

Introduced by Senator FlorezFebruary 24, 2006

An act to amend Sections 8521, 8550, 8551, 8552, and 8554 of, to add Sections 8577, 8578, and 8614.5 to, and to repeal and add Article 2 (commencing with Section 8580) to Chapter 2 of Part 4 of Division 5 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1796, as introduced, Florez. Reclamation Board.

(1) Existing law establishes the 7-member Reclamation Board in the Department of Water Resources. Existing law requires the board members to be appointed and to serve at the pleasure of the Governor. Existing law prescribes compensation for each board member for time spent attending meetings of the board in the amount of \$100, except as specified. Existing law requires the board to elect one of its members as president. Existing law requires the board to appoint a secretary, who may be a board member, and authorizes the board to appoint a general manager, a chief engineer, and an assistant secretary. Existing law authorizes the board to employ certain other employees.

This bill would rename the Reclamation Board the Central Valley Flood Protection Board. The bill would declare that the board is a state agency that is separate from the department and would require the board to function independently of the department.

The board would require the board to consist of 9 members. The bill would require 7 members to be appointed by the Governor, subject to Senate confirmation, 4 of whom would be required to meet specified eligibility requirements and 3 of whom would be designated as public members. The bill would require one board member to be appointed by the Senate Rules Committee and one board member to be appointed by the Speaker of the Assembly and would designate those

2 members as public members. The bill, with a certain exception, would require the board members to serve 4-year terms. The bill would require the board members to receive a salary identical to that received by members of the State Air Resources Board. The bill would require the Governor to select one of the board members as president. The bill would subject the board members to specified requirements relating to conflict of interest and ex parte communications.

The bill would repeal provisions relating to the appointment or employment of specified personnel and, instead, authorize the board to appoint an executive officer and to employ legal counsel and other necessary staff.

(2) Existing law authorizes the board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas.

This bill would require the board, on or before January 1, 2008, to prepare and adopt a strategic flood control plan. The bill would require the board to establish and update, every 5 years, standards for levee construction, operation, and maintenance. The bill would require the board to review local and regional land use plans to ensure their compliance with flood protection and public safety standards adopted by the board. The bill would require the board to review and revise, as necessary, flood control plans adopted by local public agencies. By establishing requirements on local public agencies in connection with flood control plans, the bill would impose a state-mandated local program. The bill would prohibit the board from allocating any funds to a local public agency for a flood control project unless the board determines that project ensures adequate flood protection.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 8521 of the Water Code is amended to
2 read:

3 8521. “Board” means the ~~Reclamation~~ *Central Valley Flood*
4 *Protection Board. Any reference to the Reclamation Board in this*
5 *or any other code means the Central Valley Flood Protection*
6 *Board.*

7 SEC. 2. Section 8550 of the Water Code is amended to read:

8 8550. (a) The ~~Reclamation Board~~ *board* is continued in
9 existence ~~within the department, but the board~~ *and shall continue*
10 *to exercise and have all of its powers, duties, purposes,*
11 *responsibilities, and jurisdiction.*

12 (b) *Notwithstanding any other provision of law, the board is a*
13 *state agency that is separate from, and shall function*
14 *independently of, the department.*

15 SEC. 3. Section 8551 of the Water Code is amended to read:

16 8551. ~~The~~ (a) *Except as provided in subdivision (g), the*
17 *board consists of seven nine members who are appointed by and*
18 *serve at the pleasure of the Governor who shall be appointed in*
19 *accordance with this section.*

20 (b) (1) *Seven members of the board shall be appointed by and*
21 *serve at the pleasure of the Governor, subject to Senate*
22 *confirmation.*

23 (2) *Of the members appointed pursuant to paragraph (1), the*
24 *following requirements apply:*

25 (A) *One person shall be an engineer.*

26 (B) *One person shall be a hydrogeologist.*

27 (C) *One person shall be a flood control expert with not less*
28 *than five years experience.*

29 (D) *One person shall be an attorney with water experience.*

30 (E) *Three persons shall be public members.*

31 (c) *One member of the board shall be appointed by the Senate*
32 *Rules Committee.*

33 (d) *One member of the board shall be appointed by the*
34 *Speaker of the Assembly.*

35 (e) *The member appointed pursuant to subdivision (c) or (d)*
36 *shall be a public member.*

1 (f) (1) *Except as provided in paragraph (2), the board*
 2 *members appointed pursuant to subdivision (b), (c), or (d) shall*
 3 *serve four-year terms.*

4 (2) *The board members initially appointed pursuant to this*
 5 *section shall determine, by lot, that five members shall serve*
 6 *four-year terms and four members shall serve two-year terms.*

7 (g) *Each board member holding office on December 31, 2006,*
 8 *shall continue to serve until his or her successor is appointed and*
 9 *has been qualified to hold office.*

10 SEC. 4. Section 8552 of the Water Code is amended to read:

11 8552. (a) ~~Each member of the board shall receive the~~
 12 ~~necessary expenses incurred by the member in the performance~~
 13 ~~of official duties, and each member of the board that is neither~~
 14 ~~eligible for nor receives any salary or other compensation for~~
 15 ~~time spent attending meetings of the board shall receive one~~
 16 ~~hundred dollars (\$100) for each day attending the meetings of the~~
 17 ~~board, except that no member shall be compensated for more~~
 18 ~~than 40 days in any one fiscal year.~~

19 ~~In addition to the amounts above provided, any~~

20 (b) *Any member of the board traveling outside the state*
 21 *pursuant to authorization of the board, and the approval of the*
 22 *Governor and Director of Finance as provided by Section 11032*
 23 *of the Government Code, while so engaged shall receive that per*
 24 *diem and his or her necessary expenses.*

25 (c) *Each member of the board shall receive the salary*
 26 *provided for in Section 11564 of the Government Code.*

27 SEC. 5. Section 8554 of the Water Code is amended to read:

28 8554. ~~The board Governor shall elect~~ *select one of its the*
 29 *members of the board as president.*

30 SEC. 6. Section 8577 is added to the Water Code, to read:

31 8577. (a) *No member of the board shall participate in any*
 32 *board action or attempt to influence any decision or*
 33 *recommendation by any employee of or consultant to the board*
 34 *that involves himself or herself or that involves any entity with*
 35 *which the member is connected as a director, officer, consultant,*
 36 *or full- or part-time employee, or in which the member has a*
 37 *direct personal financial interest within the meaning of Section*
 38 *87100 of the Government Code.*

39 (b) *No board member shall participate in any proceeding*
 40 *before any agency as a consultant or in any other capacity on*

1 behalf any person of that actively participates in matters before
2 the board.

3 (c) For a period of 12 months after leaving office, a former
4 board member shall not act as agent or attorney for, or otherwise
5 represent, any other person before the board by making any
6 formal or informal appearance or by making any oral or written
7 communication to the board.

8 (Added by Stats. 1989, Ch. 1095, Sec. 22.)

9 SEC. 7. Section 8578 is added to the Water Code, to read:

10 8578. (a) For the purposes of this section, “ex parte
11 communication” means any oral or written communication
12 concerning matters, other than purely procedural matters, under
13 the board’s jurisdiction that are subject to a vote.

14 (b) (1) No board member or any person, excluding a staff
15 member of the board acting in his or her official capacity, who
16 intends to influence the decision of a board member on a matter
17 before the board, shall conduct an ex parte communication.

18 (2) If an ex parte communication occurs, the board member
19 shall notify the interested party that a full disclosure of the ex
20 parte communication shall be entered in the board’s record.

21 (3) Communications cease to be ex parte communications
22 when either of the following occurs:

23 (A) The board member or the person who engaged in the
24 communication with the board member fully discloses the
25 communication and requests in writing that it be placed in the
26 board’s official record of the proceeding.

27 (B) When two or more board members receive substantially
28 the same written communication, or are party to the same oral
29 communication, from the same party on the same matter, and a
30 single board member fully discloses the communication on
31 behalf of the other board member or members who received the
32 communication and requests in writing that it be placed in the
33 board’s official record of the proceeding.

34 (c) Notwithstanding Section 11425.10 of the Government
35 Code, the ex parte communications provisions of the
36 Administrative Procedure Act (Article 7 (commencing with
37 Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title
38 2 of the Government Code) do not apply to proceedings of the
39 board to which this section applies.

1 (Amended by Stats. 1995, Ch. 938, Sec. 84. Effective January
2 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

3 SEC. 8. Article 2 (commencing with Section 8580) of
4 Chapter 2 of Part 4 of Division 5 of the Water Code is repealed.

5 SEC. 9. Article 2 (commencing with Section 8580) is added
6 to Chapter 2 of Part 4 of Division 5 of the Water Code, to read:

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Article 2. Employees

10 8580. (a) The board may appoint an executive officer.

11 (b) The board may employ legal counsel and other necessary
12 staff.

13 SEC. 10. Section 8614.5 is added to the Water Code, to read:

14 8614.5. (a) On or before January 1, 2008, the board shall
15 prepare and adopt a strategic flood control plan that includes
16 identifying the areas of greatest threat to flooding. The board
17 shall make relevant maps available to the public and shall post
18 these maps on its Internet Web site.

19 (b) The board shall establish and update, at a minimum, every
20 five years, standards for levee construction, operation, and
21 maintenance.

22 (c) The board shall review local and regional land use plans to
23 ensure their compliance with flood protection and public safety
24 standards adopted by the board.

25 (d) The board shall review flood control plans adopted by
26 local public agencies to ensure that those plans adequately
27 protect public safety. The board shall revise those plans to ensure
28 adequate flood protection if the board determines that the plans
29 are insufficient for flood protection purposes.

30 (e) The board shall not allocate any funds to a local public
31 agency for a flood control project unless the board determines
32 that project ensures adequate flood protection.

33 SEC. 11. If the Commission on State Mandates determines
34 that this act contains costs mandated by the state, reimbursement
35 to local agencies and school districts for those costs shall be
36 made pursuant to Part 7 (commencing with Section 17500) of
37 Division 4 of Title 2 of the Government Code.

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