

THIRD READING

Bill No: SB 1085
Author: Durazo (D), et al.
Amended: 4/23/26
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-0, 4/14/26
AYES: Becker, Seyarto, Allen, Cabaldon, Cortese, Stern
NO VOTE RECORDED: Grove

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 4/22/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Water supply planning: housing developments

SOURCE: East Bay Municipal Utility District

DIGEST: This bill reinstates a requirement that cities and counties approving certain large commercial, industrial, or housing development projects identify any water system whose service area includes the project site and any water system adjacent to the project site that may become a public water system and supply water to the project and revises the timeframe in which a public water system would be required to complete a water supply assessment for certain housing development projects that are subject to a specified California Environmental Quality Act (CEQA) exemption or ministerial by-right approval processes.

ANALYSIS:

Existing law:

1) Under water supply planning requirements:

- a) Requires any city or county that determines a project, as defined below, is subject to CEQA to comply with certain requirements relating to water supply planning. (Water Code (WAT) §§10910 *et seq.*).
 - b) Defines, for purposes of water supply planning, a “project” large-scale residential, commercial, hotel, industrial, or mixed-use projects proposing 500 or more new water connections or an equivalent size for other uses (WAT §10913).
 - c) Requires the city or county, at the time it determines whether an environmental review document is required, to identify any water system whose service area includes the project site and any water system adjacent to the project that is, or may become as a result of supplying water to the project identified, a public water system, that may supply water for the project. If the city or county is not able to identify a public water system, the city or county is required to prepare a water supply assessment (WSA), as specified (WAT §10910(b)).
 - d) Requires the city or county, at the time it determines whether an environmental review document is required, to request each public water system identified pursuant to c) to determine whether the projected water demand associated with the proposed project was included in the most recent urban water management plan.
 - e) Requires the governing body of each public water system to submit the assessment to the city or county no later than 90 days from the date on which the request was received, with the possibility of a 30 day extension. If the public water systems fails to submit the assessment, the city or county may seek a writ of mandamus to compel the governing body of the public water system to comply with the water supply planning requirements.
- 2) Requires, under CEQA, lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare an environmental review document, unless the project is exempt from CEQA (Public Resources Code (PRC) §§21000 *et seq.*).
 - a) Exempts from CEQA certain housing development projects that are no more than 20 acres, are consistent with the applicable general plan and zoning ordinance, as well as any applicable local coastal program, as specified, and meet other criteria (AB 130 CEQA Exemption) (PRC §21080.66).

- 3) Makes certain housing development projects that meet specified requirements a use by right (SB 35 and AB 2011) (Government Code (GOV) §65913.4, §§65912.110 *et seq.*).

This bill:

- 1) Requires a city or county to comply with the above-described water supply planning requirements if either of the following apply:
 - a) An applicant submits to the city or county a preliminary application for a housing development project that is subject to an AB 130 CEQA exemption.
 - b) For a project, as defined for purposes of the water supply planning, when the development application is complete, as specified.
- 2) Requires a city or county to identify the water systems upon receipt of an application that meets the criteria described in 1), above.
- 3) Requires, if the city or county is not able to identify any public water system for the project, that the city or county prepare a WSA.
- 4) Requires the city or county, within 15 days of receipt of an application that meets 1), to request each identified public water system to determine whether the projected water demand associated with the proposed project was included in the most recent urban water management plan.
- 5) For housing development projects that are subject to an AB 130 CEQA exemption and projects that are proposed to be permitted pursuant to SB 35 or AB 2011, requires the public water system to submit the assessment to the city or county no later than 45 days from the date that the request was received.
 - a) Specifies that the governing body of each public water system, or the city or county, if either is required to comply with these water supply planning requirements, is not required to approve the assessment at a public meeting.
 - b) Authorizes the city or county to seek a writ of mandamus to compel the public water system to complete with the water supply planning requirements if the public water system fails to submit the assessment.
- 6) Provides that a water supply assessment is an informational document and not a final agency.
- 7) Provides that nothing under these water supply assessment requirements shall be construed to do either of the following:

- a) Subject a project to discretionary review by a city or county if the project is required to be permitted ministerially, as specified.
- b) Subject a project to CEQA if the project is otherwise exempt.

Background

“Show me the water” bills. In response to local land use decisions adversely affecting local water supply agencies, the Legislature enacted SB 610 (Costa, Chapter 643, Statutes of 2001) and SB 221 (Kuehl, Chapter 643, Statutes of 2001). Often referred to as the “show-me-the-water” bills, together these two bills formally linked land use planning with water use planning, and vice versa, by requiring local jurisdictions to coordinate with local water utilities to ascertain whether adequate supplies are available to support a new project. As explained in the Golden Gate University Law Review Journal article *Show Me the Water: Urban Water Management Plans and California’s Water Supply Adequacy Laws* (Show Me the Water Article), these two bills have distinct requirements. SB 610 requires a “water supply assessment,” or WSA, at the relatively early stage of environmental review and covers residential, commercial, and industrial projects. In contrast, SB 221 requires a final check on water availability for residential projects of a certain size threshold at the later stage of Subdivision Map Act approval. Despite these differences, the intents behind both laws are similar: to forge an often missing link in California’s local planning processes.¹

Today, under these water supply planning requirements, when a city or county determines that one of these larger developments is subject to CEQA, the city or county is required to identify a water system that could serve the site and any water system adjacent to the project site that is a public water system that could supply water for the development. If the city or county is not able to identify such public water systems, the city or county is required to prepare a WSA. These WSA requirements only apply to certain large-scale developments (see *Existing law*, above).

Not all “projects” under CEQA are “projects” for purposes of the above-described water supply planning requirements.

For additional background information, see the Senate Natural Resources and Water Committee analysis.

¹ Ellen Hanak, *Show Me The Water Plan: Urban Water Management Plans and California’s Water Supply Adequacy Laws*, 4 Golden Gate University Entl. L.J. (2010).

Comments

New pathway to litigate is unclear. Courts have generally found that the WSA is an advisory, informational document, and not a final agency action, and as such, can only be challenged as part of a CEQA decision on a project.²³ According to the 2nd District Court of Appeals, “The principal purposes of exhaustion requirements include avoidance of premature interruption of administrative processes; allowing an agency to develop the necessary factual background of the case; letting the agency apply its expertise and exercise its statutory discretion; and administrative efficiency and judicial economy.”²⁴ Opponents of SB 1085 are concerned that the bill could introduce new means of subjecting projects to lawsuits, which can introduce delays that jeopardize financing or increase costs. Because current law requires the WSA to be incorporated into the CEQA determination for a project, courts have never had to address the question of whether a WSA that was produced for a project exempt from CEQA could be litigated. It is unknown whether a court would find that a WSA prepared outside of the context of CEQA can be challenged separately from a city or county’s final action on a development project. To ensure that WSAs don’t slow down project approval through unnecessary litigation early in the project approval process, the Senate Local Government Committee amended SB 1085 to provide that WSAs are informational documents and not a final agency action.

Missed connections. SB 1085 seeks to close a loophole in state law resulting from recent housing legislation that allows projects that would otherwise qualify to escape the requirement for a WSA. However, the state’s show-me-the-water statutes only apply to developments with 500 or more connections, or projects with equivalent water uses. This threshold means relatively few projects undergo a WSA: since 2018, there have been fewer than two hundred housing projects entitled that contain 500 or more units, out of a total of 157,752 entitled projects (0.1%), according to calculations based on data from annual progress reports provided to the California Department of Housing and Community Development. (Because of their size, these projects account for a larger share of overall units: about 17.6% of units entitled during that time.) As a result, current statute may miss numerous smaller developments that may be nonetheless vulnerable to water supply issues. The 2010 Show Me the Water Article reviewed the efficacy of the show-me-the-water laws and indicate other areas for improvement. That review notes that, “California’s water supply-adequacy laws distinguish themselves from those of other states in the arid southwest, where state engineers directly review

² *City of Vallejo v. City of American Canyon* (2026)

³ *California Water Impact Network (C-WIN) v. Newhall County Water Dist.* (2008)

⁴ *Ibid.*

water adequacy in a significant number of cases.” SB 1085 does not propose wider changes to the WSA statutes—it simply restores the requirement for projects that are exempt from CEQA. As a result, the bill may not comprehensively address water supply issues for new developments.

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

SUPPORT: (Verified 5/11/26)

East Bay Municipal Utilities District (source)
American Planning Association, California Chapter
Association of California Water Agencies
California Coastkeeper Alliance
California Environmental Voters
California Farm Bureau
California Municipal Utilities Association
California Special Districts Association
California State Association of Counties
California Water Association
City of Sacramento
City of Sacramento Department of Utilities
Clean Earth 4 Kids
Clean Water Action California
Community Water Center
Community Alliance With Family Farmers
Contra Costa Water District
Defenders of Wildlife
Friends of the River
Irvine Ranch Water District
Las Virgenes Municipal Water District
Leadership Counsel for Justice & Accountability
Mono Lake Committee
Olivenhain Municipal Water District
Planning and Conservation League
Rancho California Water District
Regional Water Authority
San Francisco Baykeeper
San Joaquin Valley Water Collaborative Action Program
Santa Clara Valley Water District
Sierra Club California
State Building & Construction Trades Council of California

Trout Unlimited
Unite Here International Union, Afl-cio
Valley Water
Western Municipal Water District
Wholly H2O

OPPOSITION: (Verified 5/11/26)

Abundant Housing Los Angeles
California Building Industry Association
California Council for Affordable Housing
California YIMBY
SPUR

ARGUMENTS IN SUPPORT: According to the author, “SB 1085 restores an important, long-standing safeguard on water availability for large new developments that was inadvertently circumvented through recent legislation. For more than two decades, state law has required water supply assessments (WSAs) for certain large development projects to strengthen the link between land use planning and water supply planning. These assessments ensure that local governments have a clear, forward-looking understanding of whether sufficient water supplies exist to serve new development alongside existing and planned uses over a 20-year horizon.”

“Because WSAs have been a consistent part of California’s planning framework, communities have largely been able to rely on the expectation that growth would be supported by real, available water supplies. That was not always the case. Prior to these requirements, reliance on “paper water” contributed to serious consequences in some regions, particularly in the Central Valley, where communities experienced water shortages so severe that residents had to rely on bottled water for basic needs.”

“In recent years, the Legislature has appropriately focused on removing barriers to housing development, including through CEQA streamlining and exemptions. However, because WSAs are currently triggered by CEQA, these changes have had the unintended effect of removing this key planning tool for projects that still meet large development thresholds. Without a WSA, cities and counties may lack critical information about water demand and long-term supply reliability.”

“At a time when climate change is increasing pressure on California’s water systems, SB 1085 ensures that this proven planning tool remains in place to support informed decision-making and sustainable growth.”

ARGUMENTS IN OPPOSITION: According to the California Building Industry Association (CBIA), “SB 1085 creates unintended consequences that could slow down the critically needed housing projects the Legislature has worked so hard to streamline.

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“We do not believe the Legislature overlooked [WSAs] when enacting AB 130 and SB 131 last year. . . . The decision to exempt qualifying housing projects from CEQA necessarily included the WSA requirement, as it has always been embedded in the CEQA process. Advancing SB 1085 would reverse these recent policy choices. . . .”

Further, CBIA points out that “the statute requires the WSA to be submitted to the city, but is silent on what the city is required to do with it once received. Because the law does not specify whether the lead agency must make findings or condition the project based on the WSA, courts would be left to decipher legislative intent. Opponents could conceivably use this document to file an ordinary writ against the city (arguing the city ignored the WSA or approved the project arbitrarily), effectively recreating the exact type of litigation risk the CEQA exemption was designed to eliminate.” CBIA also argues that recent amendments do not “[prevent] an opponent from filing an ordinary writ of mandamus claiming the lead agency filed its ministerial duty to secure and rely upon a legally adequate WSA before issuing the approval.

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“If WSA remains a mandatory statutory step in the city’s approval timeline, CBIA would view that as an erosion of the recent permitting reform, as it would create a new legal vulnerability for housing developers.”

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