

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

June 12, 2007 Board Meeting

8-8

Subject

Express support for SB 821 (Kuehl, D-Santa Monica) regarding water supplies and development

Description

Summary. In 2001, the Legislature passed landmark legislation that more closely links water supply to the planning and approval process for major development projects. The legislation was passed through two complementary bills – SB 610 introduced by then-Senator Jim Costa and SB 221 by Senator Sheila Kuehl. These bills, which became effective in January 2002, require that cities and counties consider water supply in the approval of major developments, first at the environmental review stage (SB 610) and again at the subdivision map approval stage (SB 221). Because the legislation brought about such extensive changes to the development approval process – both for cities/counties and for retail water agencies – Senator Kuehl and the bills’ proponents agreed that they would not introduce any additional legislation concerning the linkage between water supply and land use for a period of five years from the effective date. Although the moratorium on legislation has expired, it is still uncertain how effective the legislation has been and whether any revisions to the law are warranted.

Rather than introduce new changes to the existing water supply and development legislation, Senate Bill 821 (**Attachment 1**) would require the California Research Bureau to prepare a report to the Legislature covering certain performance statistics of the 2001 water supply and development legislation, SB 221 and SB 610. Based on the analysis, the report would present options for possible changes to the water supply and development legislation for considerations in the 2008-2009 legislative session.

Report. With the passage of SB 610 and SB 221, the Legislature put into place a comprehensive scheme for coordinated planning of land use and water supplies. This process built upon the existing legislative scheme of land use planning and urban water supply planning by creating a linkage between the two that is initiated when specific development projects are proposed.

In California, all cities and counties are required to adopt general plans, which serve as the foundation of land use planning. By law, cities and counties within a region must accommodate the projected population growth and housing needs in their general plans, whether or not services like water supply are available. In turn, the Urban Water Management Planning Act requires water providers to comprehensively plan for the water supplies needed to support the planned population growth. But if water supplies are short, prior to adoption of SB 610 and SB 221, that message was not certain to get back to the land use planners.

SB 610 and SB 221 close the gap between land use planning and water supply planning at the point specific, large-scale developments are proposed. SB 610 applies to developments meeting a certain size threshold – such as a residential development of 500 units or more or a shopping center employing more than 1,000 people or having more than 500,000 square feet of floor space – when undergoing environmental review under California Environmental Quality Act (CEQA). SB 221 applies to large developments of essentially the same size threshold when and if a subdivision map approval is required.

Under SB 610, water suppliers must provide water supply assessments, describing whether the proposed development project has an adequate water supply in light of existing and other planned future uses over the next 20 years. If the water supplier determines it does not have sufficient existing water supplies for the development, it must provide any plans for acquiring additional supplies. The city or county conducting environmental review

for the proposed development then considers the assessment when deciding whether or not to approve the project under CEQA.

SB 221 completes the legislative scheme for linking land use and water supply planning by ensuring that major development projects will have the necessary long-term water supplies when they are finally approved and constructed. Under this statute, a city or county, in subsequently approving an applicable development project at the subdivision map stage, must include a condition requiring that a sufficient water supply is available for over a 20-year period. Proof of a sufficient water supply is based upon written verification provided by the water supplier, using the same factors that apply to water supply assessments prepared under SB 610.

SB 821 would require the California Research Bureau to prepare a report to the Legislature and specified committees by July 1, 2008, that would summarize certain performance statistics contained in the SB 221 and SB 610 legislation. Specifically for 2004, 2005, and 2006, the report would identify the number of subdivisions, dwelling units and water use for subdivision projects covered by SB 221, and the changes in those statistics if the threshold was reduced from 500 dwelling units to 250 dwelling units. The report would also identify the number of projects other than subdivisions and the associated water use for projects covered by SB 610. Based on the analysis, the report would present options for possible legislative changes to the water supply and development legislation. Metropolitan staff believe this is a reasoned, careful approach to assess whether changes in the water supply and development legislation are warranted.

Impact to Metropolitan. Current water supply and development legislation is consistent with the Board's adopted policy principles on water supply and land use and Metropolitan's water supply planning practices under the Integrated Resources Plan and the Regional Urban Water Management Plan. In addition, the requirements for water providers to prepare water supply assessments and water supply verifications do not directly apply to Metropolitan or other wholesale water providers.

Policy

Board's adopted policy to ensure reliable supplies to meet existing and future demands within Metropolitan's service areas through sound resources management practices pursuant to its Integrated Resources Plan and Regional Urban Water Management Plan.

Board's adopted policy principles on water availability and land use adopted in April 1993 and revised in January 1995 and February 1998. These policy principles define the obligation of land use planning agencies to request a water agency's assessment of water service for the land use planning process and the obligation of the water agency to maintain a water resource plan and capital improvement program to meet water supply needs.

California Environmental Quality Act (CEQA)

CEQA determination for Staff Recommendation:

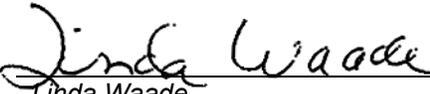
The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

Staff Recommendation

Adopt the CEQA determination and express support for SB 821.

Fiscal Impact: None



Linda Waade
Deputy General Manager, External Affairs

5/25/2007
Date



Jeffrey Lightinger
General Manager

5/25/2007
Date

Attachment 1 – Senate Bill 821

BLA #5462

AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 23, 2007
AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 821

Introduced by Senator Kuehl

February 23, 2007

An act relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 821, as amended, Kuehl. Land use: water supplies: report.

~~(1) Under~~

Under existing law, the Subdivision Map Act prohibits approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project. Under these provisions, "subdivision" means a proposed residential development of more than 500 dwelling units, except as specified.

This bill would require the California Research Bureau, on or before July 1, 2008, *in consultation with the State Clearinghouse in the Governor's Office of Planning and Research*, to prepare and provide to the Legislature *and to specified legislative committees* a report covering the 2004, 2005, and 2006 calendar years that includes certain

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information relating to adequate water supplies for proposed residential developments.

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

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

- 1 SECTION 1. (a) On or before July 1, 2008, the California
2 Research Bureau shall prepare and provide to the Legislature a
3 report covering the 2004, 2005, and 2006 calendar years that does
4 all of the following:
- 5 (1) Determines the number of subdivisions affected by Section
6 66473.7 of the Government Code.
 - 7 (2) Determines the number of dwelling units affected by Section
8 66473.7 of the Government Code.
 - 9 (3) Estimates the annual amount of water, in acre feet, consumed
10 by the dwelling units affected by Section 66473.7 of the
11 Government Code.
 - 12 (4) Determines the number of subdivisions that would have
13 been affected by Section 66473.7 of the Government Code if the
14 definition of “subdivision” in paragraph (1) of subdivision (a) of
15 that section had referenced 250 dwelling units instead of 500
16 dwelling units.
 - 17 (5) Determines the number of dwelling units that would have
18 been affected by Section 66473.7 of the Government Code if the
19 definition of “subdivision” in paragraph (1) of subdivision (a) of
20 that section had referenced 250 dwelling units instead of 500
21 dwelling units.
 - 22 (6) Estimates the annual amount of water, in acre feet, consumed
23 by the dwelling units that would have been affected by Section
24 66473.7 of the Government Code if the definition of “subdivision”
25 in paragraph (1) of subdivision (a) of that section had referenced
26 250 dwelling units instead of 500 dwelling units.
 - 27 (7) Estimates the number of projects, other than proposed
28 residential developments of more than 500 dwelling units, affected
29 by Section 10910 of the Water Code.
 - 30 (8) Estimates the annual amount of water, in acre feet, consumed
31 by the projects, other than proposed residential developments of
32 more than 500 dwelling units, affected by Section 10910 of the
33 Water Code.

1 (9) Presents options for legislative consideration of any statutory
2 changes that the California Research Bureau believes to be
3 necessary or useful to Section 66473.7 of the Government Code,
4 Part 2.10 (commencing with Section 10910) of Division 6 of the
5 Water Code, or any other provision of law relating to water supply
6 planning or land use planning and development.

7 (b) *The California Research Bureau shall provide copies of the*
8 *report prepared pursuant to subdivision (a) to the chairs and vice*
9 *chairs of Subcommittee No. 2 of the Senate Committee on Budget*
10 *and Fiscal Review, the Senate Committee on Local Government,*
11 *and the Senate Committee on Natural Resources and Water.*

12 ~~(b)~~

13 (c) In preparing the report required pursuant to subdivision (a),
14 the California Research Bureau shall consult with the State
15 Clearinghouse in the Governor's Office of Planning and Research.
16 The California Research Bureau may consult with any other
17 federal, state, regional, or local agency, and with any organization,
18 institute, or association with expertise in water supply planning or
19 use planning and development.