



Santa Clara Valley Water District

File No.: 18-0933

Agenda Date: 5/28/2019

Item No.: 7.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Recommended Positions on State Legislation: AB 782 (Berman) California Environmental Quality Act: Exemption for Land Transfers by Public Agencies; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

RECOMMENDATION:

Adopt a position of "Support" on: AB 782 (Berman) California Environmental Quality Act: Exemption for Land Transfers by Public Agencies.

SUMMARY:

AB 782 (Berman) California Environmental Quality Act: Exemption for Land Transfers by Public Agencies. (A-04/02/19)

Position Recommendation: Support

Priority Recommendation: 3

Current law requires the Office of Planning and Research to adopt guidelines for the implementation of the California Environmental Quality Act (CEQA). The guidelines include "categorical exemptions" which provide a list of projects that have been determined not to have a significant effect on the environment. The CEQA guidelines provide a categorical exemption for transfers of ownership in land by a public agency to preserve open space, habitat, or historical resources.

AB 782 would codify the current CEQA categorical exemptions for the acquisition, sale, or other transfer of interest in land by a public agency for certain purposes, or the granting or acceptance of funding by a public agency for those purposes, if the public agency conditions those transactions on environmental review in accordance with CEQA before making physical changes to the transferred land.

The categorical exemptions include the transfer of land for the following purposes:

- Preservation of natural conditions existing at the time of transfer, including plant and animal habitat;
- Restoration of natural conditions, including plants and animals;
- Continuing agricultural use of the land;

- Prevention of encroachment of development into flood plains;
- Preservation of historical resources; and
- Preservation of open space or lands for park purposes.

Importance to Valley Water

Valley Water is currently required to assess impacts of its water utility and watersheds projects on the environment by preparing a negative declaration, mitigated negative declaration, or environmental impact report unless an exemption is available in the guidelines or the action is not a project.

The transfer of property ownership in land by Valley Water for open space, habitat, or historical resources is currently covered by a categorical exemption allowing for the action without the need to conduct an environmental analysis. The categorical exemption is appropriate as the land being transferred cannot be altered without the appropriate CEQA analysis, thereby protecting the natural or historical state of the property.

Without the exemption, the time required for the CEQA process would cause significant delays, which could result in situations where the land transfer could be complicated and lost for other purposes.

Staff recommends that the Board adopt a position of “Support” on AB 782.

Pros

- Allows for timely transfer of land for purposes which do not impact the environment.
- Saves public agencies funding and time by not requiring CEQA.

Cons

- The exemption pertains to a very limited number of circumstances.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a

potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

Rachael Gibson, 408-630-2884