

AMENDED IN ASSEMBLY APRIL 1, 2009
AMENDED IN ASSEMBLY MARCH 12, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 13

**Introduced by Assembly Members ~~Salas and Buchanan~~ Member
Salas
(Principal coauthor: Assembly Member Huffman)
(Coauthor: Assembly Member Caballero)**

December 1, 2008

An act to add Division 29 (commencing with Section 80500) to the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Salas. Sacramento-San Joaquin Delta Conservancy.

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

This bill would establish the Sacramento-San Joaquin Delta Conservancy to provide policy oversight, foster implementation of, and manage funds to implement the restoration and management of habitat and lands in the Sacramento-San Joaquin Delta and Suisun Marsh, and to develop and implement projects to address the economic viability of the Delta region, consistent with a comprehensive Delta sustainability program.

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

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

SECTION 1. Division 29 (commencing with Section 80500) is added to the Water Code, to read:

DIVISION 29. SACRAMENTO-SAN JOAQUIN DELTA
CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

80500. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Conservancy Act.

80501. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta is a unique and valued area, warranting recognition and special legal status from the State of California. The Delta is a place of natural beauty, with historic towns, productive farming, and close-knit communities. The Delta is an integral part of the largest estuary on the West Coast of the Americas, connecting rivers originating in the Sierra Nevada to the Pacific Ocean. The Delta is also an indispensable part of the Pacific Flyway. These values should be preserved and protected.

(b) Numerous federal, state, and local agencies have overlapping and conflicting legal responsibility and authority to protect the Delta, but no single agency has the authority for restoration of the Delta ecosystem. In recent years, the Department of Fish and Game has reported substantial declines in the Delta's ecosystem health. Several agencies, including the Department of Water Resources, have participated in interagency efforts to address the Delta ecosystem crisis, but recent years have seen interagency conflict over the manner in which ~~best to~~ to best protect the Delta ecosystem.

(c) In 2008, the Delta Vision Blue Ribbon Task Force, created pursuant to Executive Order S-17-06, adopted a comprehensive, strategic plan for the Delta. The strategic plan states that a healthy Delta ecosystem and sustainable Delta water supply are of coequal importance.

(d) The Delta Vision Blue Ribbon Task Force recommends the statutory creation of a Delta conservancy to implement ecosystem restoration projects to achieve the ecosystem goals of the strategic plan or a subsequent comprehensive plan for Delta sustainability.

80502. For the purposes of this division, the following terms have the following meanings:

(a) “~~Bay-Delta~~ Bay Delta Conservation Plan” means the plan prepared pursuant to the Planning Agreement regarding the Bay Delta Conservation Plan, dated October 6, 2006.

(b) “Blue Ribbon Task Force” means the Delta Vision Blue Ribbon Task Force created by Executive Order S-17-06.

(c) “Board” means the governing board of the Sacramento-San Joaquin Delta Conservancy.

(d) “Comprehensive Delta sustainability program” or “program” means a comprehensive Delta sustainability program intended to restore and manage habitat and restore ecosystem function in the Sacramento-San Joaquin Delta and Suisun Marsh and to preserve the economic viability of the Delta *consistent with the plan adopted by the Delta Ecosystem and Water Council pursuant to Section 80505*.

(e) “Conservancy” means the Sacramento-San Joaquin Delta Conservancy.

(f) “Delta” means the Sacramento-San Joaquin Delta as defined in Section 12220.

(g) “Delta counties” means the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo.

(h) “Habitat conservation plan” means a plan prepared under Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, or a plan prepared under Section 10 of the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(i) “Local public agency” means a city, county, district, or joint powers authority.

(j) “Nonprofit organization” means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of Title 26 of the United States Code, and that has among its principal charitable purposes preservation of land for scientific, recreational, scenic, or open-space opportunities; protection of the natural environment, or preservation or enhancement of wildlife; preservation of cultural and historical resources; or, efforts to provide for the enjoyment of public lands.

(k) “Regional conservancy” means a conservancy within the Natural Resources Agency.

(l) “Suisun Marsh” means the Suisun Marsh as defined in Section 29101 of the Public Resources Code.

1 CHAPTER 2. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

2
3 80505. (a) There is in the Natural Resources Agency the
4 Sacramento-San Joaquin Delta Conservancy, which is created as
5 a state agency for the purposes of, and to carry out the authority
6 given to it under, this division.

7 (b) The conservancy shall, *as its primary purpose*, provide
8 policy oversight, foster implementation of, and manage funds to
9 implement, the restoration and management of habitats and lands
10 for the sustainability of native species biodiversity and ecosystem
11 function, ~~consistent with a~~ *pursuant to the* comprehensive Delta
12 sustainability program. ~~Consistent with that program plan adopted~~
13 *by the Delta Ecosystem and Water Council. Consistent with that*
14 *plan*, the conservancy shall also develop and implement projects
15 to address the economic viability of the Delta region.

16 80506. (a) The board shall consist of 11 voting members as
17 follows:

18 (1) The Secretary of the Natural Resources Agency, or his or
19 her designee.

20 (2) The Director of Finance, or his or her designee.

21 (3) Five members, each of whom shall represent one of the Delta
22 counties, selected by the board of supervisors of each county. An
23 alternate shall be selected for each of these members by the board
24 of supervisors of each Delta county.

25 (4) Two public members appointed by the Governor.

26 (5) One public member appointed by the Speaker of the
27 Assembly.

28 (6) One public member appointed by the Senate Committee on
29 Rules.

30 (b) The board shall also include the following ex officio,
31 nonvoting members:

32 (1) The Director of Fish and Game, or his or her designee.

33 ~~(2) The Chair of the State Water Resources Control Board, or~~
34 ~~his or her designee.~~

35 ~~(2) The Chair of the Delta Protection Commission, or his or~~
36 ~~her designee.~~

37 (3) An executive officer of the San Francisco Bay Conservation
38 and Development Commission, or his or her designee.

39 ~~(4) An executive officer of the State Coastal Conservancy, or~~
40 ~~his or her designee.~~

1 (c) The conservancy shall request nonvoting participation by
2 appropriate federal agencies.

3 (d) Each Delta member, as described in paragraph (3) of
4 subdivision (a), shall serve a five-year term, except for those
5 initially selected. The initial members shall select from among
6 themselves one member to serve one year, one member to serve
7 two years, one member to serve three years, one member to serve
8 four years, and one member to serve five years. The Delta members
9 may be reappointed at the end of their term and any vacancy during
10 a term of office may be filled by the appointing entity.

11 (e) Each public member shall be appointed for a four-year term,
12 except that one of the public members initially appointed by the
13 Governor shall serve a one-year term, one of the public members
14 initially appointed by the Speaker of the Assembly shall serve a
15 two-year term, and one of the public members initially appointed
16 by the President Pro Tempore of the Senate shall serve a three-year
17 term. Public members may be reappointed at the end of their term
18 and any vacancy during a term of office may be filled by the
19 appointing entity.

20 (f) The public members shall be selected to reflect either the
21 diversity of interests in the Delta or statewide interests as they
22 relate to the authorities and mission of the conservancy. Public
23 members shall be compensated for attendance at regular meetings
24 of the board at the rate of one hundred dollars (\$100) per day and
25 shall be reimbursed for actual reasonable and necessary expenses
26 for attending meetings and carrying out the duties of their office.

27 (g) The members shall elect annually from among them a chair
28 and vice chair and other officers as necessary.

29 (h) A majority of the members shall constitute a quorum for the
30 transaction of the business of the board, and a majority vote of the
31 members present at a meeting where a quorum exists shall be
32 binding with respect to all matters acted on by the board.

33 (i) The board shall appoint an executive officer of the
34 conservancy and employ other staff as necessary to execute the
35 powers and functions provided for under this division.

36 (j) The board may rent or own real property and equipment
37 pursuant to applicable statutes and regulations.

38 (k) The board may enter into contracts with private entities and
39 public agencies to procure consulting and other services to achieve
40 the purposes of this division.

1 80507. The board shall establish and coordinate the
2 conservancy's activities in consultation with an advisory
3 committee. The advisory committee shall include, but shall not be
4 limited to, one representative of each of the following:

- 5 (a) The Department of Water Resources.
- 6 (b) The State Coastal Conservancy.
- 7 (c) The State Water Resources Control Board.
- 8 (d) The Suisun Resource Conservation District.
- 9 (e) The Yolo Basin Foundation.
- 10 (f) Each reclamation district with responsibility for levees
11 located within the Delta.

12
13 CHAPTER 3. POWERS, DUTIES, AND LIMITATIONS
14

15 80510. (a) Except as provided in subdivision (b), the
16 jurisdiction and activities of the conservancy are limited to the
17 Delta and Suisun Marsh.

18 (b) The conservancy may take or fund an action outside of the
19 Delta and Suisun Marsh if the board makes all of the following
20 findings:

21 (1) The project is consistent with the ecosystem goals of the
22 comprehensive Delta sustainability program.

23 (2) The project will result in measurable benefits to the Delta
24 ecosystem.

25 (3) The conservancy has given notice to, and will coordinate
26 with, the respective local jurisdictions, and ~~where, if~~ applicable,
27 regional conservancies where the project is located.

28 (c) This division does not limit, expand, or otherwise affect the
29 authorities and responsibilities of any local public agency, state
30 department or agency, or agency of the United States, except that
31 the conservancy has the authority to review and approve ecosystem
32 projects located within the boundaries of the Delta proposed for
33 implementation by any other state agency, to determine consistency
34 with the comprehensive Delta sustainability program. *The*
35 *conservancy shall not assume responsibility for any activity of any*
36 *other state agency, unless that state agency is authorized by law,*
37 *and offers, to transfer the responsibility to the conservancy.*

38 (d) The conservancy has no power to regulate land use or any
39 activities on land, except as the owner of an interest in the land,
40 or pursuant to an agreement with, or a license or grant of

1 management authority from, the owner of an interest in the land,
2 or as specified in an agreement with a person or entity to which
3 the conservancy has transferred an interest in land, or which has
4 accepted a grant to manage an interest in land for the purposes of
5 this division. *A determination by the conservancy, pursuant to this*
6 *subdivision, that the management of an interest in land is consistent*
7 *with the purposes of this division may be appealed to the Delta*
8 *Ecosystem and Water Council. Upon appeal, the Delta Ecosystem*
9 *and Water Council shall have final authority to make that*
10 *determination.*

11 80511. (a) The conservancy shall implement habitat restoration
12 and management projects to achieve the ecosystem goals of the
13 comprehensive Delta sustainability program.

14 (b) The conservancy shall cooperate, coordinate, and consult,
15 as necessary or appropriate, with any other agency or department
16 of the state, local public agency, or agency of the United States
17 having regulatory or other responsibility related to the authorities
18 and mission of the conservancy.

19 (c) The conservancy shall take whatever actions are reasonably
20 necessary and incidental to the management of lands under its
21 ownership or control.

22 (d) The conservancy shall improve, restore, and enhance lands
23 under its ownership or control consistent with the purpose for
24 which the land was acquired.

25 (e) The conservancy shall coordinate or assist in the
26 implementation of local, state, and federal ecosystem projects,
27 including the Bay Delta Conservation Plan and other overlapping
28 or adjacent habitat conservation plans.

29 (f) (1) The conservancy shall develop and implement projects,
30 consistent with the *comprehensive Delta sustainability* program,
31 to maintain the economic and social viability of the Delta region.

32 (2) Projects developed and implemented pursuant to this
33 subdivision may include, but shall not be limited to, projects that
34 do one or more of the following:

35 (A) Provide recreational opportunities and appropriate public
36 access to natural resources in the Delta.

37 (B) Protect the viability of agriculture and Delta communities
38 in the Delta, including physical and business infrastructure.

39 (C) Promote wildlife-friendly agriculture.

1 (D) Promote agricultural practices that reduce greenhouse gas
2 emissions and increase carbon sequestration.

3 (E) Support the growth of agricultural tourism.

4 (F) Protect the viability of the Delta's legacy communities.

5 (G) Address the impacts from the implementation of the
6 program.

7 (g) The conservancy shall coordinate with appropriate scientific
8 entities to conduct necessary scientific studies.

9 (h) The conservancy shall assume responsibility, if offered, for
10 local, state, federal, and private lands, or the management of those
11 lands, within the Delta or Suisun Marsh.

12 80512. (a) In order to carry out the duties and responsibilities
13 of this division, the conservancy may do all of the following:

14 (1) Accept, acquire, and hold real property, and interests in real
15 property, from willing sellers or transferors in the name of, and
16 on behalf of, the state for the purposes of implementing the
17 comprehensive Delta sustainability program.

18 (2) Make grants or loans to local public agencies, nonprofit
19 organizations, state agencies, and federal agencies, including grants
20 and loans for the acquisition of real property, or interests in real
21 property, from willing sellers or transferors.

22 (3) Use funds to directly undertake, or contract with ~~local public~~
23 ~~agencies, nonprofit organizations, state agencies, and federal~~
24 ~~agencies~~ *public agencies and nonprofit organizations* to undertake
25 appropriate actions identified in the program.

26 (4) Enter into agreements and intergovernmental agreements
27 with ~~local public agencies, nonprofit organizations, private entities,~~
28 ~~state agencies, and federal agencies~~ *and private entities* for the
29 implementation, including construction and management, of
30 appropriate projects identified in the program.

31 (5) Acquire and hold any permits or other authorizations
32 necessary to carry out its responsibilities.

33 (6) Implement projects or grant funds to address flood issues
34 associated with conservancy projects.

35 (b) To the extent practicable, the conservancy shall use
36 easements and cooperative agreements to achieve ecosystem
37 restoration goals.

38 (c) The conservancy does not have the power of eminent
39 domain.

1 80513. The board shall report to the Legislature and Governor
2 annually on the progress towards implementation of the measures
3 identified in the comprehensive Delta sustainability program
4 intended to restore and manage habitat in the Delta and Suisun
5 Marsh.

6 80514. (a) The conservancy's expenses may be paid from the
7 conservancy's operating budget, if one is provided for, and other
8 funding sources available to the conservancy. Up to 5 percent of
9 any funds appropriated by the Legislature may be expended to pay
10 the administrative costs of the conservancy's expenses. Any funds
11 appropriated by the Legislature to the conservancy may be used
12 for grants or direct expenditure. The conservancy shall comply
13 with all applicable provisions of law related to the appropriated
14 funds in administering any funds appropriated by the Legislature.

15 (b) The conservancy also may accept both of the following:

16 (1) Funds provided by participants in the Bay Delta
17 Conservation Plan or other habitat conservation plans for
18 implementation of those plans, to be managed consistent with those
19 plans.

20 (2) Gifts, donations, bequests, devises, subventions, grants,
21 rents, royalties, and other funds from public and private funds.