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|SENATE RULES COMMITTEE                               | SB 221 |
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UNFINISHED BUSINESS

Bill No: SB 221
Author: Kuehl (D), et al
Amended: 8/31/01
Vote: 21

SENATE AG. & WATER RESOURCES COMMITTEE : 6-3, 4/24/01
AYES: Costa, Alpert, Bowen, Kuehl, Machado, Perata
NOES: Battin, Monteith, Poochigian

SENATE LOCAL GOVERNMENT COMMITTEE : 4-1, 5/2/01
AYES: Torlakson, Machado, Perata, Soto
NOES: Ackerman

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SENATE FLOOR : 21-12, 6/6/01
AYES: Alarcon, Alpert, Bowen, Chesbro, Costa, Dunn,
Escutia, Figueroa, Kuehl, Machado, McPherson, Murray,
O'Connell, Ortiz, Perata, Romero, Sher, Speier,
Torlakson, Vasconcellos, Vincent
NOES: Ackerman, Battin, Brulte, Haynes, Johannessen,
Johnson, Knight, Margett, McClintock, Monteith, Oller,
Poochigian

ASSEMBLY FLOOR : 44-29, 9/10/01 - See last page for vote

SUBJECT : Land use: water supplies

SOURCE : East Bay Municipal Utility District

DIGEST : This bill prohibits a planning agency from
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approving a development agreement that includes a subdivision of more than 500 units unless the development agreement provides that any tentative map prepared for the subdivision will comply with the requirements of this bill.

Assembly amendments increase the number of residential units and add co-authors.

ANALYSIS : The Subdivision Map Act 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.

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- 5.An industrial complex with more than 1,000 employees and occupying more than 40 acres of land.

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.

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.

This bill:

1. Specifies that for purposes of the notice of intention to subdivide, in the case of a subdivision subject to existing law, that the statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply required by this bill.
2. Specifies that a development agreement that includes a subdivision subject to existing law shall not be approved unless it provides that any tentative map prepared for the subdivision will comply with the criteria specified in this bill.
3. Specifies that not later than five days after a planning agency has determined that a tentative map application

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SB 221

Page

4

for a proposed subdivision is complete, that the agency shall send a copy of the application to any water supplier that is, or may become, a public water system that may supply water for the subdivision.

4. Defines "subdivision", "sufficient water supply" and "public water system."

5. Requires the planning agency to include as a condition in any tentative maps that includes a subdivision a requirement that a sufficient water supply shall be available.
6. Specifies that proof of availability of a sufficient water supply shall be based on the written verification from the applicable water supplier, and that such verification is to be provided within 90 days of a request.
7. Specifies that a local agency or any other interested party may seek a writ of mandamus if the water supplier fails to provide the written verification required.
8. Specifies that if the written verification indicates there is not a sufficient water supply that will meet the reasonable needs of the proposed subdivision, that the local agency may make a finding that additional water supplies not accounted for in the written verification are or will be available prior to completion of the project. Requires the findings to be on the record and supported by substantial evidence.
9. Requires, when written verification relies on obtaining projected water supplies, that the verification be based on certain specified information to the extent each is applicable.
10. Provides that if there is no water supplier, that the local agency shall make a written finding of sufficient water supply based on specified evidentiary requirements, and further provides that the local agency may work in conjunction with the project applicant and the public water system to secure sufficient water supplies.

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SB 221
Page

5

11. Provides that the written verification shall include a description, to the extent data is reasonably available, of the reasonably foreseeable impacts of the proposed subdivision on the availability of water resources for agricultural and industrial uses within the public water systems service area that are not currently receiving water from the public water system but are utilizing the same sources of water.
12. Specifies that where a water supply for a proposed subdivision includes groundwater, that the public water

system shall evaluate, based on substantial evidence, the extent to which it or the landowner has the right to extract the additional groundwater needed to supply the proposed subdivision. States that nothing in the subdivision is intended to modify state law with regard to groundwater rights.

- 13. Specifies that this section does not apply to any residential project proposed for a site that is within an urbanized area and has been previously developed, or where the immediate contiguous properties surrounding the site are, or previously have been, developed for urban uses, or housing projects that are exclusively for very low and low-income households.
- 14. Recognizes that current law requires water providers to grant priority for the provision of available and future water resources or services to proposed housing developments that help meet a local agencies share of the regional housing needs for lower income households.
- 15. Provides that the County of San Diego is deemed to comply with this section if the Office of Planning and Research determines that certain specified conditions are met.
- 16. Provides that any action challenging the sufficiency of the public water system's written verification shall commence within 90 days after the date of such a decision.

Related Legislation

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SB 221

Page

6

SB 610 (Costa), on Assembly Third Reading, expands the requirement for public water systems to prepare water supply assessments for large scale projects.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes
Local: Yes

SUPPORT : (Verified 9/12/01)

East Bay Municipal Utility District (source)
American Planning Association - California Chapter
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
 Friends of the River
 National Audubon Society
 Planning and Conservation League
 Sierra Club
 Sierra Nevada Alliance
 The Nature Conservancy
 LandWatch Monterey County
 California League of Conservation Voters
 League of women Voters of California

OPPOSITION : (Verified 6/5/01) (unable to re-verify at time of writing)

The following groups opposed the prior version of the bill:

Association of California Water Agencies
 City of Moreno Valley
 Orange County Water District

ARGUMENTS IN SUPPORT : According to the sponsor, East Bay Municipal Utility District, forecasters expect between now and 2020, California is expected to add over 15 million more residents, and the state will face a major challenge to ensure adequate quantities of safe and clean water to sustain the population, the environment, and the variety of industries and businesses of the state. They contend that

SB 221

Page

the state's continued economic prosperity depends largely on its ability to retain a diverse industrial economy, including a strong manufacturing component; and that many industries, particularly manufacturing firms, rely heavily upon reliable, quality water supplies to remain competitive. They feel that this bill is essential in the early planning in improving linkages between land use and water supply and land use planning as new development projects move through the subdivision process.

ARGUMENTS IN OPPOSITION : The Association of California Water Agencies believes the definition of "sufficient, reliable water supply" in SB 221 will lead to an increase in litigation over whether a water service provider has met a substantial evidence test to support verification of its findings.

ASSEMBLY FLOOR :

AYES: Alquist, Aroner, Calderon, Canciamilla, Cardenas, Cardoza, Cedillo, Chan, Chavez, Chu, Corbett, Diaz, Dutra, Firebaugh, Florez, Frommer, Goldberg, Havice, Horton, Jackson, Keeley, Kehoe, Koretz, Liu, Longville,

Lowenthal, Migden, Nakano, Nation, Negrete McLeod,
Oropeza, Pavley, Salinas, Shelley, Simitian, Steinberg,
Strom-Martin, Thomson, Vargas, Washington, Wayne, Wesson,
Wiggins, Hertzberg

NOES: Aanestad, Ashburn, Bates, Briggs, Bill Campbell,
John Campbell, Cogdill, Correa, Cox, Daucher, Dickerson,
Harman, Hollingsworth, Kelley, La Suer, Leach, Leonard,
Leslie, Maddox, Robert Pacheco, Rod Pacheco, Pescetti,
Reyes, Richman, Runner, Strickland, Wyland, Wyman, Zettel

LB:sl 9/12/01 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

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