

SENATE AGRICULTURE & WATER RESOURCES COMMITTEE  
Senator Jim Costa, ChairmanBILL NO: SB 221  
AUTHOR: Kuehl  
VERSION: 2/14/01  
WalthallHEARING: 4/24/01  
FISCAL: Yes  
CONSULTANT: Brent

## Land Use: Water Supply

## BACKGROUND AND EXISTING LAW

The Subdivision Map Act (commencing with section 66410 of the Government Code) requires tentative and final maps to be prepared before land may be divided into more than five parcels. Tentative maps show the intended design of, and improvements for, a proposed subdivision.

The tentative map is discretionary with the local city, county, or city and county planning agency. The local planning agency has the discretion to place conditions on approval of the tentative map to ensure that certain standards of development are met. Standards typically include such items as curbs and gutters, drainage, parking, unpaved area, building setbacks, etc. The planning agency may approve the final map after the owner meets the conditions placed on the tentative map.

In 1995, the Legislature passed SB 901 (Costa) which, for the first time, required planning agencies to consider information provided by water suppliers in their decision to approve or deny commercial, industrial, or residential, development. Under SB 901 a water provider that has more than 3,000 domestic service connections may provide an assessment of water supply availability to the local planning agency for any of the following:

- (1) a residential development that has more than 500 homes;
- (2) a business employing more than 1,000 people or having more than 500,000 square feet of floor space;
- (3) a commercial office building employing more than 1,000 people or having more than 250,000 square feet of floor space;
- (4) a hotel having more than 500 rooms;
- (5) an industrial complex with more than 1,000 employees and occupying more than 40 acres of land; or
- (6) a mixed use project that would require the same or greater amount of water as a 500 dwelling-unit project.

These requirements ensure that developments of all types are subject to similar reviews as part of the water supplier's assessment.

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Under SB 901 the assessment must state whether the water supply needs of the development can be met by the supplies available to the water provider as described in its Urban Water Management Plan. The assessment should determine if the water provider's available water supplies are capable of meeting the development's needs during single-dry and multiple-dry water years as described in the Urban Water Management Plan's 20 year projection. The local planning agency must include the assessment in the environmental impact report required for the development.

The local planning agency may deny the development if the assessment shows that insufficient water supplies are available. However, the local agency is not required to deny the development and may approve the development if it so chooses.

#### PROPOSED LAW

This measure would require developments of more than 200 residential units to submit to the Department of Real Estate, a true statement of the water supply available to serve the development.

The measure would prohibit any local agency from approving a residential development of 200 homes or more unless the local agency finds there is a sufficient, reliable water supply available for the development. The measure also would require local agencies to include in its approval of any tentative map, a requirement that a sufficient, reliable water supply be available for the project before it is completed. Proof that such a water supply is available must be in the form of a written verification from the applicable water service provider. The written verification must be based on "substantial evidence" supported by the water provider's most recent Urban Water Management Plan.

If the written verification is based on obtaining additional water supplies as opposed to supplies already available to the water provider, then the written verification must be based on all of the following: (1) written contracts or proof of entitlement to the additional supply; (2) a capitol financing plan adopted by the water provider; (3) secure funding for the capital project(s); and (4) all necessary regulatory approvals.

The measure defines a "sufficient, reliable water supply" as

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enough water to satisfy the development's demands without impairing the water provider's ability to meet its existing and forecasted demands in a manner consistent with the water provider's water supply planning criteria. The water supply planning criteria may include reasonable water supply reductions

to existing users during multiple dry years. A sufficient, reliable water supply is not available if the water supplier would be unable to meet the needs of the new development without violating its water supply criteria or without disproportionately impacting agricultural deliveries (if any).

If the water supplier receives any of its supply from a groundwater basin, then additional information must be used in making the determination that sufficient, reliable water is available, including:

- (1) identification of groundwater use patterns of others using the groundwater basin;
- (2) an estimate of the maximum amount of water that can be withdrawn safely from the groundwater basin;
- (3) identification of the overdraft condition of the basin, and the likely impact of additional groundwater use; and
- (4) a description of any groundwater management programs in the groundwater basin.

The measure exempts from its requirements any development that is less than five acres, can be adequately served by utilities, has no habitat value, and is an "infill" site.

The measure requires that the water provider make all of the findings required by the bill in a manner consistent with the water provider's obligation to provide available and future water supplies to developments for lower income households.

The measure requires the local agency to deny a tentative map or parcel map if the design or type of the subdivision does not meet the requirements set out in the bill.

#### COMMENTS

1. SB 901 was the first attempt to provide a better link between water supply and land use decisions. While SB 901 represents a positive step, its effects have been less than anticipated. A recent review of projects approved by local planning agencies reveals that many local planning agencies are not including the water supply assessment required by SB 901. As a result, the benefits of SB 901 have not been fully realized.

By prohibiting local planning agencies from approving tentative maps if there is not a sufficient, reliable water supply, this bill takes the next step to ensure that the benefits anticipated from SB 901 are fully realized.

2. Unlike SB 901, this measure applies only to tentative maps and parcel maps for residential developments, but not industrial or commercial developments. This omission could have unintended consequences. Many of California's cities suffer from a lack of housing in areas close to their industrial and

- commercial centers. Because this bill would require residential developments to demonstrate that sufficient water is available, new residential development could be forced to areas away from the city's industrial and commercial centers and toward areas with more available water supplies. This effect may be further exasperated by cities' increasing desire to approve commercial and industrial developments within the city as a way to increase tax revenues. If these two circumstances occur, they could combine to promote urban sprawl because industrial and commercial developments will continue to be approved in cities with limited water supplies, but residential developments will be required to move away from the city to areas where water is available.
3. The bill's sponsor notes that improving the link between land use and water supply will provide early knowledge of where growth is occurring and makes sure that planning for new water supplies will begin as early as possible. By allowing the planning to occur early in the process, future water supplies will evolve away from dams and reservoirs and toward a diversified mix of projects like water recycling, conservation, and conjunctive use.
  4. California's increasing population and limited water supply virtually guarantee a future of insufficient water supply to support California's forecasted growth. While this bill provides a much needed link between the planning decisions made by cities and counties and the amount of water available for development, it does not address the state's fundamental need for additional water supplies.
  5. As a result of negotiations on SB 901 it was determined that Measure C which was adopted by San Diego County voters was functionally equivalent to the requirements of SB 901. Therefore, San Diego was exempted from the requirements of SB 901. This bill would not provide a similar exception for San Diego.

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6. The bill adds section 66473.6 to the Government Code. Adding this section will chapter out an unrelated existing provision concerning telephone and cable television service. This conflict is a drafting error. The author will offer an amendment to change the section number and place this provision of the bill in the correct section of the Government Code.
7. Senator Costa has introduced SB 610 to address problems with implementation of 1995's SB 901. SB 610 would strengthen certain requirements established by SB 901 and add new requirements with the intent of improving planning agency compliance with SB 901.

8. The Senate Rules Committee has assigned the bill to this committee and the Senate Local Government Committee. Therefore, if this measure is approved by this committee, the Do Pass motion should include the action to re-refer the bill to the Senate Committee on Local Government.

## SUPPORT

American Planning Association (if amended)  
California Department of Justice (Attorney General)  
California Farm Bureau Federation  
California Municipal Utilities Association  
Citizens Planning Association of Santa Barbara County  
Clean Water Action  
Community Alliance with Family Farmers  
Defenders of Wildlife  
East Bay Municipal Utility District (Sponsor)  
Friends of the River  
National Audubon Society  
Planning and Conservation League  
Sierra Club  
Sierra Nevada Alliance  
The Nature Conservancy  
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## OPPOSITION

Association of California Water Agencies  
California Association of Realtors  
California Building Industry Association  
California Business Properties Association

California Chamber of Commerce  
California Manufacturers and Technology Association  
California State Association of Counties  
City of Moreno Valley  
Consulting Engineers and Land Surveyors of California  
Home Ownership Advancement Council  
League of California Cities  
San Diego County Board of Supervisors  
Southern California Water Committee