

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2156

Introduced by Assembly Member Kehoe
(Principal coauthor: Senator Alpert)

February 20, 2002

An act to add and repeal Division 22.9 (commencing with Section 32630) ~~to~~ of the Public Resources Code, relating to the San Diego River Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2156, as amended, Kehoe. San Diego River Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would, until January 1, 2010, establish the San Diego River Conservancy to acquire and direct the management of specified public lands in the San Diego River area and would prescribe the management, powers, and duties of the conservancy.

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

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

1 SECTION 1. Division 22.9 (commencing with Section
2 32630) is added to the Public Resources Code, to read:
3

1 DIVISION 22.9 SAN DIEGO RIVER CONSERVANCY

2

3

Article 1. General Provisions

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5 32630. This division shall be known, and may be cited, as the
6 San Diego River Conservancy Act.

7

8 32631. The San Diego River is a natural, historic, and
9 recreational resource in the heart of San Diego. From its
10 headwaters near the town of Julian in east San Diego County, it
11 runs 52 miles through Mission Valley before it empties into the
12 Pacific at Ocean Beach. The river has been subjected to intense
13 development in some parts; it runs through one of San Diego's
14 most populated neighborhoods and is in need of restoration,
15 conservation, and enhancement all along its length. The area
16 presents excellent opportunities for recreation, scientific research,
17 and educational and cultural activities, of value to California and
18 the nation.

18

19 (b) Given the opportunities available, the state recognizes the
20 importance of holding this land in trust to be preserved and
21 enhanced for the enjoyment of present and future generations.

21

22 (c) The San Diego River Parkway Coalition's Policy
23 Committee and Citizen's Advisory Committee, representing
24 diverse state and local interests, is developing a San Diego River
25 Parkway Concept Plan that will, in concept, outline and provide
26 a structural framework for ideas for establishing a San Diego River
27 Parkway Masterplan. It is the intent of the Legislature in enacting
28 this division to implement the coalition's recommendation for a
29 managing entity for the proposed parkway.

29

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Article 2. The San Diego River Conservancy

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32 32632. There is in the Resources Agency, the San Diego River
33 Conservancy, which is created for the following purposes:

34

35 (a) To acquire and manage public lands within the area along
36 the San Diego River, from the headwaters near ~~Santa Ysabel~~
37 *Julian* to the ocean at Ocean Beach, and to provide recreational,
38 open space, wildlife habitat, and species restoration and
39 protection, lands for educational uses within the area, and
floodwater conveyance.



1 (b) To provide for the public's enjoyment, and to enhance the
2 recreational and educational experience on public lands in the
3 territory in a manner consistent with the protection of land and
4 natural resources, as well as economic resources, in the area.

5 32633. (a) The governing board of the conservancy shall
6 consist of ~~11~~ 16 voting members and two nonvoting members.

7 (b) The voting members of the board shall consist of the
8 following:

9 (1) The Secretary of the Resources Agency, or his or her
10 designee.

11 (2) The Director of Parks and Recreation, or his or her
12 designee.

13 (3) The Director of Finance, or his or her designee.

14 (4) The Director of Fish and Game, or his or her designee.

15 (5) The Chairperson of the State Coastal Conservancy, or his or
16 her designee.

17 (6) The Mayor of the City of San Diego, or his or her designee.

18 (7) The Mayor of Santee, or his or her designee.

19 (8) The Chairperson of the San Diego County Board of
20 Supervisors, or his or her designee.

21 ~~(9) A resident of San Diego County appointed by the Speaker
22 of the Assembly, and a resident of San Diego County appointed by
23 the Senate Committee on Rules.~~

24 ~~(10)~~

25 *(9) The member of the San Diego County Board of Supervisors
26 from the second district, or his or her designee.*

27 *(10) The Assembly Member representing the 76th Assembly
28 District who is a resident of San Diego County, or his or her
29 designee who is a resident of San Diego County, and the Senator
30 representing the 39th Senate District who is a resident of San
31 Diego County, or his or her designee who is a resident of San Diego
32 County.*

33 *(11) A resident of San Diego County appointed by the
34 Governor from a list of potential members submitted by local,
35 state, and national environmental organizations that operate
36 within the County of San Diego and within the territory of the
37 conservancy and that have participated in planning for river
38 restoration or open space, or both, or river preservation.*



1 (12) *Three members of the City Council of San Diego who*
2 *represent districts that include portions of the San Diego River*
3 *selected by the City Council of San Diego.*

4 (13) *The chairperson of the San Diego River Coalition.*

5 (c) The ex officio, nonvoting members shall consist of the
6 following:

7 (1) The Executive Officer of the Wildlife Conservation Board.

8 (2) A representative selected by the board of the San Diego
9 Regional Water Authority.

10 (d) A quorum shall consist of a majority of the voting members
11 of the board, and any action of the board affecting any matter
12 before the board shall be decided by a majority vote of the voting
13 members present, a quorum being present.

14 (e) *The Mayor of San Diego, or his or her designee, shall serve*
15 *as the chairperson of the conservancy for the initial two-year*
16 *period after the date the conservancy is created.*

17 32634. (a) The voting members of the board shall serve
18 four-year terms. Any vacancy on the board shall be filled within
19 60 days from its occurrence by the appointing authority.

20 (b) No person shall continue as a member of the board if that
21 person ceases to hold the office that qualifies that person for board
22 membership. No person described in paragraphs (9) ~~and (10)~~,
23 (10), and (11) of subdivision (b) of Section 32633 shall continue
24 as a member of the board if that person ceases residency in San
25 Diego County. Upon the occurrence of those events, the person's
26 membership on the board shall automatically terminate.

27 32635. The chairperson and vice chairperson of the board
28 shall be selected by a majority of the voting members of the board
29 for two-year terms.

30

31 Article 3. Powers and Duties

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33 32636. The conservancy may employ an executive officer and
34 other staff to perform those functions that cannot be provided by
35 volunteers. *Alternatively, the conservancy may form a partnership*
36 *with the San Diego River Foundation to perform conservancy staff*
37 *and executive director functions.*

38 32637. All meetings of the board shall be subject to the
39 requirements of the Ralph M. Brown Act (Chapter 9 (commencing



1 with Section 54950) of Part 1 of Division 2 of Title 5 of the
2 Government Code).

3 32638. All members ~~shall~~ may receive reimbursement for
4 actual, necessary, and reasonable expenses. Any member of the
5 board who is not a full-time public employee shall be compensated
6 at a rate not to exceed one hundred dollars (\$100) per regular
7 meeting, not to exceed 12 regular meetings a year. Any member
8 of the board may waive compensation.

9 32639. The conservancy shall obtain and maintain adequate
10 liability insurance or its equivalent for acts or omissions of the
11 conservancy's agents, employees, volunteers, and servants.

12 32640. The jurisdiction of the conservancy includes those
13 lands or other areas that are donated to, or otherwise acquired by,
14 or are operated by the conservancy, that are located in the San
15 Diego River area.

16 32641. The conservancy shall do all of the following:

17 (a) Develop and coordinate an integrated program of resource
18 stewardship so that the entire San Diego River area is managed for
19 optimum recreational and natural resource values based upon the
20 needs and desires of the surrounding communities.

21 (b) Establish policies and priorities within the San Diego River
22 area, and conduct any necessary planning activities in accordance
23 with the purposes set forth in Section 32632.

24 (c) Give priority to related projects that create or enhance
25 opportunities that provide recreation, aesthetic improvement,
26 wildlife habitat, ~~and flood control~~ *wetlands protection, water*
27 *quality, and flood control respecting the natural course of the*
28 *waterway* in the San Diego River area.

29 (d) Approve conservancy funded projects that advance the
30 policies and priorities set forth in this division.

31 (e) The conservancy, by July 1, 2004, shall approve a master
32 plan, and prioritize and implement both of the following in
33 accordance with the master plan and with the master plan
34 recommendations:

35 (1) The acquisition of additional recreational and open space
36 and a plan for the management of lands under the jurisdiction of
37 the conservancy.

38 (2) The planned conveyance of lands acquired and restored, or
39 lands acquired, restored, and developed, to the Department of
40 Parks and Recreation or to any other public agency once the



1 acquisition and improvements have been finalized. Any such
2 transfer shall be subject to the approval of the Secretary of the
3 Resources Agency. The secretary may require all lands and
4 facilities subject to transfer to be repaired, replaced, or
5 rehabilitated to a fully operable condition, prior to the transfer
6 occurring.

7 32642. The conservancy may direct the management,
8 operation, administration, and maintenance of the lands and
9 facilities it acquires in accordance with the purposes set forth in
10 Section 32632. The conservancy may adopt regulations governing
11 the use by the public of conservancy lands and facilities and may
12 provide for the enforcement of those regulations.

13 32643. The conservancy shall determine acquisition
14 priorities and may acquire real property or any interest in real
15 property within the San Diego River area from willing sellers and
16 at fair market value or on other mutually acceptable terms, upon
17 a finding that the acquisition is consistent with the purposes of the
18 conservancy. The conservancy may acquire the property itself or
19 may coordinate the acquisition with other public agencies with
20 appropriate responsibility and available funding or land to
21 exchange. The overall objectives of the land acquisition program
22 shall be to assist in accomplishing land transactions that are
23 mutually beneficial to the landowners and the conservancy, and
24 that meet the conservancy's purposes. Neither the conservancy nor
25 the State Board of Public Works shall exercise the power of
26 eminent domain for the purposes of this division. The conservancy
27 shall have the first right of refusal to acquire public lands suitable
28 for park and open space within the conservancy's territory, and
29 may accept private or public lands offered for recreational trails or
30 private lands offered in satisfaction of delinquent taxes owed on
31 land located within the territory of the conservancy.

32 32644. The conservancy may undertake site improvement
33 projects; regulate public access; provide for restoration; ensure
34 flood control; and otherwise rehabilitate degraded areas, in
35 consultation with other public agencies with appropriate
36 jurisdiction and expertise; upgrade deteriorating facilities; and
37 construct new facilities as needed for outdoor recreation, nature
38 appreciation and interpretation, and natural resource protection.
39 These projects shall be directed by the conservancy and
40 undertaken by other public agencies, with the conservancy



1 providing overall coordination through setting priorities for
2 projects and assuring uniformity of approach.

3 32645. (a) The conservancy may award grants to local public
4 agencies, state agencies, federal agencies, and nonprofit
5 organizations for the purposes of this division.

6 (b) Grants to nonprofit organizations for the acquisition of real
7 property or interests in real property shall be subject to all of the
8 following conditions:

9 (1) The conservancy may acquire property at fair market value
10 and consistent with the Property Acquisition Law (Part 11
11 (commencing with Section 15850) of Division 3 of Title 2 of the
12 Government Code), except that the acquisition price of lands
13 acquired from public agencies shall be based on the public
14 agencies' cost to acquire the land.

15 (2) The conservancy shall approve the terms under which the
16 interest in land is acquired.

17 (3) The interest in land acquired pursuant to a grant from the
18 conservancy may not be used as security for any debt incurred by
19 the nonprofit organization unless the conservancy approves the
20 transaction.

21 (4) The transfer of land acquired pursuant to a grant shall be
22 subject to the approval of the conservancy and the execution of an
23 agreement between the conservancy and the transferee sufficient
24 to protect the interests of the conservancy.

25 (5) The conservancy shall have a right of entry and power of
26 termination in and over all interests in real property acquired with
27 state funds, which may be exercised if any essential term or
28 condition of the grant is violated.

29 (6) If the existence of the nonprofit organization is terminated
30 for any reason, title to all interest in real property acquired with
31 state funds shall immediately vest in the conservancy, except that,
32 prior to that termination, another public agency or nonprofit
33 organization may receive title to all or a portion of that interest in
34 real property, by recording its acceptance of title, together with the
35 conservancy's approval, in writing.

36 (c) Any deed or other instrument of conveyance whereby real
37 property is acquired by a nonprofit organization pursuant to this
38 section shall be recorded and shall set forth the executory interest
39 or right of entry on the part of the conservancy.



1 32646. (a) Notwithstanding any other provision of law, the
2 conservancy may lease, rent, sell, exchange, or otherwise transfer
3 any real property or interest therein or option acquired under this
4 division to a local public agency, state agency, federal agency,
5 nonprofit organization, individual, or other entity for management
6 purposes pursuant to terms and conditions approved by the
7 conservancy. The conservancy may request the Director of
8 General Services to undertake these actions on its behalf.

9 (b) The conservancy may initiate, negotiate, and participate in
10 agreements for the management of land under its ownership or
11 control with local public agencies, state agencies, federal agencies,
12 nonprofit organizations, individuals, or other entities and may
13 enter into any other agreements authorized by state or federal law.

14 32647. Local public agencies shall retain exclusive authority
15 over all zoning or land use regulations within their jurisdiction.
16 Local public agencies may enter into an agreement to transfer
17 responsibility for the management of the land located within the
18 San Diego River area to the conservancy.

19 32548. The conservancy shall restrict access on acquired
20 lands that are unsuitable for parks and open space use by entering
21 into temporary agreements with other state or local public agencies
22 for the protection of public health and safety, resource
23 management and protection, and security.

24 ~~32649. The conservancy shall do all of the following:~~

25 ~~(a) Establish policies and priorities regarding the territory~~
26 ~~within the San Diego River area, and conduct any necessary~~
27 ~~planning activities in accordance with the purposes set forth in~~
28 ~~Section 32632.~~

29 ~~(b) Give priority to related projects that create or enhance~~
30 ~~opportunities that provide recreation, aesthetic improvement,~~
31 ~~wildlife habitat, and flood control in the San Diego River area.~~

32 ~~(c) Approve conservancy-funded projects that advance the~~
33 ~~policies and priorities set forth in this division.~~

34 32650.—

35 32649. (a) The conservancy may fix and collect fees for the
36 use of any land owned or controlled, or for any service provided,
37 by the conservancy. No fee shall exceed the cost of maintaining
38 and operating the land or of providing the service for which the fee
39 is charged.



1 (b) The fee revenue and all other revenue received pursuant to
2 this division shall be deposited in the San Diego River
3 Conservancy Fund, which is hereby created in the State Treasury.
4 The money in the fund shall be expended by the conservancy, upon
5 appropriation by the Legislature, for the purposes of this division.

6 ~~32651.—~~

7 32650. The conservancy shall coordinate its actions with state
8 and local public safety agencies.

9 ~~32652.—~~

10 32651. The conservancy shall administer any funds
11 appropriated to it and any revenue generated by public agencies for
12 the San Diego River area and contributed to the conservancy, and
13 may expend those funds for capital improvements, land
14 acquisition, or support of the conservancy's operations. Subject to
15 Section 11005 of the Government Code, the conservancy may also
16 accept any revenue, money, grants, goods, or services contributed
17 to the conservancy by any public agency, private entity, or person,
18 and, upon receipt, may expend any such revenue, money, or grants
19 for capital improvements, land acquisitions, or support of the
20 conservancy's operations. *The conservancy may expend any*
21 *moneys it receives that are allocated in accordance with this*
22 *section or Sections 7048 and 78682.2 of the Water Code, as*
23 *provided in paragraph (1) of subdivision (c) of Section 5096.650,*
24 *for the acquisition and development of river parkways and for the*
25 *protection of urban streams located in territory under the*
26 *jurisdiction of the conservancy. This section is an additional*
27 *statutory authorization for the allocation of funds in accordance*
28 *with paragraph (1) of subdivision (c) of Section 5096.650.*

29 ~~32653.—~~

30 32652. The conservancy may recruit and coordinate
31 volunteers and experts to assist with conservancy projects and the
32 maintenance of conservancy lands.

33 ~~32654.—~~

34 32653. The conservancy shall coordinate its actions with state
35 and local public safety agencies.

36 ~~32655.—~~

37 32654. The conservancy shall have, and may exercise, all
38 rights and powers, expressed or implied, necessary to carry out the
39 purposes of this division, except as otherwise provided.

40 ~~32656.—~~



1 32655. The conservancy may sue and be sued.

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Article 4. Repeal

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5 32657. This division shall remain in effect only until January

6 1, 2010, and as of that date is repealed, unless a later enacted

7 statute, that is enacted before January 1, 2010, deletes or extends

8 that date.

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