

Introduced by Senator Kuehl

February 11, 2004

An act to amend Section 2081.7 of the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1214, as introduced, Kuehl. Salton Sea Restoration: restoration study.

(1) Existing law enacts the Salton Sea Restoration Act. Existing law requires the Secretary of the Resources Agency, in consultation with the Department of Fish and Game, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, to undertake a study to determine a preferred alternative for the restoration of the Salton Sea ecosystem. Existing law requires that the study establish an evaluation of, and suggested criteria for, a selection of alternatives that will allow for consideration of a range of alternatives, including, but not limited to, an alternative designed to sustain avian biodiversity at the Salton Sea, but not maintain elevation for the whole sea, an alternative to maintain salinity at or below current conditions and elevation near 230 feet below mean sea level under a variety of inflow conditions, and a most cost-effective technical alternative.

This bill would recast that requirement to require that the study establish a process consistent with the Salton Sea Restoration Act that would provide for the development of a range of alternatives for the restoration of the Salton Sea that includes consideration of strategies for salinity control, habitation creation and restoration, and different shoreline elevations and surface area configurations.

(2) Existing law establishes the Fish and Game Preservation Fund, a fund that is continuously appropriated to the department to carry out the programs and policies contained in the Fish and Game Code.

By changing the parameters of the restoration study and thereby imposing new duties on the department, this bill would make an appropriation.

Vote: 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. Section 2081.7 of the Fish and Game Code is
2 amended to read:

3 2081.7. (a) Notwithstanding Sections 3511, 4700, 5050, and
4 5515, and contingent upon the fulfillment of the conditions listed
5 in subdivisions (b), (c), and (d), the department may authorize,
6 under Chapter 1.5 (commencing with Section 2050) or Chapter 10
7 (commencing with Section 2800), the take of species resulting
8 from impacts attributable to the implementation of the
9 Quantification Settlement Agreement, as defined in subdivision
10 (a) of Section 1 of ~~the act that added this section during the~~
11 ~~2001-02 Regular Session Chapter 617 of the Statutes of 2002~~, on
12 all of the following:

13 (1) The salinity, elevation, shoreline habitat, or water quality of
14 the Salton Sea.

15 (2) The quantity and quality of water flowing in the All
16 American Canal, the Coachella Canal, the Imperial Valley and
17 Coachella Valley drains, the New and Alamo Rivers, the Coachella
18 Valley Stormwater Channel, and the habitat sustained by those
19 flows.

20 (3) Agricultural lands in the Imperial Valley.

21 (4) The quantity and quality of water flowing in the Colorado
22 River, the habitat sustained by those flows, and the collection of
23 that water for delivery to authorized users.

24 (b) The Quantification Settlement Agreement is executed by
25 the appropriate parties on or before October 12, 2003.

26 (c) The department has determined that the appropriate
27 agreements have been executed to address environmental impacts
28 at the Salton Sea that include enforceable commitments requiring
29 all of the following:



1 (1) Imperial Irrigation District to transfer 800,000 acre-feet of
2 conserved water, by conservation methods selected by the
3 Imperial Irrigation District, to the Department of Water Resources
4 on a mutually agreed upon schedule in exchange for payment of
5 one hundred seventy-five dollars (\$175) per acre-foot. The price
6 shall be adjusted for inflation on an annual basis.

7 (2) Imperial Irrigation District to transfer up to 800,000
8 additional acre-feet of conserved water, by conservation methods
9 selected by the Imperial Irrigation District, to the Department of
10 Water Resources during the first 15 years of the Quantification
11 Settlement Agreement on the schedule established for the
12 mitigation water that was previously to be transferred to the San
13 Diego Water Authority, or on a mutually agreed upon schedule, at
14 no cost for the water in addition to the payment for the water from
15 the mitigation fund described in paragraph (1) of subdivision (b)
16 of Section 3 of ~~Senate Bill 654 of the 2003-04 Regular Session~~
17 *Chapter 613 of the Statutes of 2003*.

18 (3) As a condition to acquisition of the water described in
19 paragraph (1), the Department of Water Resources shall be
20 responsible for any environmental impacts, including Salton Sea
21 salinity, related to use or transfer of that water. As a condition to
22 acquisition of the water described in paragraph (2), the
23 Department of Water Resources shall be responsible for
24 environmental impacts related to Salton Sea salinity that are
25 related to the use or transfer of that water.

26 (4) The Metropolitan Water District of Southern California
27 (MWD) to purchase up to 1.6 million acre-feet of the water
28 provided in accordance with paragraphs (1) and (2) from the
29 Department of Water Resources at a price of not less than two
30 hundred fifty dollars (\$250) per acre-foot on a mutually agreed
31 upon schedule. The price shall be adjusted for inflation on an
32 annual basis. The Department of Water Resources shall deposit all
33 proceeds from the sale of water pursuant to this paragraph, after
34 deducting costs and reasonable administrative expenses, into the
35 Salton Sea Restoration Fund *established in Section 2932*.

36 (5) The Metropolitan Water District of Southern California to
37 pay not less than twenty dollars (\$20) per acre-foot for all special
38 surplus water received by MWD as a result of reinstatement of
39 access to that water under the Interim Surplus Guidelines by the
40 United States Department of Interior subtracting any water



1 delivered to Arizona as a result of a shortage. The money shall be
2 paid into the Salton Sea Restoration Fund. The price shall be
3 adjusted for inflation on an annual basis. Metropolitan Water
4 District of Southern California shall receive a credit against future
5 mitigation obligations under the Lower Colorado River
6 Multi-Species Conservation Plan for any funds provided under
7 this paragraph to the extent that those funds are spent on projects
8 that contribute to the conservation or mitigation for species
9 identified in the Lower Colorado River Multi-Species
10 Conservation Plan and that are consistent with the preferred
11 alternative for Salton Sea restoration.

12 (6) Coachella Valley Water District, Imperial Irrigation
13 District, and San Diego County Water Authority to pay a total of
14 thirty million dollars (\$30,000,000) to the Salton Sea Restoration
15 Fund as provided in paragraph (2) of subdivision (b) of Section 3
16 of ~~Senate Bill 654 of the 2003-04 Regular Session Chapter 613 of~~
17 *the Statutes of 2003*.

18 (d) All of the following conditions are met:

19 (1) The requirements of subdivision (b) and (c) of Section 2081
20 are satisfied as to the species for which take is authorized.

21 (2) The take authorization provides for the development and
22 implementation, in cooperation with federal and state agencies, of
23 an adaptive management process for monitoring the effectiveness
24 of, and adjusting as necessary, the measures to minimize and fully
25 mitigate the impacts of the authorized take. The adjusted measures
26 are subject to Section 2052.1.

27 (3) The take authorization provides for the development and
28 implementation in cooperation with state and federal agencies of
29 an adaptive management process that substantially contributes to
30 the long-term conservation of the species for which take is
31 authorized. Preparation of the adaptive management program and
32 implementation of the program is the responsibility of the
33 department. The department's obligation to prepare and
34 implement the adaptive management program is conditioned upon
35 the availability of funds pursuant to the Water Security, Clean
36 Drinking Water, Coastal and Beach Protection Act of 2002, if it is
37 approved by the voters at the statewide general election to be held
38 November 5, 2002 (Proposition 50), or other funds that may be
39 appropriated by the Legislature or approved by the voters for that
40 purpose. The failure to appropriate funds does not relieve the



1 applicant of the obligations of paragraphs (1) and (2). However,
2 the applicant shall not be required to fund any program pursuant
3 to this paragraph.

4 (4) The requirements of paragraph (1) may be satisfied if the
5 take is authorized under Chapter 10 (commencing with Section
6 2800).

7 (e) (1) The Secretary of the Resources Agency, in consultation
8 with the department, the Department of Water Resources, the
9 Salton Sea Authority, appropriate air quality districts, and the
10 Salton Sea Advisory Committee, shall undertake a restoration
11 study to determine a preferred alternative for the restoration of the
12 Salton Sea ecosystem and the protection of wildlife dependent on
13 that ecosystem. The restoration study shall be conducted pursuant
14 to a process with deadlines for release of the report and
15 programmatic environmental documents established by the
16 secretary, in consultation with the department, the Department of
17 Water Resources, the Salton Sea Authority, and the Salton Sea
18 Advisory Committee. The secretary shall use all available
19 authority to enter into a memorandum of understanding (MOU)
20 with the Secretary of the Interior, as provided in Section
21 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998 (P.L.
22 105-372) for the purpose of obtaining federal participation in the
23 restoration of the Salton Sea.

24 (2) The restoration study shall establish all of the following:

25 ~~(A) An evaluation of and suggested criteria for the selection of~~
26 ~~alternatives that will allow for consideration of a range of~~
27 ~~alternatives including, but not limited to, an alternative designed~~
28 ~~to sustain avian biodiversity at the Salton Sea, but not maintain~~
29 ~~elevation for the whole sea, an alternative to maintain salinity at~~
30 ~~or below current conditions and elevation near 230 feet below~~
31 ~~mean sea level under a variety of inflow conditions, and a most~~
32 ~~cost-effective technical alternative~~ *A process for the development*
33 *of a range of alternatives for the restoration of the Salton Sea that*
34 *includes consideration of strategies for salinity control, habitation*
35 *creation and restoration, and different shoreline elevations and*
36 *surface area configurations. The alternatives shall consider the*
37 *range of possible inflow conditions. The process established*
38 *pursuant to this subparagraph shall also include suggested*
39 *criteria for selecting and evaluating the alternatives consistent*
40 *with Chapter 13 (commencing with Section 2930).*



1 (B) An evaluation of the magnitude and practicability of costs
2 of construction, operation, and maintenance of each alternative
3 evaluated.

4 (C) A recommended plan for the use or transfer of water
5 provided by paragraph (2) of subdivision (c). No water may be
6 transferred pursuant to that subdivision unless the secretary finds
7 that transfer is consistent with the preferred alternative for Salton
8 Sea restoration.

9 (D) The selection of a preferred alternative consistent with
10 Section 2931, including a proposed funding plan to implement the
11 preferred alternative.

12 (3) The study identifying the preferred alternative shall be
13 submitted to the Legislature on or before December 31, 2006.

14 (4) The Secretary of the Resources Agency shall establish an
15 advisory committee for purposes of this subdivision as follows:

16 (A) The advisory committee shall be selected to provide
17 balanced representation of the following interests:

- 18 (i) Agriculture.
- 19 (ii) Local governments.
- 20 (iii) Conservation groups.
- 21 (iv) Tribal governments.
- 22 (v) Recreational users.
- 23 (vi) Water agencies.
- 24 (vii) Air pollution control districts.

25 (B) Appropriate federal agency representatives may be asked
26 to serve in an ex officio capacity.

27 (C) The Resources Agency shall consult with the advisory
28 committee throughout all stages of the alternative selection
29 process.

30 (f) This section shall not be construed to exempt from any other
31 provision of law the Quantification Settlement Agreement and the
32 Agreement for Transfer of Conserved Water by and between the
33 Imperial Irrigation District and the San Diego County Water
34 Authority, dated April 29, 1998.

