Council Meeting of
March 23, 2010

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

Members of the Council:

SUBJECT: Public Works – Opposition to State Legislation Bill SB 1412 (Calderon). Expenditure: Not applicable

RECOMMENDATION

Recommendation of the Water Commission and the Public Works Director that the City Council take a position to oppose proposed State legislation SB 1412 (Calderon) amending the Water Replenishment Act.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

In February, State Senator Calderon introduced a bill, SB 1412, which would amend the current Water Replenishment Act. The proposed bill would require a replenishment district to impose replenishment assessments (RA) that are "basin specific" to each groundwater basin served by the district. This basin specific RA would be established by some form of engineering survey and other related factors.

In many respects this bill is similar to a prior proposed bill, AB 640, which was tabled by the State Legislature in 2007 due its consequential harm, negative impacts and general lack of support once its implications were fully understood. The Water Replenishment District of Southern California (WRD) was established to provide for the replenishment of both the West Coast (South Bay area) and adjacent Central Groundwater Basins and provide groundwater management for both basins. The current uniform RA rate levied by the Water Replenishment District has been in existence since the formation of WRD in 1959.

Over the last 50 years the issue of the uniform replenishment assessment throughout the WRD service area has been raised on numerous occasions. Each time this issue has arisen, the parties have ultimately agreed that the uniform RA was the most equitable and best suited arrangement to protect and provide for effective replenishment of the local groundwater basins, and account for the mutual interdependencies between the two basins.

Since the defeat of AB 640, parties within the Central and West Basins have made outstanding progress in finding common ground for developing a mutually advantageous conjunctive use program and in solving other basin wide problems. Conjunctive use is an important water resource management program that would provide for enhanced storage in local groundwater basins. The vast majority of parties in both the Central and West Basin have agreed that the uniform RA should be maintained to avoid delays in implementing a viable conjunctive use program, to establish a stable environment to address ongoing basin wide issues and opportunities, and avoid lengthy and costly litigation.

In summary, it is recommended that the City Council take a position opposing SB 1412, which if passed would undermine much of the progress made over the last three years in resolving local groundwater management issues. The Water Commission considered SB 1412 at its regular meeting held on March 18th. After careful consideration of this matter, the Commission took a position recommending that the City Council oppose this bill.

Respectfully submitted,

WATER COMMISSION

Alex See, Chair

By: Charles J. Schaich
Senior Administrative Analyst

CONCUR:

Jack van der Linden
Deputy Public Works Director

Robert J. Beste
Public Works Director

NOTED:

LeRoy J. Jackson
City Manager

Attachments: A. Copy of SB 1412

SENATE BILL No. 1412

Introduced by Senator Calderon

February 19, 2010

An act to amend Sections 60300, 60305, 60306, 60309, 60315, 60316, 60317, 60317.5, and 60325 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1412, as introduced, Calderon. Water replenishment districts.

(1) The Water Replenishment District Act provides for the formation of water replenishment districts. The act grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act requires the board of directors of a water replenishment district to prepare annually an engineering survey and report that includes information relating to the groundwater supplies within the district. The act requires the board to make certain determinations in connection with a decision to impose a water replenishment assessment to purchase replenishment water or to remove contaminants from the groundwater supplies of the district. The act requires the water replenishment assessment to be fixed at a uniform rate per acre-foot of groundwater produced within the district.

This bill, instead, would require information in that engineering survey and report, and those related determinations, to pertain to the groundwater in each basin within the district. The board of directors of a water replenishment district, upon determining to impose a water replenishment assessment on the production of groundwater from each groundwater basin, would be required, except as otherwise provided, to impose the assessment in an amount that is calculated to pay for costs that include the actual costs of replenishing the groundwater basin, removing contaminants from the groundwater basin, and the

administrative costs of the district. The charge would be required to be fixed at a uniform rate. The bill would make other conforming changes. By establishing these requirements on a water replenishment district, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

SECTION 1. Section 60300 of the Water Code is amended to read:

60300. Not later than the second Tuesday in February *of* each year, the board shall order an engineering survey and report to be made regarding the ~~ground water~~ *groundwater* supplies of the district. The ~~same~~ *engineering survey and report* shall include, among all other information and data ~~which~~ *that* the board may require, the following:

~~(1)~~

(a) Records, data, and other information for the consideration of the board in its determination of the annual overdraft~~;~~.

~~(2)~~

(b) Records, data, and other information for the consideration of the board in its determination of the accumulated overdraft as of the last day of the preceding water year~~;~~.

~~(3)~~

(c) A report, with supporting data, as to the total production of ~~ground water~~ *groundwater* from the ~~ground water~~ *groundwater* supplies within the *water* replenishment district during the preceding water year~~;~~.

~~(4)~~

(d) A report, with supporting data, as to the changes during the preceding water year in the pressure levels or piezometric heights of the ~~ground water~~ *groundwater* contained within pressure-level

areas of the *water* replenishment district, and as to the effects thereof upon ~~the ground water supplies~~ *each groundwater basin* within ~~such~~ *the water* replenishment district~~;~~.

~~(5)~~

(e) An estimate of the annual overdraft for the current water year and for the ensuing water year~~;~~.

~~(6)~~

(f) An estimate of the accumulated overdraft as of the last day of the current water year~~;~~.

~~(7)~~

(g) An estimate of the total production of ~~ground water~~ *groundwater* from ~~the ground water supplies~~ *each groundwater basin* within the *water* replenishment district for the current water year and for the ensuing water year~~;~~.

~~(8)~~

(h) An estimate of the changes during the current water year in the pressure levels or piezometric heights of the ~~ground water~~ *groundwater* contained within pressure-level areas of *each groundwater basin within* the *water* replenishment district, and of the effects thereof upon ~~the ground water supplies~~ *each groundwater basin* within ~~such~~ *the water* replenishment district~~;~~.

~~(9)~~

(i) An estimate of the quantity, source, and cost of water ~~available for~~ *needed to replenish the groundwater in each basin within the water* replenishment ~~of the ground water supplies~~ *district* during the ensuing water year under the provisions of Section 60315.

(j) An estimate of the total costs, including program and administrative costs, of the district during the ensuing water year.

SEC. 2. Section 60305 of the Water Code is amended to read:

60305. *(a)* On or before the second Tuesday in March of each year, and provided the *engineering* survey and report ~~called for~~ *required* by Section 60300 has been made, the board, by resolution, shall declare whether funds shall be raised to purchase water for *the* replenishment *of any groundwater basin within the district* during the next ensuing fiscal year and whether the funds shall be raised ~~either by (a) a~~ *by any of the following:*

(1) A water charge, as provided in Chapter 2 (commencing with Section 60245) of Part 5~~, (b) a~~.

(2) A general assessment, as provided in Chapter 3 (commencing with Section 60250) of Part 5~~, (c) a~~.

(3) A replenishment assessment as provided in this chapter~~, or (d) a~~.

(4) A combination of any two or more of the~~ foregoing~~ *charge or assessments described in this subdivision*, and whether the funds ~~so~~ to be raised, whether by a water charge, a general assessment, a replenishment assessment or a combination of those means, will benefit, directly or indirectly, all of the persons or real property and improvements~~ within the district~~ *overlying the groundwater basin for which replenishment water is proposed to be purchased.* ~~The~~

(b) The resolution shall also declare whether funds shall be raised to remove contaminants from *any* groundwater~~ supplies~~ *basin within the district* during the next ensuing fiscal year or to exercise any other power under Section 60224, and whether funds for that purpose shall be raised by a replenishment assessment as provided in this chapter, with a~~ like~~ statement of benefit *similar to that set forth in subdivision (a).*

SEC. 3. Section 60306 of the Water Code is amended to read:

60306. *(a)* If the board, by resolution, determines that all or a portion of the funds needed to purchase replenishment water, *for any groundwater basin within the district,*~~ or~~ to remove contaminants from the groundwater~~ supplies of~~ *basin within* the district, or to exercise any other power under Section 60224 *with regard to any groundwater basin within the district*, shall be raised by the levy of a replenishment assessment,~~ then~~ the board shall immediately publish a notice that a public hearing will be held on the second Tuesday of April for the purpose of determining whether and to what extent the estimated costs thereof for the ensuing year shall be paid for by a replenishment assessment *imposed upon the production of water from the affected groundwater basin.*~~ The~~

(b) The notice shall contain a copy of the~~ board's~~ resolution, the time and place of the hearing, and an invitation to all interested parties to attend and be heard in support of or opposition to the proposed assessment, the engineering survey and report, and the ~~board's~~ *board's* determination, and shall invite inspection of the engineering survey and report upon which the board acted. The notice shall be published in each affected county pursuant to

Section 6061 of the Government Code, at least 10 days before the hearing date.

SEC. 4. Section 60309 of the Water Code is amended to read:

60309. All evidence relevant to the engineering survey and report and the board's determination that ~~such~~ a replenishment assessment shall be levied *upon the production of water from a groundwater basin within the district* may be introduced.

SEC. 5. Section 60315 of the Water Code is amended to read:

60315. Upon completing the hearing, but no later than the second Tuesday in May, the board shall, by resolution *adopted with regard to the replenishment of any groundwater basin within the district*, find all of the following:

(a) The annual overdraft *of the groundwater basin* for the preceding water year.

(b) The estimated annual overdraft *of the groundwater basin* for the current water year.

(c) The estimated annual overdraft *of the groundwater basin* for the ensuing water year.

(d) The accumulated overdraft *of the groundwater basin* as of the last day of the preceding water year.

(e) The estimated accumulated overdraft *of the groundwater basin* as of the last day of the current water year.

(f) The total production of groundwater from the groundwater ~~supplies within the district during~~ *basin for* the preceding water year.

(g) The estimated total production of groundwater from the groundwater ~~supplies within the district~~ *basin* for the current water year.

(h) The estimated total production of groundwater from the groundwater ~~supplies within the district~~ *basin* for the ensuing water year.

(i) The changes during the preceding water year in the pressure levels or piezometric heights of the groundwater contained within pressure-level areas of the ~~district~~ *groundwater basin*, and the effects thereof upon the ~~groundwater supplies~~ *water supply* within the ~~district~~ *basin*.

(j) The estimated changes during the current water year in the pressure levels or piezometric heights of the groundwater contained within pressure-level areas of the ~~district~~ *groundwater basin*, and

the estimated effects thereof upon the groundwater ~~supplies within the district~~ *basin*.

(k) The quantity of water that should be purchased for the replenishment of the groundwater ~~supplies of the district~~ *basin* during the ensuing water year.

(*l*) The source and estimated ~~cost~~ *costs* of water available for the replenishment *of the groundwater basin*.

(m) The estimated costs of replenishing the groundwater ~~supplies~~ *basin* with the water ~~so~~ purchased.

(n) The estimated costs of purchasing, in water years succeeding the ensuing water year, that portion of the quantity of water which should be purchased for the replenishment of the groundwater ~~supplies of the district~~ *basin* during the ensuing water year, but which is estimated to be unavailable for purchase during the ensuing water year~~; estimated~~. *Estimated* costs shall be based on the estimated price of water for replenishment purposes during the ensuing water year.

(o) The estimated rate of the replenishment assessment required to be levied upon the production of groundwater from the groundwater ~~supplies within the district~~ *basin* during the ensuing fiscal year for the purposes of accomplishing the replenishment, *including the payment of a reasonable, pro rata allocation of the costs, including program and administrative costs, of the district* and providing a reserve fund to purchase in future years, when available, that portion of the quantity of water which should be purchased for the replenishment of the groundwater ~~supplies of the district~~ *basin* during the ensuing water year, but which is estimated to be unavailable for purchase during that ensuing water year.

(p) Whether any contaminants should be removed from *any* groundwater ~~supplies~~ *basin* during the ensuing fiscal year, and whether any other actions under Section 60224 should be undertaken *with regard to the groundwater basin* during the ensuing fiscal year, the estimated costs thereof, and the estimated additional rate of replenishment assessment required to be levied upon the production of groundwater from the groundwater ~~supplies within the district~~ *basin* during the ensuing fiscal year for those purposes.

(q) Whether any program for removal of contaminants *from the groundwater basin* or other actions *taken with regard to the*

groundwater basin under Section 60224 should be a multiyear program or is a continuation of a previously authorized multiyear program.

(r) The amount, if any, by which the estimated reserve funds on hand at the end of the current fiscal year will exceed the annual reserve fund limit determined pursuant to Section 60290.

SEC. 6. Section 60316 of the Water Code is amended to read:

60316. Based on the findings pursuant to Section 60315, the board shall, by resolution, determine all of the following:

(a) What portion, if any, of the estimated ~~cost~~ *costs* of purchasing water for replenishment *of a groundwater basin within the district* for the ensuing fiscal year shall be paid for by a replenishment assessment *levied upon the production of groundwater from the basin.*

(b) What portion, not exceeding 25 percent of the above portion, of the estimated ~~cost~~ *costs* of purchasing in the future that quantity of water which should be purchased during the ensuing water year *for the replenishment of a groundwater basin within the district*, but which is estimated to be unavailable during that year, shall be raised by a replenishment assessment *levied upon the production of groundwater from the basin.*

(c) What portion of the estimated costs of removing contaminants from *any* groundwater ~~supplies~~ *basin within the district* and of taking other actions under Section 60224 *with regard to the groundwater basin* during the ensuing fiscal year shall be paid for by a replenishment assessment *levied upon the production of groundwater from the basin.*

(d) What portion, if any, of the ~~cost~~ *costs* of a capital improvement project for replenishment ~~purposes~~ *of a groundwater basin within the district* shall be paid for by a replenishment assessment *levied upon the production of groundwater from the basin.*

(e) What portion, if any, of the cost of a capital improvement project undertaken pursuant to Section 60224 *with regard to a groundwater basin within the district* shall be paid for by a replenishment assessment *levied upon the production of groundwater from the basin.*

SEC. 7. Section 60317 of the Water Code is amended to read:

60317. *(a)* If the board determines that a replenishment assessment shall be levied upon the production of groundwater

from groundwater supplies within the district during the ensuing fiscal year, immediately following the making of that determination the board shall levy a replenishment assessment on the production of groundwater from ~~the~~ *each* groundwater ~~supplies~~ *basin* within the district during the fiscal year commencing on July ~~1st~~ *1* next; ~~and the~~.

(b) (1) The amount of the replenishment assessment shall be ~~fixed by the board at a uniform~~ *calculated in an amount to pay for costs that include the actual costs of replenishing the groundwater basin, the actual costs of removing the contaminants from the groundwater basin, including the undertaking of an action under Section 60224 on behalf of the groundwater basin, and the administrative costs of the district. The rate shall be a uniform* rate *calculated on the basis of the* per acre-foot *amount* of groundwater ~~so~~ produced *from the basin.* ~~The~~

(2) Notwithstanding paragraph (1), the amount of the replenishment assessment calculated for each groundwater basin shall not exceed the following amounts in the following years:

(A) ____ ($____) for 2011

(B) ____ ($____) for 2012.

(C) ____ ($____) for 2013.

(c) The producers of that groundwater shall pay the replenishment assessment to the district at the times and in the manner provided in this division. That part of the assessment levied pursuant to the determination provided in subdivision (c) of Section 60316, exclusive of any part thereof for district administrative and overhead expenses, shall not exceed 50 percent of the average assessment levied for the current and four preceding fiscal years pursuant to determinations under subdivisions (a) and (b) of Section 60316, exclusive of any part thereof for district administrative and overhead expenses.

SEC. 8. Section 60317.5 of the Water Code is amended to read:

60317.5. *(a)* Except as set forth in this section, nothing in this division prevents the use of district funds from any source for powers and functions authorized under this division. That part of a replenishment assessment levied pursuant to determinations under subdivisions (a) and (b) of Section 60316 shall not be utilized for the direct costs of prevention and removal of contaminants under subdivisions (a) and (b) of Section 60224. ~~Any~~

(b) Any part of a replenishment assessment levied pursuant to a determination under subdivision (c) of Section 60316 ~~which~~ *that* is not expended may be obligated and expended for other uses authorized by Section 60224 *that benefit the groundwater basin to which the replenishment assessment applies,* after *a* hearing and findings pursuant to Sections 60306 and 60315. ~~Any~~

(c) Any part of a replenishment assessment levied pursuant to a determination under subdivision (c) of Section 60316 ~~which~~ *that* remains unexpended and unobligated for five fiscal years after the last obligation thereof, or any shorter period which the board may by resolution determine, shall be deemed to have been levied for other costs and expenses for which a replenishment assessment is authorized under this division. ~~Funds~~

(d) Funds from a replenishment assessment, although restricted as to use, may be loaned for any use ~~for which and~~ *benefiting the groundwater basin to which the replenishment assessment applies* within the monetary limits for which~~,~~ such an assessment has been levied. Any such loan shall be for a period not longer than 18 months and shall bear interest, as nearly as practicable in the discretion of the board, at the rate which those funds might have otherwise been invested at the time of the loan.

SEC. 9. Section 60325 of the Water Code is amended to read:

60325. *(a)* The district, after the levying of the replenishment assessment, shall give notice thereof to the operators of all water-producing facilities ~~in the district~~ *overlying the groundwater basin to which the replenishment assessment applies* as disclosed by the records of ~~such~~ *the* district~~, which~~.

(b) The notice shall state the rate of replenishment assessment for each acre-foot of ~~ground water~~ *groundwater* to be produced during the ensuing fiscal year. The notice may be sent by postal card or by other first-class mail with postage prepaid by the district.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O