

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

AMENDED IN ASSEMBLY JULY 6, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 654

**Introduced by ~~Committee on Agriculture and Water Resources~~
(~~Senators Machado (Chair), Alpert, Bowen, Ducheny, Florez,~~
~~Kuehl, Margett, Perata, and Torlakson~~) *Machado*
(*Principal coauthors: Senators Alpert, Ducheny, Escutia, and*
Kuehl)
(*Principal coauthor: Assembly Member Kehoe*)
(*Coauthors: Assembly Members Canciamilla and Vargas*)**

February 21, 2003

An act to amend Section ~~8557, 10644, and 10753.7~~ 12562 of the Water Code, *and to amend Section 1 of Chapter 617 of the Statutes of 2002*, relating to water, making an appropriation therefor, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 654, as amended, ~~Committee on Agriculture and Water Resources Machado. Water Omnibus Act of 2003~~ *Water: Salton Sea: Colorado River.*

(1) *Existing law appropriates General Fund moneys to, among other things, line portions of the All American Canal and the Coachella Branch of the All American Canal. Existing law requires the lining projects to be completed not later than December 31, 2006, or such later date as may be required by extraordinary circumstances.*

This bill would make legislative findings as to the extraordinary circumstances that prevent the lining projects from being completed by December 31, 2006, and would extend the date to December 31, 2008.

(2) Existing law makes legislative findings concerning the Salton Sea and a Quantification Settlement Agreement, including a finding that species previously designated as fully protected may be taken during activities intended to meet the state's commitment to reduce its use of Colorado River water, as long as those activities are found to comply with existing law.

This bill would, instead, make findings permitting the taking incidental to those activities.

(3) Existing law provides for a California's Colorado River Water Use Plan, and for a Quantification Settlement Agreement.

This bill would make a legislative finding and declaration that in order to resolve conflicts that have prevented the implementation of California's Colorado River Water Use Plan it is necessary to provide a mechanism to implement and allocate environmental mitigation responsibility between water agencies and the state for the implementation of the Quantification Settlement Agreement. The bill would permit the Department of Fish and Game to enter into a joint powers agreement for the purpose of providing for the payment of costs for environmental mitigation requirements, and would specify the costs to be paid by the agencies that are parties to the agreement. By authorizing the department to enter into the agreement, this bill would make an appropriation by authorizing expenditures from the continuously appropriated Fish and Game Preservation Fund.

(4) This bill would become operative only if SB 277 and SB 317 are both chaptered and become effective on or before January 1, 2004.

~~(1) Existing law requires the Reclamation Board to have its office in the City of Sacramento.~~

~~This bill would require the board to have its office in the County of Sacramento.~~

~~(2) Existing law requires an urban water supplier to prepare and update an urban water management plan, and to submit copies of the plan to the Department of Water Resources and any city or county within which the urban water supplier provides water supplies.~~

~~This bill, in addition, would require the urban water supplier to submit a copy of the plan to the California State Library.~~

~~(3) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater~~



~~management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision that establishes funding requirements for the construction of certain groundwater projects.~~

~~This bill, instead, would apply those requirements only to that provision relating to those funding requirements.~~

~~(4) The California Safe Drinking Water Bond Law of 1988 authorizes board proceeds in the California Safe Drinking Water Fund to be used for a grant program with grants provided to prescribed entities, subject to specific approval of the Legislature.~~

~~This bill would make an appropriation by authorizing the department to make grants from the fund to specified entities for the purposes of financing domestic water system improvement projects to meet state and federal drinking water standards.~~

~~(5) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 ~~SECTION 1.~~ This act shall be known and may be cited as
2 *SECTION 1. Section 12562 of the Water Code is amended to*
3 *read:*

4 12562. (a) (1) In furtherance of implementing and
5 achieving the goals of the “California Plan,” the sum of two
6 hundred million dollars (\$200,000,000) in the account shall be
7 used by the director to finance and arrange for lining portions of
8 the All American Canal and the Coachella Branch of the All
9 American Canal.

10 (2) The canal lining projects shall be completed not later than
11 December 31, ~~2006~~ 2008, or such later date as may be required by
12 extraordinary circumstances.

13 (3) The allocation of the water conserved from the canal lining
14 projects and to be made available to the Metropolitan Water
15 District of Southern California shall be consistent with federal law
16 and shall be determined by an agreement among the Metropolitan
17 Water District of Southern California, the Imperial Irrigation



1 District, the Palo Verde Irrigation District, the Coachella Valley
2 Water District, and the San Luis Rey settlement parties, reached
3 after consultation with the director and the United States Secretary
4 of the Interior.

5 (b) (1) The sum of thirty-five million dollars (\$35,000,000)
6 from the account shall be used by the director to finance the
7 installation of recharge, extraction, and distribution facilities for
8 groundwater conjunctive use programs necessary to implement
9 the “California Plan.”

10 (2) Water stored in connection with the groundwater
11 conjunctive use programs described in paragraph (1) shall be for
12 the benefit of the member public agencies of the Metropolitan
13 Water District of Southern California.

14 (3) Nothing in this subdivision limits the ability of the
15 Metropolitan Water District of Southern California to enter into
16 agreements regarding the sharing of any water made available
17 under this subdivision.

18 (c) *The Legislature finds that the extension of the date from*
19 *December 31, 2006, to December 31, 2008, for completing the*
20 *canal project linings under paragraph (2) of subdivision (a)*
21 *during the 2003 portion of the 2003–04 Regular Session is*
22 *required due to extraordinary circumstances. The Legislature*
23 *finds that there have been unforeseen construction delays, contract*
24 *award delays, and changed conditions requiring design*
25 *modifications for lining the All American Canal and the Coachella*
26 *Branch of the All American Canal, and that these circumstances*
27 *are extraordinary.*

28 SEC. 2. Section 1 of Chapter 617 of the Statutes of 2002 is
29 amended to read:

30 Section 1. (a) “Quantification Settlement Agreement”
31 means the agreement, the provisions of which are substantially
32 described in the draft Quantification Settlement Agreement
33 (QSA), dated December 12, 2000, and submitted for public review
34 by the Quantification Settlement Agreement parties, and as it may
35 be amended, and that shall include as a necessary component the
36 implementation of the Agreement for Transfer of Conserved
37 Water by and between the Imperial Irrigation District and the San
38 Diego County Water Authority, dated April 29, 1998
39 (IID/SDCWA Transfer Agreement), and as it may be amended,
40 and any QSA-related program that delivers water at the intake of



1 the Metropolitan Water District of Southern California's Colorado
2 River Aqueduct.

3 (b) It is the intent of the Legislature to allocate fifty million
4 dollars (\$50,000,000) from funds available pursuant to the Water
5 Security, Clean Drinking Water, Coastal and Beach Protection Act
6 of 2002, if it is approved by the voters at the statewide general
7 election to be held November 5, 2002 (Proposition 50), as a
8 minimum state contribution or matching contribution for federal
9 funds or funds obtained from other sources *to prepare the*
10 *restoration study*, to assist in the implementation of the preferred
11 alternative or other related restoration activities, including the
12 program referred to in paragraph (3) of subdivision (d) of Section
13 2081.7 of the Fish and Game Code, at the Salton Sea or the lower
14 Colorado River, or to assist in the development of a natural
15 community conservation plan that is consistent with the initiative
16 and that is implemented to effectuate the QSA.

17 (c) The Legislature finds that it is important to the state to meet
18 its commitment to reduce its use of water from the Colorado River
19 to 4.4 million acre-feet per year. The Legislature further finds that
20 it is important that actions taken to reduce California's Colorado
21 River water use are consistent with its commitment to restore the
22 Salton Sea, which is an important resource for the state. The
23 Legislature further finds that species previously designated as
24 fully protected may be taken ~~during~~ *incidental to* activities
25 intended to meet the state's commitment to reduce its use of
26 Colorado River water as long as those activities are found to
27 comply with existing law, including Chapter 1.5 (commencing
28 with Section 2050) of Division 3 of the Fish and Game Code.

29 (d) California's Colorado River Water Use Plan is a framework
30 developed to allow California to meet its Colorado River needs
31 from within its basic annual apportionment. California will be
32 required to reduce the amount of Colorado River water it uses by
33 up to 800,000 acre-feet per year.

34 (e) California's basic apportionment of Colorado River water
35 is 4.4 million acre-feet per year, but until recently, due to the
36 availability of surplus river water and apportioned but unused
37 water of Nevada and Arizona, California has used up to 5.2 million
38 acre-feet per year over the past ten years. About 700,000 acre-feet
39 of this additional water has been used to fill the Colorado River
40 Aqueduct, which transports water to the southern California urban



1 coast. Nevada and Arizona are now using, or are close to using,
2 their full apportionments, and California can no longer rely on that
3 surplus of water.

4 (f) The Salton Sea will eventually become too saline to support
5 its fishery and fish-eating birds unless a restoration plan is adopted
6 and implemented. The transfer of water from the Imperial
7 Irrigation District to the San Diego County Water Authority and
8 the other Quantification Settlement Agreement (QSA) parties
9 pursuant to the QSA could result in an acceleration of the rate of
10 salinization of the Salton Sea.

11 (g) Restoration of the Salton Sea is in the state and national
12 interest. Congress recognized in the Salton Sea Reclamation Act
13 of 1998, Public Law 105-372, that appropriate federal agencies
14 should offer alternative restoration options to Congress and the
15 public in order to avoid further deterioration of the internationally
16 significant habitat and wildlife values of the Salton Sea and to
17 protect the wide array of economic and social values that exist in
18 the immediate vicinity of the Salton Sea. The failure to issue that
19 report in a timely fashion has unnecessarily constrained the
20 Legislature's ability to consider fully the costs and benefits of
21 various options to restoration that should be undertaken at the
22 Salton Sea.

23 *SEC. 3. The Legislature hereby finds and declares that in*
24 *order to resolve conflicts that have prevented the implementation*
25 *of California's Colorado River Water Use Plan it is necessary to*
26 *provide a mechanism to implement and allocate environmental*
27 *mitigation responsibility between water agencies and the state for*
28 *the implementation of the Quantification Settlement Agreement as*
29 *follows:*

30 (a) *Notwithstanding any other provision of law, the*
31 *Department of Fish and Game may enter into a joint powers*
32 *agreement for the purpose of providing for the payment of costs for*
33 *environmental mitigation requirements. The Director of the*
34 *Department of Fish and Game or his or her designee shall chair*
35 *the authority created by the joint powers agreement. The joint*
36 *powers agreement shall include the following agencies:*

- 37 (1) *Coachella Valley Water District.*
38 (2) *Imperial Irrigation District.*
39 (3) *San Diego County Water Authority.*



1 (b) Costs for environmental mitigation requirements shall be
2 allocated based on an agreement among Imperial Irrigation
3 District, the Coachella Valley Water District, the San Diego
4 County Water Authority and the Department of Fish and Game and
5 shall include the following:

6 (1) Costs up to one hundred and thirty-three million dollars
7 (\$133,000,000) shall be paid by the Imperial Irrigation District,
8 the Coachella Valley Water District, and the San Diego County
9 Water Authority for environmental mitigation requirements. Those
10 costs may be paid to a joint powers authority established pursuant
11 to this section. The amount of the obligation established in this
12 paragraph shall be adjusted for inflation.

13 (2) Thirty million dollars (\$30,000,000) shall be paid by the
14 Imperial Irrigation District, Coachella Valley Water District, and
15 the San Diego County Water Authority to the Salton Sea
16 Restoration Fund as provided in paragraph (5) of subdivision (c)
17 of Section 2081.7 of the Fish and Game Code. This amount shall
18 be adjusted for inflation.

19 (c) Except for the requirements of subdivision (c) of Section
20 2081.7 of the Fish and Game Code, subdivision (f) of Section 1013
21 of the Water Code, and the provisions of subdivision (b), no further
22 funding obligations or in-kind contributions of any kind for
23 restoration of the Salton Sea shall be required of the Imperial
24 Irrigation District, the Coachella Valley Water District, the
25 Metropolitan Water District of Southern California, and the San
26 Diego County Water Authority, including federal cost-sharing or
27 other federal requirements. Any future state actions to restore the
28 Salton Sea will be the sole responsibility of the State of California.

29 (d) As used in this section, “environmental mitigation
30 requirements” means any measures required as a result of any
31 environmental review process for activities which are part of the
32 project described in the final Environmental Impact
33 Report/Environmental Impact Statement for the Imperial
34 Irrigation District Water Conservation and transfer project
35 certified by the Imperial Irrigation District on June 28, 2002, as
36 modified and supplemented by the addendum thereto prepared to
37 assess subsequent revisions to the Quantification Settlement
38 Agreement, but excluding measures required to address
39 environmental impacts:



1 (1) Within the service areas of the Coachella Valley Water
2 District, other than impacts related to the Salton Sea, the San
3 Diego County Water Authority, and the Metropolitan Water
4 District of Southern California.

5 (2) Associated with the All-American Canal and the Coachella
6 Canal Lining Projects, and measures to address socioeconomic
7 impacts.

8 (e) As used in this section, “environmental review process”
9 means any of the following:

10 (1) The conducting of any required environmental review or
11 assessment, or both.

12 (2) The obtaining of any permit, authorization, opinion,
13 assessment or agreement.

14 (3) The study or design of any required mitigation pursuant to
15 the California Environmental Quality Act, the National
16 Environmental Protection Act, the Endangered Species Act, the
17 California Endangered Species Act, the California Water Code,
18 the public trust doctrine, or any other federal or California
19 environmental resource protection law, or applicable federal or
20 California regulations regarding their implementation.

21 (f) As used in this section, “Environmental review process”
22 does not include the Lower Colorado River Multi-Species
23 Conservation Program established by the States of California,
24 Arizona, and Nevada, as it may address impacts to the Colorado
25 River.

26 SEC. 4. This act shall become operative only if SB 277 and SB
27 317 of the 2003–04 Regular Session are both chaptered and
28 become effective on or before January 1, 2004.

29 ~~the Water Omnibus Act of 2003.~~

30 ~~SEC. 2.—Section 8557 of the Water Code is amended to read:~~

31 ~~8557.—The board shall have its office in the County of~~
32 ~~Sacramento. The office is the principal place of business and legal~~
33 ~~residence of the board and of the drainage district.~~

34 ~~SEC. 3.—Section 10644 of the Water Code is amended to read:~~

35 ~~10644.—(a) An urban water supplier shall submit to the~~
36 ~~department, the California State Library, and any city or county~~
37 ~~within which the supplier provides water supplies a copy of its plan~~
38 ~~no later than 30 days after adoption. Copies of amendments or~~
39 ~~changes to the plans shall be submitted to the department, the~~



1 California State Library, and any city or county within which the
2 supplier provides water supplies within 30 days after adoption.

3 (b) The department shall prepare and submit to the Legislature,
4 on or before December 31, in the years ending in six and one, a
5 report summarizing the status of the plans adopted pursuant to this
6 part. The report prepared by the department shall identify the
7 outstanding elements of the individual plans. The department shall
8 provide a copy of the report to each urban water supplier that has
9 submitted its plan to the department. The department shall also
10 prepare reports and provide data for any legislative hearings
11 designed to consider the effectiveness of plans submitted pursuant
12 to this part.

13 SEC. 4. ~~Section 10753.7 of the Water Code is amended to~~
14 ~~read:~~

15 10753.7.—(a) For the purposes of qualifying as a groundwater
16 management plan under this section, a plan shall contain the
17 components that are set forth in this section. In addition to the
18 requirements of a specific funding program, any local agency
19 seeking state funds administered by the department for the
20 construction of groundwater projects or groundwater quality
21 projects, excluding programs that are funded under Part 2.78
22 (commencing with Section 10795), shall do all of the following:

23 (1) Prepare and implement a groundwater management plan
24 that includes basin management objectives for the groundwater
25 basin that is subject to the plan. The plan shall include components
26 relating to the monitoring and management of groundwater levels
27 within the groundwater basin, groundwater quality degradation,
28 inelastic land surface subsidence, and changes in surface flow and
29 surface water quality that directly affect groundwater levels or
30 quality or are caused by groundwater pumping in the basin.

31 (2) For the purposes of carrying out paragraph (1), the local
32 agency shall prepare a plan to involve other agencies that enables
33 the local agency to work cooperatively with other public entities
34 whose service area or boundary overlies the groundwater basin.

35 (3) For the purposes of carrying out paragraph (1), the local
36 agency shall prepare a map that details the area of the groundwater
37 basin, as defined in the department's Bulletin No. 118, and the area
38 of the local agency, that will be subject to the plan, as well as the
39 boundaries of other local agencies that overlie the basin in which
40 the agency is developing a groundwater management plan.



1 ~~(4) The local agency shall adopt monitoring protocols that are~~
2 ~~designed to detect changes in groundwater levels, groundwater~~
3 ~~quality, inelastic surface subsidence for basins for which~~
4 ~~subsidence has been identified as a potential problem, and flow~~
5 ~~and quality of surface water that directly affect groundwater levels~~
6 ~~or quality or are caused by groundwater pumping in the basin. The~~
7 ~~monitoring protocols shall be designed to generate information~~
8 ~~that promotes efficient and effective groundwater management.~~

9 ~~(5) Local agencies that are located in areas outside the~~
10 ~~groundwater basins delineated on the latest edition of the~~
11 ~~department's groundwater basin and subbasin map shall prepare~~
12 ~~groundwater management plans incorporating the components in~~
13 ~~this subdivision, and shall use geologic and hydrologic principles~~
14 ~~appropriate to those areas.~~

15 ~~(b) (1) (A) A local agency may receive state funds~~
16 ~~administered by the department for the construction of~~
17 ~~groundwater projects or for other projects that directly affect~~
18 ~~groundwater levels or quality if it prepares and implements,~~
19 ~~participates in, or consents to be subject to, a groundwater~~
20 ~~management plan, a basinwide management plan, or other~~
21 ~~integrated regional water management program or plan that meets,~~
22 ~~or is in the process of meeting, the requirements of subdivision (a).~~
23 ~~A local agency with an existing groundwater management plan~~
24 ~~that meets the requirements of subdivision (a), or a local agency~~
25 ~~that completes an upgrade of its plan to meet the requirements of~~
26 ~~subdivision (a) within one year of applying for funds, shall be~~
27 ~~given priority consideration for state funds administered by the~~
28 ~~department over local agencies that are in the process of~~
29 ~~developing a groundwater management plan. The department~~
30 ~~shall withhold funds from the project until the upgrade of the~~
31 ~~groundwater management plan is complete.~~

32 ~~(B) Notwithstanding subparagraph (A), a local agency that~~
33 ~~manages groundwater under any other provision of existing law~~
34 ~~that meets the requirements of subdivision (a), or that completes~~
35 ~~an upgrade of its plan to meet the requirements of subdivision (a)~~
36 ~~within one year of applying for funding, shall be eligible for~~
37 ~~funding administered by the department. The department shall~~
38 ~~withhold funds from a project until the upgrade of the groundwater~~
39 ~~management plan is complete.~~



1 ~~(C) Notwithstanding subparagraph (A), a local agency that~~
2 ~~conforms to the requirements of an adjudication of water rights in~~
3 ~~the groundwater basin is in compliance with subdivision (a). For~~
4 ~~purposes of this section, an “adjudication” includes an~~
5 ~~adjudication under Section 2101, an administrative adjudication,~~
6 ~~and an adjudication in state or federal court.~~

7 ~~(D) Subparagraphs (A) and (B) do not apply to proposals for~~
8 ~~funding under Part 2.78 (commencing with Section 10795), or to~~
9 ~~funds authorized or appropriated prior to September 1, 2002.~~

10 ~~(2) Upon the adoption of a groundwater management plan in~~
11 ~~accordance with this part, the local agency shall submit a copy of~~
12 ~~the plan to the department, in an electronic format, if practicable,~~
13 ~~approved by the department. The department shall make available~~
14 ~~to the public copies of the plan received pursuant to this part.~~

15 ~~SEC. 5. (a) Pursuant to Sections 14011 and 14012 of the~~
16 ~~Water Code, the Department of Water Resources may make grants~~
17 ~~from the California Safe Drinking Water Fund in accordance with~~
18 ~~the California Safe Drinking Water Bond Law of 1988 (Chapter~~
19 ~~16 (commencing with Section 14000) of Division 7 of the Water~~
20 ~~Code) to the following entities in the following accounts for the~~
21 ~~purpose of financing domestic water system improvement projects~~
22 ~~to meet state and federal drinking water standards:~~

23 ~~(1) El Nido Elementary School in Merced County for up to one~~
24 ~~hundred twenty-five thousand dollars (\$125,000).~~

25 ~~(2) Mattole Triple Junction High School in Humboldt County~~
26 ~~for up to one hundred eighty-five thousand dollars (\$185,000).~~

27 ~~(3) Orosi High School in Tulare County for up to four hundred~~
28 ~~thousand dollars (\$400,000).~~

29 ~~(4) Sequoia Union School District in Tulare County for up to~~
30 ~~four hundred thousand dollars (\$400,000).~~

31 ~~(5) Cuyama Elementary School in Santa Barbara County for up~~
32 ~~to one hundred fifty thousand dollars (\$150,000).~~

33 ~~(6) Maple School in Kern County for up to four hundred~~
34 ~~thousand dollars (\$400,000).~~

35 ~~(7) Roselawn High School in Stanislaus County for up to three~~
36 ~~hundred fifty thousand dollars (\$350,000).~~

37 ~~(8) Dehesa Elementary School in San Diego County for up to~~
38 ~~four hundred thousand dollars (\$400,000).~~

39 ~~(9) Lovell School in Tulare County for up to four hundred~~
40 ~~thousand dollars (\$400,000).~~



1 ~~(10) Citrus South Tule School in Tulare County for up to three~~
2 ~~hundred fifty thousand dollars (\$350,000).~~

3 ~~(11) Oasis School in Riverside County for up to one hundred~~
4 ~~twenty thousand dollars (\$120,000).~~

5 ~~(12) Kit Carson Elementary School in Kings County for up to~~
6 ~~three hundred fifty thousand dollars (\$350,000).~~

7 ~~(13) Piute Mountain School in Kern County for up to one~~
8 ~~hundred twenty-five thousand dollars (\$125,000).~~

9 ~~(14) Whale Gulch Elementary School in Mendocino County~~
10 ~~for up to one hundred twenty-five thousand dollars (\$125,000).~~

11 ~~(15) Pioneer Elementary School in Kings County for up to~~
12 ~~three hundred fifty thousand dollars (\$350,000).~~

13 ~~(b) The Department of Water Resources shall determine~~
14 ~~eligibility for, and the amount of, any grant authorized in~~
15 ~~subdivision (a) in accordance with the California Safe Drinking~~
16 ~~Water Bond Law of 1988 (Chapter 16 (commencing with Section~~
17 ~~14000) of Division 7 of the Water Code), and may make those~~
18 ~~grants in accordance with that bond law.~~

19 ~~SEC. 6. This act is an urgency statute necessary for the~~
20 ~~immediate preservation of the public peace, health, or safety~~
21 ~~within the meaning of Article IV of the Constitution and shall go~~
22 ~~into immediate effect. The facts constituting the necessity are:~~

23 ~~In order to remedy critical water and special district funding~~
24 ~~problems, and thereby protect the public health and safety, it is~~
25 ~~necessary that this act take effect immediately.~~

