5 (2) There are various factors that affect the ability to ensure that
- 6 adequate water supplies are available to meet all of California's
- 7 water demands.
- 8 (3) Because of these factors, it is not possible to guarantee a
- 9 permanent water supply for all water users in California in the
- 10 amounts requested.
- 11 (4) Therefore, it is critical that California's water agencies
- 12 carefully assess the reliability of their water supply and delivery
- 13 systems.
- 14 (5) Furthermore, California's overall water delivery system
- 15 has become less reliable over the last 20 years because demand for
- 16 water has continued to grow while supplies available for
- 17 consumptive uses have decreased.
- 18 (6) With increasing frequency, California's water agencies are
- 19 required to impose water rationing on their residential and





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1 business customers during this state’s frequent and severe periods  
2 of drought.

3 (7) The identification of water supplies needed during  
4 multiple-year droughts is vital to California’s business climate, as  
5 well as to the health of the agricultural industry, environment, rural  
6 communities, and residents who continue to face the possibility of  
7 severe water cutbacks during water shortage periods.

8 (8) It appears that the water supply and land use planning  
9 linkage, established by Part 2.10 (commencing with Section  
10 10910) of Division 6 of the Water Code, has not been implemented  
11 in a manner that ensures the appropriate level of communication  
12 and the necessary information to understand water supply  
13 availability is not consistently reaching the governing bodies of the  
14 affected organizations in order for decisions to be made with  
15 regard to development and water supply availability within local  
16 communities.

17 (b) It is the intent of the Legislature to strengthen the process  
18 pursuant to which cities and counties determine the adequacy of  
19 existing and planned future water supplies to meet existing and  
20 planned future demands on those water supplies.

21 SEC. 2. Section 21151.9 of the Public Resources Code is  
22 amended to read:

23 21151.9. Whenever a city or county determines that a project,  
24 as defined in Section 10912 of, ~~and described in Section 10910 of,~~  
25 the Water Code, is subject to this division, it shall comply with Part  
26 2.10 (commencing with Section 10910) of Division 6 of the Water  
27 Code.

28 SEC. 3. Section 10635 of the Water Code is amended to read:

29 10635. (a) Every urban water supplier shall include, as part  
30 of its urban water management plan, an assessment of the  
31 reliability of its water service to its customers during normal, dry,  
32 and multiple dry water years. This water supply and demand  
33 assessment shall compare the total water supply sources available  
34 to the water supplier with the total projected water use over the  
35 next 20 years, in five-year increments, for a normal water year, a  
36 single dry water year, and multiple dry water years. The water  
37 service reliability assessment shall be based upon the information  
38 compiled pursuant to Section 10631, including available data from  
39 state, regional, or local agency population projections within the  
40 service area of the urban water supplier.



1 ~~(b) In addition to the information provided pursuant to~~  
2 ~~subdivision (a), for urban water suppliers whose water supply~~  
3 ~~includes groundwater, the following additional information shall~~  
4 ~~be provided as part of its urban water management plan:~~

5 ~~(1) An identification and description of the other users of the~~  
6 ~~groundwater basin and the historical water use patterns of those~~  
7 ~~other users during normal, single dry, and multiple dry water~~  
8 ~~years.~~

9 ~~(2) An estimate of the maximum quantity of water that can be~~  
10 ~~continuously withdrawn from the groundwater basin without~~  
11 ~~adverse effect.~~

12 ~~(3) An identification as to whether the groundwater basin is~~  
13 ~~overdrafted and a description of the known and anticipated effects~~  
14 ~~of the overdraft condition.~~

15 ~~(4) A description of any groundwater management programs~~  
16 ~~that have been implemented, including any strategies to monitor~~  
17 ~~groundwater levels and extractions and the development of any~~  
18 ~~cooperative arrangements among basin users to minimize or~~  
19 ~~eliminate problem conditions.~~

20 *(b) For urban water suppliers whose water supply includes*  
21 *groundwater, the following information shall be provided as part*  
22 *of the assessment required pursuant to subdivision (a):*

23 *(1) A copy of any groundwater management plan adopted by*  
24 *the urban water supplier, including plans adopted pursuant to Part*  
25 *2.75 (commencing with Section 10750), or any other specific*  
26 *authorization for groundwater management.*

27 *(2) A description of any groundwater basin or basins from*  
28 *which the urban water supplier pumps groundwater. For those*  
29 *basins for which a court or the board has adjudicated the rights to*  
30 *pump groundwater, a copy of the order or decree adopted by the*  
31 *court or the board and a description of the amount of groundwater*  
32 *the urban water supplier has the legal right to pump under the*  
33 *order or decree. For basins that have not been adjudicated,*  
34 *information as to whether the department has identified the basin*  
35 *or basins as overdrafted or in critical condition in its Bulletin 118*  
36 *series and a detailed description of the efforts being undertaken by*  
37 *the urban water supplier to eliminate the long-term overdraft*  
38 *condition.*



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1 (3) A detailed description and analysis of the amount and  
2 location of groundwater pumped by the urban water supplier for  
3 the past five years.

4 (c) The urban water supplier shall provide that portion of its  
5 urban water management plan prepared pursuant to this article to  
6 any city or county within which it provides water supplies no later  
7 than 60 days after the submission of its urban water management  
8 plan.

9 (d) Nothing in this article is intended to create a right or  
10 entitlement to water service or any specific level of water service.

11 (e) Nothing in this article is intended to change existing law  
12 concerning an urban water supplier's obligation to provide water  
13 service to its existing customers or to any potential future  
14 customers.

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

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

21 (b) The city or county, at the time that it determines whether an  
22 environmental impact report, a negative declaration, or a  
23 mitigated negative declaration is required for any project subject  
24 to the California Environmental Quality Act pursuant to Section  
25 21080.1 of the Public Resources Code, shall identify any water  
26 system that is, or may become, a public water system, as defined  
27 in Section 10912, that may supply water for the project. If the city  
28 or county is not able to identify any public water system that may  
29 supply water for the project, ~~the city or county shall request the~~  
30 ~~department to comply with this part.~~

31 ~~(e) project, the city or county shall prepare the water~~  
32 ~~assessment required by this part after consulting with the local~~  
33 ~~agency formation commission and any public water system~~  
34 ~~adjacent to the project site.~~

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



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1 management plan adopted pursuant to Part 2.6 (commencing with  
2 Section 10610). ~~As part of that assessment, the public water~~  
3 ~~system shall indicate whether its total projected water supplies~~  
4 ~~available during normal, single dry, and multiple dry water years~~  
5 ~~included in the 20-year projection contained in the urban water~~  
6 ~~management plan will meet the projected water demand associated~~  
7 ~~with the proposed project, in addition to the public water system's~~  
8 ~~existing and planned future uses. The~~

9 (2) *If the projected water demand of the project was described*  
10 *in the most recently adopted urban water management plan, the*  
11 *public water system shall comply with subdivisions (d), (e), (f), and*  
12 *(g). If the projected water demand of the project was not described*  
13 *in the most recently adopted urban water management plan, or the*  
14 *public water system has no urban water management plan, or the*  
15 *city or county is required to comply with this part pursuant to*  
16 *subdivision (b), the water supply assessment for the project shall*  
17 *include a discussion with regard to whether the public water*  
18 *system's total projected water supplies available during normal,*  
19 *single-dry, and multiple-dry water years during a 20-year*  
20 *projection will meet the projected water demand associated with*  
21 *the proposed project, in addition to the public water system's*  
22 *existing and planned future uses, including agricultural and*  
23 *manufacturing uses.*

24 (d) (1) *The assessment shall also include an identification of*  
25 *any existing water supply entitlements, water rights, or water*  
26 *service contracts ~~held by the public water system~~ relevant to the*  
27 *identified water supply for the proposed project, and a description*  
28 *of the quantities of ~~prior years' water deliveries received~~ water*  
29 *deliveries received in prior years by the public water system under*  
30 *the existing water supply entitlements, water rights, or water*  
31 *service contracts.*

32 ~~(d)~~

33 (2) *An identification of existing water supply entitlements,*  
34 *water rights, or water service contracts held by the public water*  
35 *system shall be demonstrated by providing information related to*  
36 *all of the following:*

37 ~~(1)~~

38 (A) *Written contracts or other proof of entitlement to an*  
39 *identified water supply.*

40 ~~(2)~~



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1 (B) Copies of a capital outlay program for financing the  
 2 delivery of a water supply, that has been adopted by the public  
 3 water system.

4 ~~(3)~~

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

8 ~~(4)~~

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

11 ~~(e) If no prior years' water deliveries have been received by the~~  
 12 *(e) If no water deliveries have been received in prior years by*  
 13 *the public water system under the existing water supply*  
 14 *entitlements, water rights, or water service contracts, the public*  
 15 *water system shall also include in its water supply assessment*  
 16 *pursuant to subdivision (c), an identification of the other public*  
 17 *water systems or water service contract holders that receive a water*  
 18 *supply or have existing water supply entitlements, water rights, or*  
 19 *water service contracts, to the same source of water as the public*  
 20 *water system has identified as a source of water supply within its*  
 21 *water supply assessments.*

22 ~~(f) In addition to the information provided pursuant to~~  
 23 ~~subdivision (e), a public water system whose water supply~~  
 24 ~~includes groundwater shall also provide the following~~  
 25 ~~information:~~

26 ~~(1) An identification and description of the other users of the~~  
 27 ~~groundwater basin and the historical water use patterns of those~~  
 28 ~~other users during normal, single dry, and multiple dry water~~  
 29 ~~years.~~

30 ~~(2) An estimate of the maximum quantity of water that can be~~  
 31 ~~continuously withdrawn from the groundwater basin without~~  
 32 ~~adverse effect.~~

33 ~~(3) An identification as to whether the groundwater basin is~~  
 34 ~~overdrafted and a description of the known and anticipated effects~~  
 35 ~~of the overdraft condition.~~

36 ~~(4) A description of any groundwater management programs~~  
 37 ~~that have been implemented, including any strategies to monitor~~  
 38 ~~groundwater levels and extractions and the development of any~~  
 39 ~~cooperative arrangements among basin users to minimize or~~  
 40 ~~eliminate problem conditions.~~



1 (f) If a water supply for a proposed project includes  
2 groundwater, the following additional information shall be  
3 included in the water supply assessment:

4 (1) A copy of any groundwater management plan adopted by  
5 the urban water supplier, including plans adopted pursuant to Part  
6 2.75 (commencing with Section 10750), or any other specific  
7 authorization for groundwater management.

8 (2) A description of any groundwater basin or basins from  
9 which a court or the board the proposed project will be supplied.  
10 For those basins for which a court or the board has adjudicated  
11 the rights to pump groundwater, a copy of the order or decree  
12 adopted by the court or the board and a description of the amount  
13 of groundwater the urban water supplier has the legal right to  
14 pump under the order or decree. For basins that have not been  
15 adjudicated, information as to whether the department has  
16 identified the basin or basins as overdrafted or in critical condition  
17 in its Bulletin 118 series and a detailed description by the urban  
18 water supplier of the efforts being undertaken to eliminate the  
19 long-term overdraft condition.

20 (3) A detailed description and analysis of the amount and  
21 location of groundwater pumped by the urban water supplier for  
22 the past five years.

23 (g) (1) The governing body of each public water system shall  
24 approve the assessment prepared pursuant to subdivision (c), at a  
25 regular or special meeting and submit the assessment to the city or  
26 county not later than 90 days from the date on which the request  
27 was received.

28 (2) If the governing body does not approve and submit the  
29 assessment within 90 days, the city or county shall request the  
30 department to prepare the assessment pursuant to subdivision (c)  
31 and the department shall submit the assessment to the city or  
32 county not later than 90 days from the date on which the request  
33 was received.

34 (3) ~~The Controller shall deduct the amount of any costs~~  
35 ~~incurred by the department in preparing the assessment pursuant~~  
36 ~~to paragraph (2), as those costs are determined by the department~~  
37 ~~and submitted to the Controller, from any appropriation to, or for~~  
38 ~~the benefit of, the public water system for which the assessment~~  
39 ~~was prepared until the total cost of the assessment has been~~  
40 ~~recovered by the state. may seek a writ of mandamus to compel the~~



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1 *governing body of the public water system to comply with the*  
2 *requirements of this part relating to the submission of the water*  
3 *supply assessment.*

4 *(h) Notwithstanding any other provision of this part, if a project*  
5 *has been the subject of a water supply assessment that complies*  
6 *with the requirements of this part, no additional water supply*  
7 *assessment shall be required unless one or more of the following*  
8 *changes occurs:*

9 *(1) Substantial changes in the project.*

10 *(2) Substantial changes in the circumstances or conditions*  
11 *under which the project is being undertaken.*

12 *(3) Significant new information becomes available which was*  
13 *not known and could not have been known at the time when the*  
14 *assessment was prepared.*

15 SEC. 5. Section 10911 of the Water Code is amended to read:

16 10911. (a) If, as a result of its assessment, the public water  
17 system concludes that its water supplies are, or will be,  
18 insufficient, the public water system shall provide to the city or  
19 county its plans for acquiring additional water supplies, setting  
20 forth the measures that are being undertaken to acquire and  
21 develop those water supplies. Those plans may include, but are not  
22 limited to, information concerning all of the following:

23 (1) The estimated total costs, and the proposed method of  
24 financing the costs, associated with acquiring the additional water  
25 supplies.

26 (2) All federal, state, and local permits, approvals, or  
27 entitlements that are anticipated to be required in order to acquire  
28 and develop the additional water supplies.

29 (3) Based on the considerations set forth in paragraphs (1) and  
30 (2), the estimated timeframes within which the public water  
31 system expects to be able to acquire additional water supplies.

32 (b) The city or county shall include the water supply  
33 assessment provided pursuant to Section 10910, and any  
34 information provided pursuant to subdivision (a), in any  
35 environmental document prepared for the project pursuant to  
36 Division 13 (commencing with Section 21000) of the Public  
37 Resources Code.

38 (c) The city or county may include in any environmental  
39 document an evaluation of any information included in that  
40 environmental document provided pursuant to subdivision (b).



1 The city or county shall determine, based on the entire record,  
2 whether projected water supplies will be sufficient to satisfy the  
3 demands of the project, in addition to existing and planned future  
4 uses. If the city or county determines that water supplies will not  
5 be sufficient, the city or county shall include that determination in  
6 its findings for the project.

7 SEC. 6. Section 10912 of the Water Code is amended to read:  
8 10912. For the purposes of this part, the following terms have  
9 the following meanings:

10 (a) "Project" means any of the following:

11 (1) A proposed residential development of more than 500  
12 dwelling units.

13 (2) A proposed shopping center or business establishment  
14 employing more than 1,000 persons or having more than 500,000  
15 square feet of floor space.

16 (3) A proposed commercial office building employing more  
17 than 1,000 persons or having more than 250,000 square feet of  
18 floor space.

19 (4) A proposed hotel or motel, or both, having more than 500  
20 rooms.

21 (5) A proposed industrial, manufacturing, or processing plant,  
22 or industrial park planned to house more than 1,000 persons,  
23 occupying more than 40 acres of land, or having more than  
24 650,000 square feet of floor area.

25 (6) A mixed-use project that includes one or more of the  
26 projects specified in this subdivision.

27 (7) A general plan, element, or amendment that provides for  
28 one or more of the projects specified in this subdivision.

29 (8) A project that would demand an amount of water equivalent  
30 to, or greater than, the amount of water required by a 500 dwelling  
31 unit project.

32 (b) If a public water system has fewer than 5,000 service  
33 connections, then "project" means any proposed residential,  
34 business, commercial, hotel or motel, or industrial development  
35 that would account for an increase of 10 percent or more in the  
36 number of the public water system's existing service connections,  
37 or a mixed-use project that would demand an amount of water  
38 equivalent to, or greater than, the amount of water required by  
39 residential development that would represent an increase of 10





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

3 (c) “Public water system” means a system for the provision of  
4 piped water to the public for human consumption that has 3000 or  
5 more service connections. A public water system includes all of  
6 the following:

7 (1) Any collection, treatment, storage, and distribution facility  
8 under control of the operator of the system which is used primarily  
9 in connection with the system.

10 (2) Any collection or pretreatment storage facility not under  
11 the control of the operator that is used primarily in connection with  
12 the system.

13 (3) Any person who treats water on behalf of one or more  
14 public water systems for the purpose of rendering it safe for human  
15 consumption.

16 SEC. 7. Section 10913 of the Water Code is repealed.

17 SEC. 8. Section 10915 of the Water Code is amended to read:

18 10915. The County of San Diego is deemed to comply with  
19 this part if the Office of Planning and Research determines that all  
20 of the following conditions have been met:

21 (a) Proposition (C), as approved by the voters of the County of  
22 San Diego in November 1988, requires the development of a  
23 regional growth management plan and directs the establishment of  
24 a regional planning and growth management review board.

25 (b) The County of San Diego and the cities in the county, by  
26 agreement, designates the San Diego Association of Governments  
27 as that review board.

28 (c) A regional growth management strategy that provides for  
29 a comprehensive regional strategy and a coordinated economic  
30 development and growth management program has been  
31 developed pursuant to Proposition C.

32 (d) The regional growth management strategy includes a water  
33 element to coordinate planning for water that is consistent with the  
34 requirements of this part.

35 (e) The San Diego County Water Authority, by agreement with  
36 the San Diego Association of Governments in its capacity as the  
37 review board, uses the association’s most recent regional growth  
38 forecasts for planning purposes and to implement the water  
39 element of the strategy.



1 (f) The procedures established by the review board for the  
 2 development and approval of the regional growth management  
 3 strategy, including the water element and any certification process  
 4 established to ensure that a project is consistent with that element,  
 5 comply with the requirements of this part.

6 ~~SEC. 9. Notwithstanding Section 17610 of the Government~~  
 7 ~~Code, if the Commission on State Mandates determines that this~~  
 8 ~~act contains costs mandated by the state, reimbursement to local~~  
 9 ~~agencies and school districts for those costs shall be made pursuant~~  
 10 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~  
 11 ~~2 of the Government Code. If the statewide cost of the claim for~~  
 12 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~  
 13 ~~reimbursement shall be made from the State Mandates Claims~~  
 14 ~~Fund.~~

15 (g) *The environmental documents for a project located in the*  
 16 *County of San Diego include information that accomplishes the*  
 17 *same purposes as a water supply assessment that is prepared*  
 18 *pursuant to Section 10910.*

19 *SEC. 9. No reimbursement is required by this act pursuant to*  
 20 *Section 6 of Article XIII B of the California Constitution because*  
 21 *a local agency or school district has the authority to levy service*  
 22 *charges, fees, or assessments sufficient to pay for the program or*  
 23 *level of service mandated by this act, within the meaning of Section*  
 24 *17556 of the Government Code.*

