

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

April 8, 2008 Board Meeting

8-8

Subject

Express support, if amended, for AB 2219 (Parra, D-Hanford) – Subdivisions: water supply

Description

Summary. AB 2219 ([Attachment 1](#)) amends existing land use and water supply planning legislation to account for water demand management conservation measures when quantifying a new development project's water demand. It would establish a voluntary program to allow homebuilders to introduce new information about water saving strategies they are employing in an effort to get a more accurate report on water use.

Background. In 2001, the Legislature passed 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 Senator Costa and SB 221 by Senator 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).

With the passage of SB 610 and SB 221, the Legislature required coordinated planning of land use and water supplies. SB 221 links 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 be available over a 20-year period. Proof of a sufficient water supply is based on a written verification provided by the water supplier.

Detail. AB 2219 is intended to promote innovative approaches to reduce water consumption by accounting for water demand management conservation measures when quantifying a project's water demand. It would establish a voluntary program to allow homebuilders to introduce new information about water saving-strategies they are employing in an effort to get a more accurate report on water use. By encouraging widespread use of voluntary water conservation measures, this bill would assist water agencies and the state in documenting the potential water savings from new water use efficiency projects and programs in a manner that would promote successful water conservation strategies and discourage ineffective ones. In doing so, it would promote adoption of water conservation approaches that go beyond existing law.

AB 2219 would allow a city or county to ensure that voluntary demand management measures are included and accounted for in water demand projections for new subdivisions. The bill is intended to include accounting for "voluntary demand management measures", which include but are not limited to:

- a. High-efficiency washing machines;
- b. Smart irrigation controllers;
- c. Waterless urinals;
- d. Ultra-low flow and dual flow toilets;
- e. Recycled water use;
- f. Native plant, lower water use plants, and artificial turf landscaping;
- g. Rainwater capture and reuse;

- h. Sustainable site, low-impact development, greenbuilding;
- i. Water use management systems and programs; and
- j. Any other measure that will prevent the waste of water or promote the reasonable and efficient use and reuse of available water supplies by the subdivision or the public.

The language of the bill as currently proposed does not clearly recognize that some or all of these conservation measures may already be included in retail agencies' demand projections, raising the possibility of double counting conservation savings. Metropolitan will suggest language to alleviate this concern.

Impact to Metropolitan. The policies set forth in AB 2219 are 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 under both existing law and this bill, do not directly apply to Metropolitan or other wholesale water providers. Metropolitan, as part of its estimation of regional water demands, already includes quantification of the savings attributable to many of the voluntary water demand management measures identified in the bill. The provisions of this bill can serve to improve Metropolitan's understanding of potential voluntary conservation measures planned by new developments and, in turn, help refine long-term regional planning projections.

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 Option #1:

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.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and express support for AB 2219, if amended.

Fiscal Impact: None

Option #2

Take no position on AB 2219.

Fiscal Impact: None

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

3/28/2008
Date


Jeffrey Kightlinger
General Manager

3/28/2008
Date

Attachment 1 – Assembly Bill 2219

BLA #6106

ASSEMBLY BILL

No. 2219

Introduced by Assembly Member Parra

February 20, 2008

An act to amend Section 66473.7 of the Government Code, and to amend Section 21151.9 of the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2219, as introduced, Parra. Subdivisions: water supply.

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

This bill would require the legislative body of a city or county or the designated advisory agency to approve or disapprove the subdivider's water savings projections attributable to voluntary demand management measures after being reviewed by the retail water supplier.

(2) Existing law provides that whenever a city or county determines that a project, as defined, is subject to the California Environmental Quality Act, the project must comply with the provisions of law that evaluate the sufficiency of water supplies.

This bill would require a city or county that is evaluating the sufficiency of water supplies for a project, as defined, to reduce the anticipated water demand for the project based on the water service provider’s voluntary water demand management measures, as defined. If the project requires the approval of a tentative subdivision map, then the appropriate legislative body of a city or county or advisory agency that is authorized to approve, conditionally approve, or disapprove the project’s tentative map would be required approve or disapprove the project’s water savings projections after being reviewed by the retail water supplier.

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

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

- 1 SECTION 1. The Legislature finds and declares:
- 2 (a) Current law requires an assessment of how new land use
- 3 proposals will affect water supply without recognizing the potential
- 4 benefits of evolving voluntary water conservation measures.
- 5 (b) Water conservation measures beyond those already required
- 6 by state law should be encouraged by accounting for their use
- 7 when quantifying project water demand.
- 8 (c) The amount of water demand reductions should be confirmed
- 9 by the water agencies responsible for providing water service to
- 10 new development in a cooperative approach with project
- 11 proponents and local governments that ensures projected water
- 12 savings are achieved.
- 13 (d) Water agencies and local government should provide
- 14 flexibility and encourage the development and implementation of
- 15 innovative new water conservation technology, water use
- 16 efficiency, and water management techniques to meet customer
- 17 needs throughout the differing hydrologic regions of the state.
- 18 (e) Encouraging widespread use of voluntary water conservation
- 19 measures will assist water agencies and the state in documenting
- 20 the potential water savings from new water use efficiency projects
- 21 and programs in a manner that will promote successful water
- 22 conservation strategies and discourage ineffective ones.
- 23 (f) There have been numerous water use efficiency technological
- 24 and management developments related to landscape irrigation in

1 recent years, and this act will promote the adoption of approaches
2 that go beyond the state’s Model Landscape Ordinance.

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

7 SEC. 2. Section 66473.7 of the Government Code is amended
8 to read:

9 66473.7. (a) For the purposes of this section, the following
10 definitions apply:

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

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

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

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

30 (C) The reduction in water supply allocated to a specific water
31 use sector pursuant to a resolution or ordinance adopted, or a
32 contract entered into, by the public water system, as long as that
33 resolution, ordinance, or contract does not conflict with Section
34 354 of the Water Code.

35 (D) The amount of water that the water supplier can reasonably
36 rely on receiving from other water supply projects, such as
37 conjunctive use, reclaimed water, water conservation, and water
38 transfer, including programs identified under federal, state, and
39 local water initiatives such as CALFED and Colorado River

1 tentative agreements, to the extent that these water supplies meet
2 the criteria of subdivision (d).

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

8 (4) *“Projected demand associated with the proposed*
9 *subdivision” means the anticipated water demand for the project*
10 *reduced by the amount of voluntary demand management*
11 *measures.*

12 (5) *“Voluntary demand management measures” means measures*
13 *that will reduce the subdivision’s water demand, including, but*
14 *not limited to any of the following:*

15 (A) *High-efficiency washing machines.*

16 (B) *Smart irrigation controllers.*

17 (C) *Waterless urinals.*

18 (D) *Ultra-low flow and dual flow toilets.*

19 (E) *Recycled water use.*

20 (F) *Native plant, lower water use plants, and artificial turf*
21 *landscaping.*

22 (G) *Rainwater capture and reuse.*

23 (H) *Sustainable site, low-impact development, greenbuilding.*

24 (I) *Water use management systems and programs.*

25 (J) *Any other measure that will prevent the waste of water or*
26 *promote the reasonable and efficient use and reuse of available*
27 *water supplies by the subdivision or the public.*

28 (b) (1) The legislative body of a city or county or the advisory
29 agency, to the extent that it is authorized by local ordinance to
30 approve, conditionally approve, or disapprove the tentative map,
31 shall include as a condition in any tentative map that includes a
32 subdivision a requirement that a sufficient water supply shall be
33 available. Proof of the availability of a sufficient water supply
34 shall be requested by the subdivision applicant or local agency, at
35 the discretion of the local agency, and shall be based on written
36 verification from the applicable public water system within 90
37 days of a request. *The legislative body of a city or county or the*
38 *designated advisory agency shall approve or disapprove the*
39 *subdivider’s water savings projections attributable to voluntary*

1 *demand management measures after being reviewed by the retail*
2 *water supplier.*

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

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

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

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

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

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

37 (3) Other information relating to the sufficiency of the water
38 supply that contains analytical information that is substantially
39 similar to the assessment required by Section 10635 of the Water
40 Code.

1 (d) When the written verification pursuant to subdivision (b)
2 relies on projected water supplies that are not currently available
3 to the public water system, to provide a sufficient water supply to
4 the subdivision, the written verification as to those projected water
5 supplies shall be based on all of the following elements, to the
6 extent each is applicable:

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

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

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

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

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

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

34 (g) The written verification prepared under this section *also*
35 shall ~~also~~ include a description, to the extent that data is reasonably
36 available based on published records maintained by federal and
37 state agencies, and public records of local agencies, of the
38 reasonably foreseeable impacts of the proposed subdivision on the
39 availability of water resources for agricultural and industrial uses
40 within the public water system's service area that are not currently

1 receiving water from the public water system but are utilizing the
2 same sources of water. To the extent that those reasonably
3 foreseeable impacts have previously been evaluated in a document
4 prepared pursuant to the California Environmental Quality Act
5 (Division 13 (commencing with Section 21000) of the Public
6 Resources Code) or the National Environmental Policy Act (Public
7 Law (P.L. 91-190) for the proposed subdivision, the public water
8 system may utilize that information in preparing the written
9 verification.

10 (h) Where a water supply for a proposed subdivision includes
11 groundwater, the public water system serving the proposed
12 subdivision shall evaluate, based on substantial evidence, the extent
13 to which it or the landowner has the right to extract the additional
14 groundwater needed to supply the proposed subdivision. Nothing
15 in this subdivision is intended to modify state law with regard to
16 groundwater rights.

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

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

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

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

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

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

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

18 (m) Nothing in this section shall be construed to create a right
19 or entitlement to water service or any specific level of water
20 service.

21 (n) Nothing in this section is intended to change existing law
22 concerning a public water system’s obligation to provide water
23 service to its existing customers or to any potential future
24 customers.

25 (o) Any action challenging the sufficiency of the public water
26 system’s written verification of a sufficient water supply shall be
27 governed by Section 66499.37.

28 SEC. 3. Section 21151.9 of the Public Resources Code is
29 amended to read:

30 21151.9. (a) Whenever a city or county determines that a
31 project, as defined in Section 10912 of the Water Code, is subject
32 to this division, it shall comply with Part 2.10 (commencing with
33 Section 10910) of Division 6 of the Water Code.

34 (b) (1) *Whenever a city or county considers a water supply*
35 *assessment pursuant to subdivision (a), it shall reduce the*
36 *anticipated water demand for the project, as defined in Section*
37 *10912 of the Water Code, based on the water service provider’s*
38 *voluntary water demand management measures. For purposes of*
39 *this section, “voluntary water demand management measures”*

- 1 *means measures that will reduce project water demand, including,*
2 *but not limited to, any of the following:*
- 3 (A) *High-efficiency washing machines.*
 - 4 (B) *Smart irrigation controllers.*
 - 5 (C) *Waterless urinals.*
 - 6 (D) *Ultra-low flow and dual flow toilets.*
 - 7 (E) *Recycled water use.*
 - 8 (F) *Native plant, lower water use plants, and artificial turf*
9 *landscaping.*
 - 10 (G) *Rainwater capture and reuse.*
 - 11 (H) *Sustainable site, low-impact development, greenbuilding.*
 - 12 (I) *Water use management systems and programs.*
 - 13 (J) *Any other measure that will prevent the waste of water or*
14 *promote the reasonable and efficient use and reuse of available*
15 *water supplies by the project or the public.*
- 16 (2) (2) *If the project requires the approval of a tentative*
17 *subdivision map pursuant to the Subdivision Map Act (Division 2*
18 *(commencing with Section 66410) of Title 7 of the Government*
19 *Code), then the appropriate legislative body of a city or county or*
20 *advisory agency that is authorized to approve, conditionally*
21 *approve, or disapprove the project's tentative map shall approve*
22 *or disapprove the project's water savings projections after being*
23 *reviewed by the retail water supplier.*