

AMENDED IN SENATE MAY 6, 2008

**SENATE BILL**

**No. 1256**

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**Introduced by Senator Ducheny**

February 15, 2008

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An act to add Division 14 (commencing with Section 16600) to the Fish and Game Code, relating to the Salton Sea Restoration Council.

LEGISLATIVE COUNSEL'S DIGEST

SB 1256, as amended, Ducheny. Salton Sea Restoration Council.

(1) 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 a specified advisory committee, to undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. Existing law establishes the Salton Sea Restoration Fund, which is administered by the Director of Fish and Game, and requires the moneys in that fund to be expended, upon appropriation by the Legislature, for various actions on behalf of the Salton Sea, including the implementation of the preferred Salton Sea restoration alternative.

This bill would establish the Salton Sea Restoration Council as a state agency in the Resources Agency to implement certain preferred alternative activities set forth in the agency's Salton Sea Ecosystem Restoration Program, to develop and implement, or finance, additional pilot or demonstration projects to improve *the* water quality-~~at~~ *of* the Salton Sea, to restore the Salton Sea ecosystem, and to take other actions ~~on behalf of~~ *to enhance* the sea.

The bill would prescribe requirements relating to the composition and administration of the council. The council would be required to

include an executive committee, a science committee, a local government forum, and a stakeholder forum, as specified. By requiring certain local public agencies to serve on the executive committee of the council, the bill would impose a state-mandated local program. ~~The Board of Directors of the Salton Sea Authority would be responsible for certain duties relating to the government forum. By establishing duties on the authority, which is a joint powers agency that is composed of local public agencies, the bill would impose a state-mandated local program.~~

~~The Secretary of the Resources Agency would have final decisionmaking authority with regard to the administration of the council. The executive committee would be required to serve as the governing body of the council, and would be required to manage project development and implementation provide guidance and oversight on behalf of the restoration program. The Department of Fish and Game would be required to provide staff services that the council requires to carry out its activities and to enter into interagency agreements with the Department of Water Resources and other state agencies to provide appropriate levels of staffing from existing resources of the state.~~

(2) 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. Division 14 (commencing with Section 16600)
- 2 is added to the Fish and Game Code, to read:
- 3
- 4 DIVISION 14. SALTON SEA RESTORATION COUNCIL
- 5
- 6 16600. The Legislature finds and declares all of the following:
- 7 (a) The Salton Sea is California's largest inland water body with
- 8 beneficial uses that include fisheries and wildlife habitat,

1 preservation of endangered species, and a repository for agricultural  
2 drainage.

3 (b) The Salton Sea ecosystem is a critical link on the  
4 international Pacific Flyway and supports over 400 species of  
5 birds.

6 (c) The Salton Sea is threatened by increasing salinity and  
7 reduced inflows. These changes increasingly threaten unparalleled  
8 wildlife resources at the sea, as well as air quality in the region.

9 (d) In cooperation with local governments, nonprofit  
10 organizations, private business, and the public, the Salton Sea  
11 Restoration Council can help protect wildlife habitats and  
12 endangered species, improve water and air quality, and enhance  
13 recreational opportunities in the region.

14 16601. Unless the context otherwise requires, the definitions  
15 set forth in this section govern the construction of this division.

16 (a) “Agency” means the Resources Agency.

17 (b) *“Controlled eutrophication project” means a nutrient*  
18 *reduction process that assimilates nutrients into algal biomass,*  
19 *and physically removes or harvests the algal biomass from the*  
20 *water column.*

21 ~~(b)~~

22 (c) “Council” means the Salton Sea Restoration Council.

23 ~~(e)~~

24 (d) “Final PEIR” means the Resources Agency’s Salton Sea  
25 Ecosystem Restoration Program Final Programmatic  
26 Environmental Impact Report, dated May 2007.

27 (e) *“Habitat mosaics” means two or more proximate habitat*  
28 *types, such as saltwater shoreline abutting riverine deltas and*  
29 *irrigated farmland.*

30 ~~(d)~~

31 (f) “Salton Sea watershed” means the geographic boundaries of  
32 the Salton Sea basin, defined as the United States Geologic Survey  
33 Hydrologic Unit 18100200 (“Salton Sea”).

34 ~~(e)~~

35 (g) “Sea” means the Salton Sea.

36 ~~(f)~~

37 (h) “Secretary” means the Secretary of the Resources Agency.

38 ~~(g)~~

1 (i) “Upper Basin” refers to the four Colorado River states of the  
2 Upper Division, ~~namely~~, including Colorado, New Mexico, Utah,  
3 and Wyoming.

4 (j) “Upper Basin selenium reduction projects” means projects  
5 of the Gunnison Basin Task Force and Grand Valley Selenium  
6 Task Force and other similar Upper Basin source control projects  
7 that could decrease the total amount of selenium in the inflows to  
8 the Salton Sea.

9 (k) “Vector management” means services that eliminate or  
10 reduce the risk of illness caused by any organism transporting a  
11 pathogen.

12 16602. There is in the Resources Agency the Salton Sea  
13 Restoration Council, which is established as a state agency to carry  
14 out, to the maximum extent ~~feasible~~ possible, all of the following,  
15 working in collaboration with local governments and interested  
16 parties:

17 (a) ~~Implement~~ Give first priority to implementing each of the  
18 agency’s Salton Sea Ecosystem Restoration Program Preferred  
19 Alternative “Period I” activities, as described in Chapter 3 of  
20 Volume I of the Final PEIR, to the extent that these activities have  
21 not already been completed by other entities. *The activities*  
22 *identified in “Period I” include conducting a demonstration*  
23 *project, “early start habitat,” conducting additional biological,*  
24 *inflow, sediment quality, water quality, and air quality*  
25 *investigations, conducting geotechnical and hazards surveys and*  
26 *analyses, coordinating with the Torres Martinez Band of Desert*  
27 *Cahuila Indians and other stakeholders, executing land access*  
28 *and utility agreements, and preparing project level environmental*  
29 *documentation and final design.*

30 (b) *Implement, as funding is made available for those purposes,*  
31 *the remaining priorities identified in subdivisions (c) to (k),*  
32 *inclusive.*

33 ~~(b)~~

34 (c) Develop and implement or finance additional pilot or  
35 demonstration projects to assess the efficacy of methods to improve  
36 water quality ~~at~~ of the Salton Sea, including, but not limited to,  
37 both of the following:

38 (1) Controlled eutrophication projects.

39 (2) Upper Basin selenium reduction projects.

40 ~~(e)~~

- 1 (d) Restore the Salton Sea ecosystem.
- 2 ~~(d)~~
- 3 (e) Permanently protect the fish and wildlife dependent on the
- 4 Salton Sea ecosystem.
- 5 ~~(e)~~
- 6 (f) Restore the long-term stable aquatic and shoreline habitat to
- 7 achieve the historic levels and the diversity of fish and wildlife
- 8 that depend on the Salton Sea.
- 9 ~~(f)~~
- 10 (g) Eliminate air quality impacts from the restoration projects
- 11 *using the best available technology as defined by the South Coast*
- 12 *Air Quality Management District and the Imperial County Air*
- 13 *Pollution Control District.*
- 14 ~~(g)~~
- 15 (h) Protect water quality.
- 16 ~~(h)~~
- 17 (i) Maintain the sea as a vital link along the international Pacific
- 18 Flyway.
- 19 ~~(i)~~
- 20 (j) Preserve local tribal heritage and cultural values associated
- 21 with the sea.
- 22 ~~(j)~~
- 23 (k) Eliminate noxious odors and other water and air quality
- 24 problems.
- 25 ~~(k)~~
- 26 (l) Implement the agency's Salton Sea Ecosystem Restoration
- 27 Program Preferred Alternative, as revised, working in collaboration
- 28 with local governments and interested parties to address funding
- 29 constraints and other related matters.
- 30 16603. The council shall also carry out both of the following
- 31 actions, to the extent these actions are compatible with the actions
- 32 described in Section 16002:
- 33 (a) Implement project components that promote the sea as a
- 34 tourist destination and recreational area.
- 35 (b) Promote economic development associated with the
- 36 restoration plan.
- 37 16604. (a) The council shall consist of the following groups:
- 38 (1) An executive committee.
- 39 (2) A science committee.
- 40 (3) A local government forum.

- 1 (4) A stakeholder forum.
- 2 (b) The executive committee shall consist of 14 voting members
- 3 and seven nonvoting members, appointed or designated as follows:
- 4 (1) The 14 voting members of the executive committee shall
- 5 consist of all of the following:
- 6 (A) The Director of Fish and Game.
- 7 (B) The Director of Water Resources.
- 8 (C) The Director of Parks and Recreation.
- 9 (D) The Chairperson of the State Water Resources Control
- 10 Board.
- 11 (E) The Chairperson of the State Air Resources Board.
- 12 (F) One public member appointed by the Governor, who is not
- 13 an elected official and who represents a statewide public health
- 14 organization.
- 15 (G) One public member appointed by the Speaker of the
- 16 Assembly, who is not an elected official and who represents a
- 17 statewide hunting or fishing organization.
- 18 (H) One public member appointed by the Senate Committee on
- 19 Rules, who is not an elected official and who represents a statewide
- 20 environmental organization.
- 21 (I) One member from, and selected by, the Imperial County
- 22 Board of Supervisors.
- 23 (J) One member from, and selected by, the Riverside County
- 24 Board of Supervisors.
- 25 (K) One member from, and selected by, the Board of Directors
- 26 of the Coachella Valley Water District.
- 27 (L) One member from, and selected by, the Board of Directors
- 28 of the Imperial Irrigation District.
- 29 (M) One member selected by the Tribal Council of the
- 30 ~~Torres-Martinez~~ *Torres Martinez* Band of Desert Cahuilla Indians,
- 31 if that council agrees to do so.
- 32 (N) One member selected by the Tribal Council of the Cabazon
- 33 ~~Tribe~~ *Band* of Mission Indians, if that council agrees to do so.
- 34 (2) The members appointed pursuant to subparagraphs (F) to
- 35 (H), inclusive, of paragraph (1) shall serve one term of four years,
- 36 and may be reappointed to one additional term.
- 37 (3) A state, local, or tribal official who is a member of the
- 38 executive committee may designate a member of his or her
- 39 executive staff to vote on his or her behalf and otherwise discharge
- 40 the duties of the member when the member is not in attendance.

1 Notice of this designation shall be promptly communicated in  
2 writing to the chairperson of the executive committee.

3 (4) The nonvoting members of the executive committee shall  
4 consist of all of the following, as they may be available:

5 (A) The lead scientist.

6 (B) One representative of the United States Environmental  
7 Protection Agency.

8 (C) One representative of the United States Bureau of  
9 Reclamation.

10 (D) One representative of the United States Fish and Wildlife  
11 Service.

12 (E) One representative of the United States Army Corps of  
13 Engineers.

14 (F) One representative of the United States Geological Survey.

15 (G) One representative of the Bureau of Land Management.

16 (c) (1) The science committee shall consist of the lead scientist  
17 and national and locally recognized experts familiar with  
18 large-scale wetlands and marine restoration efforts and  
19 knowledgeable about the application of adaptive management  
20 protocols and long-term monitoring. The science committee shall  
21 also include experts in dike design and dredging, water treatment,  
22 and hydraulics.

23 (2) (A) The lead scientist shall be appointed by the United  
24 States Geological Survey Salton Sea Science Office, if that office  
25 agrees to do so.

26 (B) If the United States Geological Survey Salton Sea Science  
27 Office does not appoint the lead scientist, the lead scientist shall  
28 be appointed by the executive committee.

29 (C) The lead scientist shall nominate other experts for  
30 membership on the science committee, subject to confirmation by  
31 the executive committee.

32 (d) The local government forum shall include elected  
33 representatives from within the Salton Sea watershed and may  
34 include local air pollution control officials. ~~The Board of Directors  
35 of the Salton Sea Authority shall be responsible for all of the~~  
36 *council shall request the Salton Sea Authority to assist the council*  
37 *by doing all of the following:*

38 (1) Inviting local elected representatives to join the forum.

39 (2) Convening and organizing regular meetings of the forum.

1 (3) Transmitting information from the executive committee to  
2 the forum.

3 (4) Transmitting recommendations and suggestions from the  
4 forum to the executive committee.

5 (e) The stakeholder forum shall consist of interested parties, as  
6 determined by the executive committee, with demonstrated  
7 long-term, ongoing interest in the restoration plan and shoreline,  
8 representing the following categories:

9 (1) Persons associated with local businesses and community  
10 service districts.

11 (2) Farmers.

12 (3) Persons associated with environmental organizations.

13 (4) Persons associated with public access and recreational  
14 interests.

15 (5) Persons associated with public infrastructure.

16 (6) Community advocates.

17 (7) Persons associated with geothermal companies.

18 (8) Persons associated with public works.

19 (9) Public health officials.

20 (10) Tribal and elected local and state officials.

21 ~~16605. (a) The Secretary of the Resources Agency has final~~  
22 ~~decisionmaking authority with regard to the administration of the~~  
23 ~~council. The secretary shall review all disputes in which a~~  
24 ~~unanimous decision cannot be reached by the executive committee.~~

25 ~~(b) (1) The executive committee shall serve as the governing~~  
26 ~~body of the council and shall manage project development and~~  
27 ~~implementation, administer all project elements, and provide~~  
28 ~~overall guidance and oversight on behalf of the restoration program.~~

29 ~~(2) The executive committee shall provide the overall leadership~~  
30 ~~for the planning and implementation process and shall be~~  
31 ~~responsible for all components of the planning and implementation~~  
32 ~~effort, including, but not limited to:~~

33 *16605. (a) (1) The executive committee shall serve as the*  
34 *governing body of the council and shall provide overall guidance*  
35 *and oversight on behalf of the restoration program.*

36 *(2) The executive committee shall provide the overall leadership*  
37 *for the planning of the restoration program. The Department of*  
38 *Fish and Game shall implement and be responsible for all*  
39 *components of the planning, including, but not limited to, all of*  
40 *the following:*

- 1 (A) Overall plan design.
- 2 (B) Project proposal review and selection.
- 3 (C) Contracting.
- 4 (D) Land access and acquisition of easements.
- 5 (E) Project management.
- 6 (F) Biological and physical monitoring, including air quality.
- 7 (G) Public participation and outreach.
- 8 (H) Public policy impacts and analysis.
- 9 (I) Budgeting ~~and funding~~.
- 10 (J) Dispute resolution.
- 11 (K) Integration of the planning process with air quality
- 12 management, public health, and other regulatory entities.
- 13 (L) Governmental relations.

14 (3) ~~The voting members of the executive committee shall make~~  
15 ~~decisions by unanimous decision, if possible. When voting~~  
16 ~~members cannot achieve a unanimous decision, the voting members~~  
17 ~~shall determine matters by majority vote. The Secretary of the~~  
18 ~~Resources Agency shall review any decision made by majority~~  
19 ~~vote~~ *executive committee shall make decisions by a two-thirds*  
20 *majority of the total number of voting members. The voting*  
21 *members may recuse themselves from a decision if they choose.*

22 (4) (A) The voting members of the executive committee shall  
23 elect, annually from among the voting members, a chairperson, a  
24 vice chairperson, and other officers as necessary. The officers may  
25 be reelected.

26 (B) ~~The offices of chairperson and vice chairperson shall not~~  
27 ~~both be filled by persons identified in subparagraphs (A) to (E),~~  
28 ~~inclusive, of paragraph (1) of subdivision (b) of Section 16604, or~~  
29 ~~by persons identified in subparagraphs (I) to (N), inclusive, of~~  
30 ~~paragraph (1) of subdivision (b) of Section 16604.~~ *be held*  
31 *concurrently by any of the persons in the following categories:*

32 (i) *Persons identified in subparagraphs (A) to (E), inclusive, of*  
33 *paragraph (1) of subdivision (b) of Section 16604.*

34 (ii) *Persons identified in subparagraphs (F) to (H), inclusive,*  
35 *of paragraph (1) of subdivision (b) of Section 16604.*

36 (iii) *Persons identified in subparagraphs (I) to (N), inclusive,*  
37 *of paragraph (1) of subdivision (b) of Section 16604.*

38 (C) If the office of chairperson or vice chairperson becomes  
39 vacant, a new chairperson or vice chairperson shall be elected by

1 the voting members of the executive committee to serve for the  
2 remainder of the term.

3 (D) ~~Nine~~ Ten of the voting members shall constitute a quorum  
4 for the transaction of the business of the executive committee. The  
5 executive committee shall adopt rules, regulations, and procedures  
6 for the conduct of business by the executive committee.

7 (5) The executive committee shall hold the majority of its  
8 regularly scheduled meetings within the Salton Sea watershed.

9 (e)

10 (b) The science committee shall do all of the following:

11 (1) Provide best available science and engineering oversight to  
12 the overall planning and implementation processes.

13 (2) Provide periodic review of local technical investigations  
14 pertaining to the restoration plan design and implementation.

15 (3) Consult with and advise the stakeholder forum, under the  
16 direction of the lead scientist.

17 (4) Provide guidance on ongoing short-term planning activities.

18 (5) Develop a science program for the collection, synthesis, and  
19 dissemination of best available science to support long-term  
20 restoration activities and adaptive management.

21 (d)

22 (c) The local government forum shall facilitate communication  
23 between local governments and landowners, the executive  
24 committee, and the stakeholder forum on the progress of plan  
25 development and implementation.

26 (e)

27 (d) (1) The stakeholder forum shall provide ongoing, publicly  
28 derived input to the executive committee relating to habitat  
29 objectives and actions, types and levels of public access, and  
30 integration of air quality management and habitat restoration.

31 (2) The stakeholder forum shall assist the executive committee  
32 and other council members to gain a broader understanding of  
33 public and interest group perspectives.

34 (3) The stakeholder forum shall provide focused review and  
35 discussion, and shall seek to achieve consensus on significant  
36 matters, including the following:

37 (A) Discussion and general agreement on design opportunities  
38 and constraints, and integration of the habitat, public access, and  
39 air quality management objectives.

40 (B) Public access and recreational components.

1 (C) Opportunities for economic development.

2 (D) Habitat mosaics and location.

3 (E) Vector management and predator control.

4 ~~(F)~~

5 (e) All members of the executive committee and the science  
6 committee may be reimbursed for their actual and necessary  
7 expenses, including travel expenses, incurred in attending meetings  
8 of the council and the respective committee and carrying out the  
9 duties of their office.

10 ~~(g)~~

11 (f) The Salton Sea Restoration Council may do the following:

12 (1) Sue and be sued.

13 (2) Enter into contracts pursuant to Article 4 (commencing with  
14 Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of  
15 the Government Code, for services requiring knowledge,  
16 experience, and ability not possessed by the council's staff.

17 (3) Enter into other agreements with public agencies, private  
18 entities, and persons necessary for the proper discharge of its duties.

19 ~~(h) (1) It is the intent of the Legislature that funds from sources  
20 other than the General Fund be expended to carry out this division.~~

21 (g) (1) *Only funds deposited in the Salton Sea Restoration Fund  
22 or other nonstate funds may be expended to carry out this division.  
23 The Legislature may allocate General Fund moneys to carry out  
24 this division.*

25 (2) All funds available for the Salton Sea Ecosystem Restoration  
26 Program, from federal, state, local, private, or other sources shall  
27 be deposited into the Salton Sea Restoration Fund, established in  
28 Section 2932.

29 (3) The council shall advise the Director of Fish and Game with  
30 regard to the expenditure of funds from the Salton Sea Restoration  
31 Fund.

32 16606. (a) (1) The secretary shall select, in consultation with  
33 the executive committee, the executive director of the council.

34 (2) The executive director shall be exempt from civil service  
35 and shall serve at the pleasure of the executive committee.

36 (3) For purposes of this division, the executive director shall be  
37 an employee of the Resources Agency.

38 (b) The Department of Fish and Game shall provide the staff  
39 services that the council requires to carry out its functions,  
40 including, but not limited to, all of the following:

- 1 (1) Administering grants and expenditures made available to  
2 the council from the Salton Sea Restoration Fund or other sources,  
3 including, but not limited to, block grants from other state boards,  
4 commissions, or departments.
- 5 (2) Administering contracts.
- 6 (3) Arranging meetings, agendas, and other administrative  
7 functions.
- 8 (4) Communication and public outreach, including all of the  
9 following:
- 10 (A) Public meetings with interested parties, presentations, and  
11 workshops.
- 12 (B) A regularly updated project-specific Web site.
- 13 (C) Electronic mail and paper newsletters in English and  
14 Spanish.
- 15 ~~(e) The Director of Fish and Game shall enter into interagency~~  
16 ~~agreements with the Department of Water Resources and other~~  
17 ~~agencies as necessary to provide the appropriate level of staffing~~  
18 ~~from the state's existing resources to carry out the functions of the~~  
19 ~~council.~~
- 20 (5) *Conducting biological investigations.*
- 21 *(c) The Director of Fish and Game and the Director of Water*  
22 *Resources shall enter into interagency agreements with each other*  
23 *to provide the appropriate level of staffing from the states's existing*  
24 *resources to carry out the functions of the council.*
- 25 *(d) The Director of Fish and Game shall enter into interagency*  
26 *agreements with other state agencies to provide the appropriate*  
27 *level of staffing from the state's existing resources to carry out the*  
28 *functions of the council.*
- 29 16607. (a) The council's jurisdiction is limited to the Salton  
30 Sea watershed; within the State of California.
- 31 (b) This division does not grant to the council any of the  
32 following authority:
- 33 (1) Any authority of a city or county or tribal government to  
34 regulate land use.
- 35 (2) Any authority to regulate activities on land, unless the  
36 regulation is carried out pursuant to an agreement with an owner  
37 of an interest in the land.
- 38 (3) Authority over water rights held by others.
- 39 (4) Any air quality regulatory authority.

1     SEC. 2. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

O