Assembly Bill No. 797

CHAPTER 1009

An act to add and repeal Part 2.6 (commencing with Section 10610) to Division 6 of the Water Code, relating to water conservation.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

LEGISLATIVE COUNSEL'S DIGEST

AB 797, Klehs. Water: management planning.

(1) Under existing law, local water suppliers may, but are not required to, adopt and enforce water conservation plans.

This bill would require every urban water supplier providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually to prepare and adopt, in accordance with prescribed requirements, an urban water management plan containing prescribed elements. The bill would require the plan to be filed with the Department of Water Resources, and would require the department to annually prepare and submit to the Legislature a report summarizing the status of the plans. The bill would require each supplier to periodically review its plan in accordance with prescribed requirements, would specify requirements for actions or proceedings arising under the bill, and would specify related matters.

The bill would make legislative findings and declarations in this connection.

The provisions of the bill would remain in effect only until January 1, 1991.

(2) Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

This bill would impose a state-mandated local program as its requirements would be applicable to local public agencies.

However, the bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

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

SECTION 1. Part 2.6 (commencing with Section 10610) is added to Division 6 of the Water Code, to read:

REPRINT

PART 2.6. URBAN WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATION AND POLICY

10610. This part shall be known and may be cited as the "Urban Water Management Planning Act."

10610.2. The Legislature finds and declares as follows:

(a) The waters of the state are a limited and renewable resource subject to ever increasing demands.

(b) The conservation and efficient use of urban water supplies are of statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.

10610.4. The Legislature finds and declares that it is the policy of the state as follows:

(a) The conservation and efficient use of water shall be actively pursued to protect both the people of the state and their water resources.

(b) The conservation and efficient use of urban water supplies shall be a guiding criterion in public decisions.

(c) Urban water suppliers shall be required to develop water management plans to achieve conservation and efficient use.

CHAPTER 2. DEFINITIONS

10611. Unless the context otherwise requires, the definitions of this chapter govern the construction of this part.

10611.5. "Conservation" means those measures that limit the amount of water used only to that which is reasonably necessary for the beneficial use to be served.

10612. "Customer" means a purchaser of water from a water supplier who uses the water for municipal purposes, including residential, commercial, governmental, and industrial uses.

10613. "Efficient use" means those management measures that result in the most effective use of water so as to prevent its waste or unreasonable use or unreasonable method of use.

10614. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of such an entity.

10615. "Plan" means an urban water management plan prepared pursuant to this part. A plan shall describe and evaluate reasonable and practical efficient uses and conservation activities. The components of the plan may vary according to an individual community or area's characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for

implementation shall be included in the plan.

10616. "Public agency" means any board, commission, county, city and county, city, regional agency, district, or other public entity.

10617. "Urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. This part applies only to water supplied from public water systems subject to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

CHAPTER 3. URBAN WATER MANAGEMENT PLANS

Article 1. General Provisions

10620. (a) Every urban water supplier serving water directly to customers shall, not later than December 31, 1985, prepare and adopt an urban water management plan in the manner set forth in Article 3 (commencing with Section 10640).

(b) Every person that becomes an urban water supplier after December 31, 1984, shall adopt an urban water management plan within one year after it has become an urban water supplier.

(c) An urban water supplier indirectly providing water to customers may adopt an urban water management plan or participate in areawide, regional, watershed, or basinwide urban water management planning; provided, however, an urban water supplier indirectly providing water shall not include planning elements in its water management plan as provided in Article 2 (commencing with Section 10630) that would be applicable to urban water suppliers or public agencies directly providing water, or to their customers, without the consent of those suppliers or public agencies.

(d) An urban water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide urban water management planning where those plans will reduce preparation costs and contribute to the achievement of conservation and efficient water use.

(e) The urban water supplier may prepare the plan with its own staff, by contract, or in cooperation with other governmental agencies.

10621. Each urban water supplier shall periodically review its plan at least once every five years. After the review, it shall make any amendments or changes to its plan which are indicated by the review. Amendments or changes in its plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

Article 2. Contents of Plans

10630. It is the intention of the Legislature, in enacting this part, to permit levels of water management planning commensurate with the numbers of customers served and the volume of water supplied.

10631. A plan shall include all of the following elements:

(a) Contain an estimate of past, current, and projected water use and, to the extent records are available, segregate those uses between residential, industrial, commercial, and governmental uses.

(b) Identify conservation measures currently adopted and being practiced.

(c) Describe alternative conservation measures, if any, which would improve the efficiency of water use with an evaluation of their costs and their environmental and other significant impacts.

(d) Provide a schedule of implementation for proposed actions as indicated by the plan.

(e) Describe the frequency and magnitude of supply deficiencies, including conditions of drought and emergency, and the ability to meet short-term deficiencies.

10632. In addition to the elements required pursuant to Section 10631, a plan projecting a future use which indicates a need for expanded or additional water supplies shall contain an evaluation of the following:

(a) Waste water reclamation.

(b) Exchanges or transfer of water on a short-term or long-term basis.

(c) Management of water system pressures and peak demands.

(d) Incentives to alter water use practices, including fixture and appliance retrofit programs.

(e) Public information and educational programs to promote wise use and eliminate waste.

(f) Changes in pricing, rate structures, and regulations.

10633. The plan shall contain an evaluation of the alternative water management practices identified in Sections 10631 and 10632, taking into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

Evaluation of the elements in Section 10632 shall include a comparison of the estimated cost of alternative water management practices with the incremental costs of expanded or additional water supplies, and in the course of the evaluation first consideration shall be given to water management practices, or combination of practices, which offer lower incremental costs than expanded or additional water supplies, considering all the preceding evaluation factors.

Article 3. Adoption and Implementation of Plans

10640. Every urban water supplier required to prepare a plan pursuant to this part shall prepare its plan pursuant to Article 2 (commencing with Section 10630).

The supplier shall likewise periodically review the plan as required by Section 10621, and any amendments or changes required as a result of that review shall be adopted pursuant to this article.

10641. (a) An urban water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water conservation and management methods and techniques.

(b) In order to assist urban water suppliers in obtaining needed expertise as provided for in subdivision (a), the department, upon request of an urban water supplier, shall provide the supplier with a list of persons or agencies having expertise or experience in the development of water management plans.

10642. Prior to adopting a plan, the urban water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

10643. An urban water supplier shall implement its plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan.

10644. An urban water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department within 30 days after adoption.

The department shall annually prepare and submit to the Legislature a report summarizing the status of the plans adopted pursuant to this part.

Chapter 4. Miscellaneous Provisions

10650. Any actions or proceedings to attack, review, set aside, void, or annul the acts or decisions of an urban water supplier on the grounds of noncompliance with this part shall be commenced as follows:

(a) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part, or within 18 months after commencement of urban water service by a supplier commencing that service after January 1, 1984.

(b) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be

commenced within 90 days after filing of the plan or amendment thereto pursuant to Section 10644 or the taking of that action.

10651. In any action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an urban water supplier on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the supplier has not proceeded in a manner required by law or if the action by the water supplier is not supported by substantial evidence.

10652. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans prepared and adopted under this part. Nothing in this part shall be interpreted as exempting projects for implementation of the plan or for expanded or additional water supplies from the provisions of the California Environmental Quality Act.

10653. The adoption of a plan shall satisfy any requirements of state law, regulation, or order, including those of the State Water Resources Control Board, for the preparation of water management plans or conservation plans; provided, that if the State Water Resources Control Board requires additional information concerning water conservation to implement its existing authority, nothing in this part shall be deemed to limit the board in obtaining that information. The requirements of this part shall be satisfied by any water conservation plan prepared to meet federal laws or regulations after the effective date of this part, and which substantially meets the requirements of this part, or by any existing water management or conservation plan which includes the contents of a plan required under this part.

10654. All costs incurred by an urban water supplier in developing or implementing its plan shall be borne by it unless otherwise provided for by statute.

10655. If any provision of this part or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

10656. This part shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

O