

Council Meeting of
May 1, 2012

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Public Works – Position of Support for SB 1386 (Lowenthal)

RECOMMENDATION

Recommendation of the Public Works Director that the City Council take a position in support of SB 1386, introduced by State Senator Lowenthal, that clarifies the State Water Code and eliminates duplication of function for management and storage of groundwater by municipal water districts.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

Senate Bill SB 1886 titled “Municipal Water Districts-Water Storage” was introduced by State Senator Lowenthal to clarify and rectify the State Water Code with regard to conflicting jurisdiction regarding groundwater storage and related groundwater management activities. The main purpose of the bill, as amended, is to provide statutory guidance regarding groundwater storage functions and to eliminate any potential duplication of this function, when water districts with overlapping boundaries attempt to assume this same responsibility.

State legislature granted municipal water districts the ability to acquire, distribute and store water for beneficial use under the Municipal Water District Law of 1911. When the State delegated the authority for different types of water districts, the legislature did not anticipate that different types of districts with overlapping boundaries would attempt to assert their right to perform the same functions.

In 1959, the Water Replenishment District of Southern California (WRD) was created explicitly to manage, replenish and oversee storage in the local adjacent Central and West Coast Groundwater Basins, which covers most of south Los Angeles County. For more than 50 years the primacy of the “groundwater role” of WRD had been recognized and respected by all agencies in both groundwater basins. However, in recent years the Central Basin Municipal Water District, whose primary role is to

wholesale imported water purchased from the Metropolitan Water District (MWD) to its sub agencies in the southeast portion of Los Angeles County , has attempted to insert itself into the groundwater arena, in which it has no authority, experience nor expertise. Central Basin Municipal has filed numerous actions against the Water Replenishment District in its attempt to assert primacy in groundwater functions that are already effectively and efficiently performed by WRD. These actions have resulted in an enormous expenditure of time and money by all parties in both basins. Central Basin Municipal's attempt to assert itself in groundwater management and storage matters is opposed by the vast majority of groundwater producers and water agencies in both the Central and West Coast Groundwater Basins.

To rectify this situation, SB 1386 would resolve the issue by prohibiting a municipal water district from engaging in groundwater storage activities if that district is located in a county with a population of greater than 8 million, and where at least 80% of the area of the district is included within the boundaries of an existing water replenishment district. A number of local agencies including the cities of Lakewood and Long Beach, as well as the Central Basin Water Association, the West Basin Water Association and the Southeast Water Coalition (SEWC) have taken positions supporting SB 1386. Therefore, it is recommended that that the City Council adopt a support position for SB 1386.

Respectfully submitted,

ROBERT J. BESTE
Public Works Director


By: Charles J. Schaich
Senior Administrative Analyst

CONCUR:


Robert J. Beste
Public Works Director


LeRoy J. Jackson
City Manager

Attachment: A. Copy of Amended SB 1386

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1386

Introduced by Senator Lowenthal

February 24, 2012

An act to amend ~~Section 12929.12 of, to repeal Chapter 1 (commencing with Section 12300) of Part 4.8 of Division 6 of, and to amend and renumber the heading of Chapter 1.5 (commencing with Section 12306) of Part 4.8 of Division 6 of, Section 71610 of the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1386, as amended, Lowenthal. ~~Delta Flood Protection Fund. Municipal water districts: water storage.~~

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of right to water in the district.

This bill would prohibit a district located in a county with a population greater than 8 million persons and where at least 80% of the area of the district is included within the boundaries of a water replenishment district from having specified authority relating to the storage of water.

~~Existing law establishes the Delta Flood Protection Fund in the State Treasury and states the intent of the Legislature to annually appropriate specified amounts of money in the fund to the Department of Water Resources for delta levee maintenance and delta flood protection projects. Existing law abolished the Delta Flood Protection Fund on July 1, 2010.~~

This bill would repeal obsolete provisions establishing the Delta Flood Protection Fund and would make conforming changes to existing law.

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. Section 71610 of the Water Code is amended to
2 read:

3 71610. ~~A~~(a) Except as provided in subdivision (b), a district
4 may acquire, control, distribute, store, spread, sink, treat, purify,
5 recycle, recapture, and salvage any water, including sewage and
6 storm waters, for the beneficial use or uses of the district, its
7 inhabitants, or the owners of rights to water in the district.

8 (b) For a district located in a county with a population greater
9 than 8 million persons and where 80 percent of the area of the
10 district is included within the boundaries of a water replenishment
11 district organized pursuant to Division 18 (commencing with
12 Section 60000), the district shall have no authority to do any of
13 the following:

14 (1) Manage, control, or administer the importation of water for
15 storage, or the storage of groundwater.

16 (2) Store water underground except pursuant to either of the
17 following:

18 (A) A contract with an independent holder of adjudicated
19 groundwater extraction rights within the boundaries of the district
20 and for the account of the water rights holder.

21 (B) A court order issued by a court having jurisdiction over the
22 adjudication of groundwater extraction rights within the
23 groundwater basin where storage is sought.

24 ~~SECTION 1. Chapter 1 (commencing with Section 12300) of~~
25 ~~Part 4.8 of Division 6 of the Water Code is repealed.~~

26 ~~SEC. 2. The heading of Chapter 1.5 (commencing with Section~~
27 ~~12306) of Part 4.8 of Division 6 of the Water Code is amended~~
28 ~~and renumbered to read:~~

29

30 CHAPTER 1. GENERAL PROVISIONS

31

32 ~~SEC. 3. Section 12929.12 of the Water Code is amended to~~
33 ~~read:~~

1 ~~12929.12. (a) It is the intent of the Legislature that sixty-five~~
2 ~~million dollars (\$65,000,000) of the funds that may be transferred,~~
3 ~~pursuant to paragraph (3) of subdivision (b) of Section 12937, to~~
4 ~~the California Water Fund from the California Water Resources~~
5 ~~Development Bond Fund, shall be appropriated to the~~
6 ~~Environmental Water Fund. It is the intent of the Legislature,~~
7 ~~subject to subdivision (b), to appropriate to the Environmental~~
8 ~~Water Fund one million dollars (\$1,000,000) in the 1990-91 fiscal~~
9 ~~year and eight million dollars (\$8,000,000) per year in fiscal years~~
10 ~~1991-92 to 1998-99, inclusive. However, the director, in~~
11 ~~consultation with the Department of Finance, may accelerate~~
12 ~~payments to the California Water Fund for appropriation to the~~
13 ~~Environmental Water Fund if the director deems it appropriate to~~
14 ~~do so.~~

15 ~~(b) It is the further intent of the Legislature that if the director~~
16 ~~determines that all or any portion of the amount that would~~
17 ~~otherwise be appropriated in any fiscal year to the Environmental~~
18 ~~Water Fund in accordance with subdivision (a) is required for~~
19 ~~continued construction of the State Water Resources Development~~
20 ~~System pursuant to Section 12938, the entire amount that would~~
21 ~~otherwise be appropriated to the Environmental Fund for that fiscal~~
22 ~~year shall be reduced accordingly. It is also the intent of the~~
23 ~~Legislature that any reduction in funds appropriated to the~~
24 ~~Environmental Water Fund pursuant to this subdivision be made~~
25 ~~up from funds transferred to the California Water Fund pursuant~~
26 ~~to paragraph (3) of subdivision (b) of Section 12937 in subsequent~~
27 ~~fiscal years.~~