

**ASSEMBLY BILL**

**No. 1**

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**Introduced by Assembly Members Fuller, Jeffries, and Nielsen**

October 26, 2009

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An act to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29763, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29722.7, 29728.5, 29759, 29773, 29773.5, and 29778.5 to, to add Division 22.3 (commencing with Section 32300) to, to repeal Section 29762 of, and to repeal and add Sections 29736, 29739, 29753, 29761, 29761.5, and 29764 of, the Public Resources Code, and to amend Sections 1052, 1055, 1055.2, 1538, 1551, 1825, 1845, 1846, 5101, 5103, 5107 of, to add Section 5100.5 to, to add Part 2.55 (commencing with Section 10608) and Part 2.11 (commencing with Section 10920) to Division 6 of, to add Division 35 (commencing with Section 85000) to, to repeal Section 5108 of, to repeal Division 26.4 (commencing with Section 79400) of, to repeal and add Section 12924 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, relating to public resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1, as introduced, Fuller. Public resources.

(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term

resource management plan for specified lands within the Sacramento-San Joaquin Delta.

This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of commission members from 23 to 15 members, as specified. The bill would require the commission to appoint at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the Delta. The bill would require the commission to adopt, not later than July 1, 2011, an economic sustainability plan containing specified elements and would require the commission to review and, as determined to be necessary, amend the plan every 5 years.

The bill would require the commission to prepare and submit to the Legislature, by July 1, 2010, recommendations on the potential expansion of or change to the primary zone or the Delta.

The bill would establish the Delta Investment Fund in the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be required to be expended by the commission to implement the regional economic sustainability plan.

The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to act as a primary state agency to implement ecosystem restoration in the Delta and to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to use conservation easements to accomplish ecosystem restoration whenever feasible. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent with the Delta Plan and certain other plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation by the Legislature, to finance projects, including ecosystem restoration and economic sustainability projects.

(2) Existing law requires the Secretary of the Natural Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations

for implementing a specified strategic plan relating to the sustainable management of the Delta.

This bill would enact the Sacramento-San Joaquin Delta Reform Act of 2009. The bill would establish the Delta Stewardship Council as an independent agency of the state. The council would be required to consist of 7 members appointed in a specified manner. The bill would specify the powers of the council. The bill would require the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan), meeting specified requirements. The bill would require a state or local public agency that proposes to undertake certain proposed actions that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. By imposing these requirements on a local public agency, the bill would impose a state-mandated local program. The bill would establish an appeal process by which a person may claim that a proposed action is inconsistent with the Delta Plan, as prescribed.

The bill would impose requirements on the Department of Water Resources in connection with the preparation of a specified Bay Delta Conservation Plan (BDCP). The BDCP would only be permitted to be incorporated in the Delta Plan if certain requirements are met.

The bill would establish the Delta Independent Science Board, whose members would be selected by the council. The bill would require the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

The bill would require the State Water Resources Control Board to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The bill would require the board to develop new flow criteria for the Delta ecosystem, as specified. The board would be required to submit those determinations to the council. The bill would require the board, in consultation with the council, to appoint a special master for the Delta, referred to as the Delta Watermaster. The bill would grant specified authority to the Delta Watermaster.

(3) The California Bay-Delta Authority Act establishes the California Bay-Delta Authority in the Resources Agency. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that

address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended.

This bill would repeal that act. The bill would impose requirements on the council in connection with the repeal of that act.

(4) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. “Demand management measures” means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would condition eligibility for certain water management grants or loans to urban water suppliers, beginning July 1, 2016, and agricultural water suppliers, beginning July 1, 2013, on the implementation of water conservation requirements established by the bill. The bill would repeal on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

(5) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would substantially revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required

to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities.

(6) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the administrative imposition of civil liability by the board for a trespass in an amount not to exceed \$500 for each day in which the trespass occurs. Moneys generated by the imposition of civil liability under these provisions are deposited in the Water Rights Fund.

This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed \$1,000 for each day in which the trespass occurs after the date on which the person or entity receives specified notice of the trespass.

(7) Existing law authorizes the State Water Resources Control Board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water. Any person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would change the civil penalties that apply to a person or entity who violates a cease and desist order by subjecting a violator to a civil penalty in an amount not to exceed \$1,000 for each day in which a violation occurs following the date of service of a cease and desist order, and \$5,000 for each day in which a violation occurs following the date of service of a second or subsequent cease and desist order within the same 10-year period.

(8) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a prescribed statement of diversion and use. Existing law requires a statement to include specified information, including, on and after January 1, 2012, monthly records of water diversions. Under existing law, the monthly record requirement does not apply to a surface water diversion with a combined diversion capacity from a natural channel that is less than 50 cubic feet per second

or to diverters using siphons in the tidal zone. Existing law subjects a person who makes a material misstatement in connection with the filing of the diversion and use statements to administratively imposed civil penalties in the amount of \$500 for each violation.

This bill would revise the types of water diversions for which the reporting requirement does not apply, including, among other diversions, a diversion that occurs before January 1, 2009, if certain requirements are met. The bill would delete exceptions that apply to the monthly record requirement, and revise requirements relating to the contents of the statement of diversions and use.

The bill would subject a person to civil liability if that person fails to file, as required, a diversion and use statement for a diversion or use that occurs after January 1, 2009, willfully and maliciously tampers with any measuring device, or willfully makes a material misstatement in connection with the filing of a diversion and use statement. The board would be authorized to impose the civil liability in accordance with a specified schedule.

(9) 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 would establish a groundwater monitoring program pursuant to which specified entities, including specified local agencies, would be designated as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a basin or subbasin, as defined. The bill would require the department to work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department. By requiring local agencies to take certain actions relating to groundwater monitoring and reporting, this bill would impose a state-mandated local program.

(10) Existing law requires the department to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 1980.

This bill would repeal that provision. The department would be required to conduct an investigation of the state's groundwater basins

and to report its findings to the Governor and the Legislature not later than January 1, 2012, and every 5 years thereafter.

(11) Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the Department of Water Resources, upon appropriation therefor, to meet the long term water needs of the state. Eligible projects are required to implement integrated regional water management plans and include fisheries restoration and protection projects. A portion of these funds may be expended directly or granted by the department to address multiregional needs or issues of statewide significance.

This bill would appropriate \$28,000,000 of these funds to the department for the department to expend, as specified, on the Two-Gates Fish Protection Demonstration Program managed by the United States Bureau of Reclamation. The bill would make a statement of legislative intent to finance the activities of the Delta Stewardship Council and the Sacramento-San Joaquin Delta Conservancy from funds made available pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006 and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Bond Act of 2006.

(12) 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 29702 of the Public Resources Code is
- 2 amended to read:
- 3 29702. The Legislature further finds and declares that the basic
- 4 goals of the state for the ~~delta~~ *Delta* are the following:

1 (a) Achieve the two coequal goals of providing a more reliable  
2 water supply for California and protecting, restoring, and  
3 enhancing the Delta ecosystem.

4 ~~(a)~~

5 (b) Protect, maintain, and, where possible, enhance and restore  
6 the overall quality of the delta environment, including, but not  
7 limited to, agriculture, wildlife habitat, and recreational activities.

8 ~~(b) Assure~~

9 (c) Ensure orderly, balanced conservation and development of  
10 delta land resources.

11 ~~(e)~~

12 (d) Improve flood protection by structural and nonstructural  
13 means to ensure an increased level of public health and safety.

14 SEC. 2. Section 29703.5 is added to the Public Resources Code,  
15 to read:

16 29703.5. The Legislature further finds and declares both of the  
17 following:

18 (a) The Delta Protection Commission created pursuant to Section  
19 29735 provides an existing forum for Delta residents to engage in  
20 decisions regarding actions to recognize and enhance the unique  
21 cultural, recreational, and agricultural resources of the Delta. As  
22 such, the commission is the appropriate agency to identify and  
23 provide recommendations to the Delta Stewardship Council on  
24 methods of preserving the Delta as an evolving place as the Delta  
25 Stewardship Council develops and implements the Delta Plan.

26 (b) There is a need for the five Delta counties to establish and  
27 implement a resources management plan for the Delta and for the  
28 Delta Stewardship Council to consider that plan and  
29 recommendations of the commission in the adoption of the Delta  
30 Plan.

31 SEC. 3. Section 29722.5 is added to the Public Resources Code,  
32 to read:

33 29722.5. “Delta Plan” means the plan adopted by the Delta  
34 Stewardship Council pursuant to Section 85300 of the Water Code.

35 SEC. 4. Section 29722.7 is added to the Public Resources Code,  
36 to read:

37 29722.7. “Economic sustainability plan” means the plan  
38 adopted by the commission pursuant to Section 29759.

39 SEC. 5. Section 29725 of the Public Resources Code is  
40 amended to read:

1 29725. “Local government” means the Counties of *Alameda*,  
 2 *Contra Costa*, *Sacramento*, *San Joaquin*, *Solano*, and *Yolo*, and  
 3 the Cities of *Sacramento*, *Stockton*, *Tracy*, *Antioch*, *Pittsburg*,  
 4 *Isleton*, *Lathrop*, *Brentwood*, ~~*Rio Vista*~~, *West Sacramento*, and  
 5 *Oakley*, and any other cities that may be incorporated in the future  
 6 in the primary zone.

7 SEC. 6. Section 29727 of the Public Resources Code is  
 8 amended to read:

9 29727. “Port” means the Port of Sacramento and the Port of  
 10 Stockton, including all the land owned or leased by those ports *or*  
 11 *potential sites identified in the Delta county general plans as of*  
 12 *January 1, 2010, and otherwise authorized by law.*

13 SEC. 7. Section 29728.5 is added to the Public Resources Code,  
 14 to read:

15 29728.5. “Resources management plan” means the plan adopted  
 16 by the commission pursuant to Section 29760.

17 SEC. 8. Section 29733 of the Public Resources Code is  
 18 amended to read:

19 29733. “Unincorporated towns” means the communities of  
 20 *Walnut Grove*, *Clarksburg*, *Courtland*, *Hood*, *Locke*, *Knightsen*,  
 21 *Collinsville*, and *Ryde*.

22 SEC. 9. Section 29735 of the Public Resources Code is  
 23 amended to read:

24 29735. There is hereby created the Delta Protection  
 25 Commission consisting of ~~23~~ 15 members as follows:

26 (a) One member of the board of supervisors, or his or her  
 27 designee, of each of the five counties within the ~~delta~~ *Delta* whose  
 28 supervisorial district is within the primary zone shall be appointed  
 29 by the board of supervisors of ~~the county~~ *each of those respective*  
 30 *counties.*

31 (b) (1) Three elected city council members shall be selected  
 32 and appointed by city selection committees, from ~~regional and~~  
 33 ~~area councils of government~~ *the appropriate regions specified*  
 34 *below*, one in each of the following areas:

35 (A) One from the north ~~delta~~ *Delta*, ~~consisting of~~ *from either*  
 36 ~~the Counties~~ *County of Yolo and or the County of Sacramento, on*  
 37 *a rotating basis.*

38 (B) One from the south ~~delta~~ *Delta*, consisting of the County  
 39 of San Joaquin.

1 (C) One from the west ~~delta~~ *Delta*, ~~consisting of~~ *from either* the  
2 ~~Counties~~ *County* of Contra Costa ~~and or the County of Solano, on~~  
3 *a rotating basis.*

4 (2) A city council member may select a designee for purposes  
5 of paragraph (1).

6 (3) *Notwithstanding Section 29736, the term of office of the*  
7 *members selected pursuant to this subdivision shall be two years.*

8 (c) ~~(1)~~ One member each from the board of directors of ~~five~~  
9 *three* different reclamation districts that are located within the  
10 primary zone who are residents of the ~~delta~~ *Delta*, and who are  
11 elected by the trustees of reclamations districts ~~within the following~~  
12 ~~areas:~~ *pursuant to paragraphs (1), (2), and (3). Each reclamation*  
13 *district may nominate one director to be a member. The member*  
14 *from an area shall be selected from among the nominees by a*  
15 *majority vote of the reclamation districts in that area. The member*  
16 *may select a designee for this purpose. For the purposes of this*  
17 *section, each reclamation district shall have one vote. Reclamation*  
18 *district members shall consist of the following:*

19 ~~(A)~~ *Two members*

20 (1) One member from the area of the North Delta Water Agency,  
21 as described in Section 9.1 of the North Delta Water Agency Act  
22 (Chapter 283 of the Statutes of 1973), ~~provided at least one member~~  
23 ~~is also a member of the Delta Citizens Municipal Advisory Council.~~

24 ~~(B)~~

25 (2) One member from *an area including* the west ~~delta~~ *Delta*  
26 consisting of the area of Contra Costa County within the ~~delta~~  
27 *Delta and the Central Delta Water Agency, as described in Section*  
28 *9.1 of the Central Delta Water Agency Act (Chapter 1133 of the*  
29 *Statutes of 1973).*

30 ~~(C)~~ *One member from the area of the Central Delta Water*  
31 *Agency as described in Section 9.1 of the Central Delta Water*  
32 *Agency Act (Chapter 1133 of the Statutes of 1973).*

33 ~~(D)~~

34 (3) One member from the area of the South Delta Water Agency,  
35 as described in Section 9.1 of the South Delta Water Agency Act  
36 (Chapter 1089 of the Statutes of 1973).

37 ~~(2)~~ *Each reclamation district may nominate one director to be*  
38 *a member. The member from an area shall be selected from among*  
39 *the nominees by a majority vote of the reclamation districts in that*  
40 *area. The member may select a designee for this purpose. For*

1 purposes of this section, each reclamation district shall have one  
2 vote. The north delta area shall conduct separate votes to select  
3 each of its two members.

4 ~~(d) The Director of Parks and Recreation, or the director's sole~~  
5 ~~designee.~~

6 ~~(e) The Director of Fish and Game, or the director's sole~~  
7 ~~designee.~~

8 ~~(f)~~

9 ~~(d) The Secretary of Food and Agriculture, or the secretary's~~  
10 ~~sole designee.~~

11 ~~(g)~~

12 ~~(e) The executive officer of the State Lands Commission, or the~~  
13 ~~executive officer's sole designee.~~

14 ~~(h) The Director of Boating and Waterways, or the director's~~  
15 ~~sole designee.~~

16 ~~(i) The Director of Water Resources, or the director's sole~~  
17 ~~designee.~~

18 ~~(j) The public member of the California Bay-Delta Authority~~  
19 ~~who represents the delta region or his or her designee.~~

20 ~~(k) (1) The Governor shall appoint three members and three~~  
21 ~~alternates from the general public who are delta residents or delta~~  
22 ~~landowners, as follows:~~

23 ~~(A) One member and one alternate shall represent the interests~~  
24 ~~of production agriculture with a background in promoting the~~  
25 ~~agricultural viability of delta farming.~~

26 ~~(B) One member and one alternate shall represent the interests~~  
27 ~~of conservation of wildlife and habitat resources of the delta region~~  
28 ~~and ecosystem.~~

29 ~~(C) One member and one alternate shall represent the interests~~  
30 ~~of outdoor recreational opportunities, including, but not limited~~  
31 ~~to, hunting and fishing.~~

32 ~~(2) An alternate may serve in the absence of a member.~~

33 ~~(f) The Secretary of the Natural Resources Agency, or his or~~  
34 ~~her sole designee.~~

35 ~~(g) The Secretary of Business, Transportation and Housing, or~~  
36 ~~his or her sole designee.~~

37 SEC. 10. Section 29735.1 of the Public Resources Code is  
38 amended to read:

39 29735.1. (a) A member of the commission described in  
40 subdivision (a), ~~(b), (e), or (j)~~ of Section 29735 may, subject to

1 the confirmation of his or her appointing power, appoint an  
2 alternate to represent him or her at a commission meeting. An  
3 alternate may serve prior to confirmation for a period not to exceed  
4 90 days from the date of appointment, unless and until confirmation  
5 is denied.

6 (b) The alternate shall serve at the pleasure of the member who  
7 appoints him or her and shall have all of the powers and duties of  
8 a member of the commission, except that the alternate shall only  
9 participate and vote in a meeting in the absence of the member  
10 who appoints him or her. All provisions of law relating to conflicts  
11 of interest that are applicable to a member shall apply to an  
12 alternate. ~~Whenever~~ *If* a member has, or is known to have, a  
13 conflict of interest on any matter, the member's alternate is  
14 ineligible to vote on that matter.

15 SEC. 11. Section 29736 of the Public Resources Code is  
16 repealed.

17 ~~29736. The term of office of the members of the commission~~  
18 ~~shall be for four years, and a member may serve for one or more~~  
19 ~~consecutive terms.~~

20 SEC. 12. Section 29736 is added to the Public Resources Code,  
21 to read:

22 29736. The appointed members of the commission shall serve  
23 at the pleasure of their appointing entities.

24 SEC. 13. Section 29738 of the Public Resources Code is  
25 amended to read:

26 ~~29738. The position office of a an appointed member of the~~  
27 ~~commission shall be considered is~~ vacated upon the loss of any  
28 qualification required for appointment, and in that event the  
29 appointing authority shall appoint a successor within 30 days of  
30 the occurrence of the vacancy. ~~Upon the occurrence of the first~~  
31 ~~vacancy among any of the members listed in subdivision (d), (e),~~  
32 ~~(f), (g), (h), or (i) of Section 29735, the Director of Conservation~~  
33 ~~or the director's designee shall serve as the successor member.~~

34 SEC. 14. Section 29739 of the Public Resources Code is  
35 repealed.

36 ~~29739. The commission shall elect from its own members a~~  
37 ~~chairperson and vice chairperson whose terms of office shall be~~  
38 ~~two years, and who may be reelected. If a vacancy occurs in either~~  
39 ~~office, the commission shall fill the vacancy for the unexpired~~  
40 ~~term.~~

1 SEC. 15. Section 29739 is added to the Public Resources Code,  
2 to read:

3 29739. (a) The commission, during the first meeting of the  
4 commission after January 1, 2010, shall elect from among the  
5 members identified in subdivision (a) of Section 29735 a  
6 chairperson who shall serve for one year.

7 (b) Subsequent chairpersons shall serve for two years and shall  
8 be elected from among the members identified in subdivision (a)  
9 of Section 29735.

10 (c) The chairperson shall serve as a voting member of the Delta  
11 Stewardship Council.

12 SEC. 16. Section 29741 of the Public Resources Code is  
13 amended to read:

14 29741. The time and place of the first meeting of the  
15 commission *on and after January 1, 2010*, shall be prescribed by  
16 the Governor, but in no event shall it be scheduled for a date later  
17 than January 31, ~~1993~~ 2010. All meetings after the first meeting  
18 shall be held in a city within the ~~delta~~ Delta.

19 SEC. 17. Section 29751 of the Public Resources Code is  
20 amended to read:

21 29751. A majority of the voting members of the commission  
22 shall constitute a quorum for the transaction of the business of the  
23 commission. A majority vote of the voting members ~~present~~ shall  
24 be required to take action with respect to any matter unless  
25 otherwise specified in this division. The vote of each member shall  
26 be individually recorded.

27 SEC. 18. Section 29752 of the Public Resources Code is  
28 amended to read:

29 29752. The commission shall adopt its own rules, regulations,  
30 and procedures necessary for its organization and operation, *and*  
31 *shall conduct its meetings in compliance with the Bagley-Keene*  
32 *Open Meeting Act (Article 9 (commencing with Section 11120) of*  
33 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
34 *Code).*

35 SEC. 19. Section 29753 of the Public Resources Code is  
36 repealed.

37 ~~29753. The commission shall appoint agricultural,~~  
38 ~~environmental, and recreational advisory committees for the~~  
39 ~~purpose of providing the commission with timely comments,~~  
40 ~~advice, and information. The commission may appoint committees~~

1 from its membership or may appoint additional advisory  
 2 committees from members of other interested public agencies and  
 3 private groups. The commission shall seek advice and  
 4 recommendations from advisory committees appointed by local  
 5 government which are involved in subject matters affecting the  
 6 delta.

7 SEC. 20. Section 29753 is added to the Public Resources Code,  
 8 to read:

9 29753. (a) The commission shall appoint at least one advisory  
 10 committee to provide recommendations regarding the diverse  
 11 interests within the Delta. At a minimum, the advisory committees  
 12 shall include representatives of state agencies and other  
 13 stakeholders with interests in the Delta’s ecosystem, water supply,  
 14 and socioeconomic sustainability, including, but not limited to, its  
 15 recreational, agricultural, flood control, environmental, and water  
 16 resources, and state, local, and utility infrastructure. The  
 17 commission shall encourage participation of various federal  
 18 agencies, including the United States Bureau of Reclamation, the  
 19 United States Fish and Wildlife Service, the United States Army  
 20 Corps of Engineers, and others as appropriate.

21 (b) The commission may appoint committees from its  
 22 membership or may appoint additional advisory committees from  
 23 members of other interested public agencies and private groups.

24 (c) The commission shall seek advice and recommendations  
 25 from advisory committees appointed by local government that are  
 26 involved in subject matters affecting the Delta.

27 SEC. 21. Section 29754 of the Public Resources Code is  
 28 amended to read:

29 29754. The commission shall establish and maintain an office  
 30 within the ~~delta~~ *Delta or the City of Rio Vista*, and for this purpose  
 31 the commission may rent or own property and equipment. Any  
 32 rule, regulation, procedure, plan, or other record of the commission  
 33 which is of such a nature as to constitute a public record under  
 34 state law shall be available for inspection and copying ~~during~~  
 35 ~~regular office hours~~ *pursuant to the California Public Records Act*  
 36 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
 37 *Title 1 of the Government Code).*

38 SEC. 22. Section 29756.5 of the Public Resources Code is  
 39 amended to read:

1 29756.5. The commission may act as the facilitating agency  
2 for the implementation of any joint habitat restoration or  
3 enhancement programs located within the primary zone of the  
4 ~~delta~~ *Delta, including, but not limited to, a national heritage area*  
5 *designation in the Delta.*

6 SEC. 23. Section 29759 is added to the Public Resources Code,  
7 to read:

8 29759. (a) Not later than July 1, 2011, the commission shall  
9 prepare and adopt, by a majority vote of the membership of the  
10 commission, an economic sustainability plan. The economic  
11 sustainability plan shall include information and recommendations  
12 that inform the Delta Stewardship Council's policies regarding the  
13 socioeconomic sustainability of the Delta region.

14 (b) The economic sustainability plan shall include, but not be  
15 limited to, all of the following:

16 (1) Public safety recommendations, such as flood protection  
17 recommendations.

18 (2) The economic goals, policies, and objectives in local general  
19 plans and other local economic efforts, including recommendations  
20 on continued socioeconomic sustainability of agriculture and its  
21 infrastructure and legacy communities in the Delta.

22 (3) Comments and recommendations to the Department of Water  
23 Resources concerning its periodic update of the flood management  
24 plan for the Delta.

25 (4) Identification of ways to encourage recreational investment  
26 along the key river corridors, as appropriate.

27 SEC. 24. Section 29761 of the Public Resources Code is  
28 repealed.

29 ~~29761. The Director of the Office of Planning and Research~~  
30 ~~shall submit comments and recommendations on the resource~~  
31 ~~management plan for the commission's consideration, prior to the~~  
32 ~~plan's adoption.~~

33 SEC. 25. Section 29761 is added to the Public Resources Code,  
34 to read:

35 29761. The commission shall adopt, by a majority vote, the  
36 economic sustainability plan and each plan update after at least  
37 three public hearings, with at least one hearing held in a community  
38 in the north Delta, one in the south Delta, and one in the west Delta.

39 SEC. 26. Section 29761.5 of the Public Resources Code is  
40 repealed.

1     ~~29761.5. Not later than January 7, 1995, the commission shall~~  
2 ~~transmit copies of the resource management plan to the Governor.~~  
3 ~~Copies of the resource management plan shall be made available,~~  
4 ~~upon request, to Members of the Legislature.~~

5     SEC. 27. Section 29761.5 is added to the Public Resources  
6 Code, to read:

7     29761.5. (a) The commission shall review, and, as determined  
8 to be necessary, amend the economic sustainability plan every five  
9 years on or before December 31 in years ending in six or one.

10    (b) The commission shall transmit copies of the economic  
11 sustainability plan and any subsequent amendments to the  
12 Governor, Legislature, each local government as defined in Section  
13 29725, and Delta Stewardship Council within 60 days of adoption  
14 or amendment. Within 180 days of the commission's adoption or  
15 amendment of the economic sustainability plan, the Delta  
16 Stewardship Council shall review the economic sustainability plan  
17 for consistency with the Delta Plan.

18     SEC. 28. Section 29762 of the Public Resources Code is  
19 repealed.

20     ~~29762. The commission shall adopt, by a majority vote of the~~  
21 ~~membership of the commission, the resource management plan~~  
22 ~~after at least three public hearings, with at least one hearing held~~  
23 ~~in a city in the north delta, the south delta, and the west delta.~~

24     SEC. 29. Section 29763 of the Public Resources Code is  
25 amended to read:

26     29763. Within 180 days from the date of the adoption of the  
27 resource management plan or any amendments, changes, or  
28 updates, to the resource management plan by the commission, ~~all~~  
29 ~~each local governments government~~ shall submit to the commission  
30 proposed amendments ~~that will cause their general plans to be to~~  
31 ~~its general plan that are intended to make the general plan~~  
32 consistent with the ~~criteria in Section 29763.5 resource~~  
33 ~~management plan~~ with respect to land located within the primary  
34 zone.

35     SEC. 30. Section 29764 of the Public Resources Code is  
36 repealed.

37     ~~29764. This division does not confer any permitting authority~~  
38 ~~upon the commission or require any local government to conform~~  
39 ~~their general plan, or land use entitlement decisions, to the resource~~  
40 ~~management plan, except with regard to lands within the primary~~

1 ~~zone. The resource management plan does not preempt local~~  
2 ~~government general plans for lands within the secondary zone.~~

3 SEC. 31. Section 29764 is added to the Public Resources Code,  
4 to read:

5 29764. Land use authority granted to the commission by this  
6 division is limited to the primary zone, and shall not preempt local  
7 government general plans for lands within the secondary zone.

8 SEC. 32. Section 29771 of the Public Resources Code is  
9 amended to read:

10 29771. After a hearing on an appealed action *pursuant to*  
11 *Section 29770*, the commission shall either deny the appeal or  
12 remand the matter to the local government or local agency for  
13 reconsideration, after making specific findings. Upon remand, the  
14 local government or local agency shall modify the appealed action  
15 and resubmit the matter for review to the commission. A proposed  
16 action appealed pursuant to this section shall not be effective until  
17 the commission has adopted written findings, based on substantial  
18 evidence in the record, that the action is consistent with the  
19 resource management plan, the approved portions of local  
20 government general plans that implement the resource management  
21 plan, and this division.

22 SEC. 33. Section 29773 is added to the Public Resources Code,  
23 to read:

24 29773. (a) The commission may review and provide comments  
25 and recommendations to the Delta Stewardship Council on any  
26 significant project or proposed project within the primary zone of  
27 the Delta, including, but not limited to, actions by state and federal  
28 agencies, that may affect the unique cultural, recreational, and  
29 agricultural values within the primary and secondary zones. Review  
30 and comment authority granted to the commission shall include,  
31 but is not limited to, all of the following:

32 (1) Identification of impacts to the cultural, recreational, and  
33 agricultural values of the Delta.

34 (2) Recommendations for actions that may avoid, reduce, or  
35 mitigate impacts to the cultural, recreational, and agricultural values  
36 of the Delta.

37 (3) Review of consistency of the project or proposed project  
38 with the resources management plan and the economic  
39 sustainability plan.

1 (4) Identification and recommendation of methods to address  
2 Delta community concerns regarding large-scale habitat plan  
3 development and implementation.

4 (b) The council shall take into consideration the  
5 recommendations of the commission, including the  
6 recommendations included in the economic sustainability plan. If  
7 the council, in its discretion, determines that a recommendation  
8 of the commission is feasible and consistent with the objectives  
9 of the Delta Plan and the purposes of this division, the council  
10 shall adopt the recommendation.

11 SEC. 34. Section 29773.5 is added to the Public Resources  
12 Code, to read:

13 29773.5. On or before July 1, 2010, the commission shall  
14 prepare and submit to the Legislature recommendations regarding  
15 the potential expansion of or change to the primary zone or the  
16 Delta. The commission shall consider recommendations on the  
17 status of all of the following areas:

- 18 (a) Rio Vista.
- 19 (b) Isleton.
- 20 (c) Bethel Island.
- 21 (d) Brannan-Andrus Island.
- 22 (e) Cosumnes/Mokelumne floodway.
- 23 (f) The San Joaquin/South Delta floodway.

24 SEC. 35. Section 29778.5 is added to the Public Resources  
25 Code, to read:

26 29778.5. The Delta Investment Fund is hereby created in the  
27 State Treasury. Any funds within the Delta Investment Fund shall  
28 be available, upon appropriation by the Legislature, to the  
29 commission for the implementation of the economic sustainability  
30 plan, developed pursuant to Section 29759, for the purposes of  
31 enhancing Delta communities. The Delta Investment Fund may  
32 receive funds from federal, state, local, and private sources.

33 SEC. 36. Section 29780 of the Public Resources Code is  
34 amended to read:

35 29780. On January 1 of each year, the commission shall submit  
36 to the Governor and the Legislature a report describing the progress  
37 that has been made in achieving the objectives of this division.  
38 The report shall include, but *need* not be limited to, ~~all~~ *both* of the  
39 following ~~information~~:

1 ~~(a) An evaluation of the effectiveness of the resource~~  
2 ~~management plan in preserving agricultural lands, restoring delta~~  
3 ~~habitat, improving levee protection and water quality, providing~~  
4 ~~increased public access and recreational opportunities, and in~~  
5 ~~undertaking other functions prescribed in this division.~~

6 *(a) An evaluation of the effectiveness of the commission in*  
7 *undertaking its functions prescribed in this division, including,*  
8 *but not limited to, its mandates as follows:*

9 *(1) Determining the consistency of local general plans with the*  
10 *Delta Plan.*

11 *(2) Outcomes of appealed local land use decisions pursuant to*  
12 *Sections 29770 and 29771.*

13 *(3) Outcomes of reviews initiated by the commission.*

14 *(4) Facilitating regional economic sustainability.*

15 *(5) Supporting other regional activities for the enhancement of*  
16 *Delta communities.*

17 ~~(b) An update of the resource management economic~~  
18 ~~sustainability plan, using baseline conditions set forth in the~~  
19 ~~original resource management economic sustainability plan.~~

20 SEC. 37. Division 22.3 (commencing with Section 32300) is  
21 added to the Public Resources Code, to read:

22  
23 DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA  
24 CONSERVANCY

25  
26 CHAPTER 1. GENERAL PROVISIONS

27  
28 32300. This division shall be known, and may be cited, as the  
29 Sacramento-San Joaquin Delta Conservancy Act.

30 32301. The Legislature finds and declares all of the following:

31 (a) The Sacramento-San Joaquin Delta is a unique natural  
32 resource of local, state, and national significance.

33 (b) At 1,300 square miles, the Delta is the largest estuary on the  
34 west coast of North and South America.

35 (c) Its rivers and labyrinths of sloughs and channels are home  
36 to 750 species of plants and wildlife as well as 55 species of fish,  
37 provide habitat for 700 native plant and animal species, and are  
38 part of the Pacific Flyway.

39 (d) The Delta contains more than 500,000 acres of agricultural  
40 land, with unique soils, and farmers who are creative and utilize

1 innovative agriculture, such as carbon sequestration crops,  
2 subsidence reversal crops, wildlife-friendly crops, and crops direct  
3 for marketing to the large urban populations nearby.

4 (e) The Delta and Suisun Marsh provide numerous opportunities  
5 for recreation, such as boating, kayaking, fishing, hiking, birding,  
6 and hunting. Navigable waterways in the Delta are available for  
7 public access and currently make up the majority of recreational  
8 opportunities. There is a need for land-based recreational access  
9 points including parks, picnic areas, and campgrounds.

10 (f) The Delta's history is rich with a distinct natural, agricultural,  
11 and cultural heritage. It is home to the community of Locke, the  
12 only town in the United States built primarily by early Chinese  
13 immigrants. Other legacy communities include Bethel Island,  
14 Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio  
15 Vista, Ryde, and Walnut Grove.

16 (g) The Delta is home to more than 500,000 people and 200,000  
17 jobs, and contributes over thirty-five billion dollars  
18 (\$35,000,000,000) to the state's economy.

19 (h) In addition, the Delta provides water to more than 25 million  
20 Californians and three million acres of agricultural land. It supports  
21 a four hundred billion dollar (\$400,000,000,000) economy and is  
22 traversed by energy, communications, and transportation facilities  
23 vital to the economic health of California.

24 (i) A Sacramento-San Joaquin Delta Conservancy can support  
25 efforts that advance both environmental protection and the  
26 economic well-being of Delta residents in a complementary  
27 manner, including all of the following:

- 28 (1) Protect and enhance habitat and habitat restoration.
- 29 (2) Protect and preserve Delta agriculture and working  
30 landscapes.
- 31 (3) Provide increased opportunities for tourism and recreation.
- 32 (4) Promote Delta legacy communities and economic vitality  
33 in the Delta in coordination with the Delta Protection Commission.
- 34 (5) Increase the resilience of the Delta to the effects of natural  
35 disasters such as floods and earthquakes, in coordination with the  
36 Delta Protection Commission.
- 37 (6) Protect and improve water quality.
- 38 (7) Assist the Delta regional economy through the operation of  
39 the conservancy's program.

1 (8) Identify priority projects and initiatives for which funding  
2 is needed.

3 (9) Protect, conserve, and restore the region’s physical,  
4 agricultural, cultural, historical, and living resources.

5 (10) Assist local entities in the implementation of their habitat  
6 conservation plans (HCPs) and natural community conservation  
7 plans (NCCPs).

8 (11) Facilitate take protection and safe harbor agreements under  
9 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531  
10 et seq.) and the California Endangered Species Act (Chapter 1.5  
11 (commencing with Section 2050) of Division 3 of the Fish and  
12 Game Code) for adjacent landowners and local public agencies.

13 (12) Promote environmental education.

14

15 CHAPTER 2. DEFINITIONS

16

17 32310. For the purposes of this division, the following terms  
18 have the following meanings:

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

21 (b) “Conservancy” means the Sacramento-San Joaquin Delta  
22 Conservancy.

23 (c) “Delta” means the Sacramento-San Joaquin Delta as defined  
24 in Section 12220 of the Water Code.

25 (d) “Fund” means the Sacramento-San Joaquin Delta  
26 Conservancy Fund created pursuant to Section 32360.

27 (e) “Local public agency” means a city, county, special district,  
28 or joint powers authority.

29 (f) “Nonprofit organization” means a private, nonprofit  
30 organization that qualifies for exempt status under Section  
31 501(c)(3) of Title 26 of the United States Code and that has among  
32 its principal charitable purposes preservation of land for scientific,  
33 recreational, scenic, or open-space opportunities, protection of the  
34 natural environment, preservation or enhancement of wildlife,  
35 preservation of cultural and historical resources, or efforts to  
36 provide for the enjoyment of public lands.

37 (g) “Recognized tribe” means any Indian tribe, band, nation, or  
38 other organized group or community of Indians that is both of the  
39 following:

1 (1) Recognized by the Secretary of the Interior as eligible for  
2 special programs and services provided by the United States to the  
3 Indians because of their status as Indians.

4 (2) Recognized as possessing powers of self-government.

5 (h) “Suisun Marsh” means the area defined in Section 29101  
6 and protected by Division 19 (commencing with Section 29000).

7

8 CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

9

10 32320. There is in the Natural Resources Agency the  
11 Sacramento-San Joaquin Delta Conservancy, which is created as  
12 a state agency to work in collaboration and cooperation with local  
13 governments and interested parties.

14 32322. (a) The conservancy shall act as a primary state agency  
15 to implement ecosystem restoration in the Delta.

16 (b) The conservancy shall support efforts that advance  
17 environmental protection and the economic well-being of Delta  
18 residents, including all of the following:

19 (1) Protect and enhance habitat and habitat restoration.

20 (2) Protect and preserve Delta agriculture and working  
21 landscapes.

22 (3) Provide increased opportunities for tourism and recreation  
23 in the Delta.

24 (4) Promote Delta legacy communities and economic vitality  
25 in the Delta, in coordination with the Delta Protection Commission.

26 (5) Increase the resilience of the Delta to the effects of natural  
27 disasters such as floods and earthquakes, in coordination with the  
28 Delta Protection Commission.

29 (6) Protect and improve water quality.

30 (7) Assist the Delta regional economy through the operation of  
31 the conservancy’s program.

32 (8) Identify priority projects and initiatives for which funding  
33 is needed.

34 (9) Protect, conserve, and restore the region’s physical,  
35 agricultural, cultural, historical, and living resources.

36 (10) Assist local entities in the implementation of their habitat  
37 conservation plans (HCPs) and natural community conservation  
38 plans (NCCPs).

39 (11) Facilitate take protection and safe harbor agreements under  
40 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531

1 et seq.), the California Endangered Species Act (Chapter 1.5  
 2 (commencing with Section 2050) of Division 3 of the Fish and  
 3 Game Code), and the Natural Community Conservation Planning  
 4 Act (Chapter 10 (commencing with Section 2800) of Division 3  
 5 of the Fish and Game Code) for adjacent landowners and local  
 6 public agencies.

7 (12) Promote environmental education through grant funding.  
 8 (c) When implementing subdivision (b), the conservancy shall  
 9 undertake efforts to enhance public use and enjoyment of lands  
 10 owned by the public.

11  
 12 CHAPTER 4. GOVERNING BOARD  
 13

14 32330. The board shall consist of 11 voting members and two  
 15 nonvoting members, appointed or designated as follows:

16 (a) The 11 voting members of the board shall consist of all of  
 17 the following:

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) One member of the board or a designee who is appointed  
 22 by the Contra Costa County Board of Supervisors, who is a resident  
 23 of that county.

24 (4) One member of the board or a designee who is appointed  
 25 by the Sacramento County Board of Supervisors, who is a resident  
 26 of that county.

27 (5) One member of the board or a designee who is appointed  
 28 by the San Joaquin County Board of Supervisors, who is a resident  
 29 of that county.

30 (6) One member of the board or a designee who is appointed  
 31 by the Solano County Board of Supervisors, who is a resident of  
 32 that county.

33 (7) One member of the board or a designee who is appointed  
 34 by the Yolo County Board of Supervisors, who is a resident of that  
 35 county.

36 (8) Two public members appointed by the Governor, subject to  
 37 confirmation by the Senate.

38 (9) One public member appointed by the Senate Committee on  
 39 Rules.

- 1 (10) One public member appointed by the Speaker of the  
 2 Assembly.
- 3 (b) The two nonvoting members shall consist of a Member of  
 4 the Senate, appointed by the Senate Committee on Rules, and a  
 5 Member of the Assembly, appointed by the Speaker of the  
 6 Assembly. The members appointed under this subdivision shall  
 7 meet with the conservancy and participate in its activities to the  
 8 extent that this participation is not incompatible with their positions  
 9 as Members of the Legislature. The appointed members shall  
 10 represent a district that encompasses a portion of the Delta.
- 11 (c) Ten nonvoting liaison advisers who shall serve in an  
 12 advisory, nonvoting capacity shall consist of all of the following:
- 13 (1) One representative of the United States Fish and Wildlife  
 14 Service, designated by the United States Secretary of the Interior.
- 15 (2) One representative of the United States National Marine  
 16 Fisheries Service, designated by the United States Secretary of the  
 17 Interior.
- 18 (3) One representative of the United States Bureau of  
 19 Reclamation, designated by the United States Secretary of the  
 20 Interior.
- 21 (4) One representative of the United States Army Corps of  
 22 Engineers, designated by the Commanding Officer, United States  
 23 Army Corps of Engineers, South Pacific Division.
- 24 (5) A designee of the San Francisco Bay Conservation and  
 25 Development Commission for coordination purposes.
- 26 (6) A designee of the State Coastal Conservancy for coordination  
 27 purposes.
- 28 (7) A designee of the Suisun Resource Conservation District  
 29 for coordination purposes.
- 30 (8) A designee of the Central Valley Flood Protection Board.
- 31 (9) A designee of the Yolo Basin Foundation.
- 32 (10) A designee of the Delta Protection Commission.
- 33 (d) The public member appointed by the Governor shall serve  
 34 for a term of four years, with a two-term limit.
- 35 (e) The locally appointed members and alternates shall serve at  
 36 the pleasure of the appointing board of supervisors.
- 37 (f) The public members appointed by the Senate Committee on  
 38 Rules and the Speaker of the Assembly shall serve for a term of  
 39 four years, with a two-term limit.

1 (g) The Members of the Senate and Assembly shall serve at the  
2 pleasure of the appointing body.

3 (h) Alternates may be appointed by the county boards of  
4 supervisors.

5 32332. Annually, the voting members of the board shall elect  
6 from among the voting members a chairperson and vice  
7 chairperson, and other officers as necessary. If the office of the  
8 chairperson or vice chairperson becomes vacant, a new chairperson  
9 or vice chairperson shall be elected by the voting members of the  
10 board to serve for the remainder of the term. The chairperson shall  
11 be selected from among the members specified in paragraphs (3)  
12 to (7), inclusive, of subdivision (a) of Section 32330.

13 32334. A majority of the voting members shall constitute a  
14 quorum for the transaction of the business of the conservancy. The  
15 board shall not transact the business of the conservancy if a quorum  
16 is not present at the time a vote is taken. A decision of the board  
17 requires an affirmative vote of six of the voting members, and the  
18 vote is binding with respect to all matters acted on by the  
19 conservancy.

20 32336. The board shall adopt rules and procedures for the  
21 conduct of business by the conservancy.

22 32338. The board may establish advisory boards or committees,  
23 hold community meetings, and engage in public outreach.

24 32340. The board shall establish and maintain a headquarters  
25 office within the Delta. The conservancy may rent or own real and  
26 personal property and equipment pursuant to applicable statutes  
27 and regulations.

28 32342. The board shall determine the qualifications of, and  
29 shall appoint, an executive officer of the conservancy, who shall  
30 be exempt from civil service. The board shall employ other staff  
31 as necessary to execute the powers and functions provided for in  
32 this division.

33 32344. The board may enter into contracts with private entities  
34 and public agencies to procure consulting and other services  
35 necessary to achieve the purposes of this division.

36 32346. The conservancy's expenses for support and  
37 administration may be paid from the conservancy's operating  
38 budget and any other funding sources available to the conservancy.

39 32348. The board shall conduct business in accordance with  
40 the Bagley-Keene Open Meeting Act (Article 9 (commencing with

1 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
2 the Government Code).

3 32350. The board shall hold its regular meetings within the  
4 Delta or the City of Rio Vista.

5

6

CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS

7

8 32360. (a) Except as specified in Section 32360.5, the  
9 jurisdiction and activities of the conservancy are limited to the  
10 Delta and Suisun Marsh.

11 (b) (1) The Sacramento-San Joaquin Delta Conservancy Fund  
12 is hereby created in the State Treasury. Moneys in the fund shall  
13 be available, upon appropriation by the Legislature, only for the  
14 purposes of this division.

15 (2) Funds provided for ecosystem restoration and enhancement  
16 shall be available for ecosystem restoration projects consistent  
17 with the conservancy’s strategic plan adopted pursuant to Section  
18 32376.

19 (3) Funds may be allocated to a separate program for economic  
20 sustainability in the Delta. The conservancy shall develop this  
21 program, in conjunction with the Delta Protection Commission  
22 and other interested parties. Funds provided to the conservancy to  
23 implement the Bay Delta Conservation Plan shall not be used for  
24 economic sustainability projects.

25 32360.5. In furtherance of the conservancy’s role in  
26 implementing the Delta Plan, the conservancy may take or fund  
27 an action outside the Delta and Suisun Marsh if the board makes  
28 all of the following findings:

29 (a) The project implements the ecosystem goals of the Delta  
30 Plan.

31 (b) The project is consistent with the requirements of any  
32 applicable state and federal permits.

33 (c) The conservancy has given notice to, and receives and  
34 reviews any comments from, affected local jurisdictions and the  
35 Delta Protection Commission.

36 (d) The conservancy has given notice to, and reviewed any  
37 comments received from, any state conservancy where the project  
38 is located.

39 (e) The project will provide significant benefits to the Delta.

1 32362. The conservancy may engage in partnerships with  
2 nonprofit organizations, local public agencies, and landowners.

3 32363. In implementing this division, the conservancy shall  
4 cooperate and consult with the city or county in which a grant is  
5 proposed to be expended or an interest in real property is proposed  
6 to be acquired, and shall, as necessary or appropriate, coordinate  
7 its efforts with other state agencies, in cooperation with the  
8 Secretary of the Natural Resources Agency. The conservancy shall,  
9 as necessary or appropriate, cooperate and consult with a public  
10 water system, levee, flood control, or drainage agency that owns  
11 or operates facilities, including lands appurtenant thereto, where  
12 a grant is proposed to be expended or an interest in land is proposed  
13 to be acquired.

14 32364. (a) The conservancy may require a grantee to enter  
15 into an agreement with the conservancy on terms and conditions  
16 specified by the conservancy.

17 (b) The conservancy may require a cost-share or local funding  
18 requirement for a grant. The conservancy may make that cost-share  
19 or local funding requirement contingent upon the total amount of  
20 funding available, the fiscal resources of the applicant, or urgency  
21 of the project. The conservancy may waive cost-share requirements.

22 (c) The conservancy may fund or award grants for plans and  
23 feasibility studies consistent with its strategic plan or the Delta  
24 Plan.

25 (d) The conservancy may seek repayment or reimbursement of  
26 funds granted on terms and conditions it deems appropriate. The  
27 proceeds of repayment shall be deposited in the fund.

28 (e) The conservancy may require any funds that exceed the costs  
29 of eligible or approved projects or of acquisition to be returned to  
30 the conservancy, to be available for expenditure when appropriated  
31 by the Legislature.

32 32364.5 (a) The conservancy may provide grants and loans  
33 to state agencies, local public agencies, nonprofit organizations,  
34 and recognized tribes to further the goals of the conservancy.

35 (b) An entity applying for a grant from the conservancy to  
36 acquire an interest in real property shall specify all of the following  
37 in the grant application:

- 38 (1) The intended use of the property.  
39 (2) The manner in which the land will be managed.

1 (3) How the cost of ongoing operations, maintenance, and  
2 management will be provided, including an analysis of the  
3 maintaining entity's financial capacity to support those ongoing  
4 costs.

5 (4) Grantees shall demonstrate, where applicable, how they will  
6 provide payments in lieu of taxes, assessments, or charges  
7 otherwise due to elements of local government.

8 32365. The conservancy may sue and be sued.

9 32366. (a) The conservancy may acquire from willing sellers  
10 or transferors interests in real property and improve, lease, or  
11 transfer interests in real property, in order to carry out the purposes  
12 of this division.

13 (b) The conservancy shall use conservation easements to  
14 accomplish ecosystem restoration whenever feasible.

15 32368. The conservancy may enter into an agreement with a  
16 public agency, nonprofit organization, or private entity for the  
17 construction, management, or maintenance of facilities authorized  
18 by the conservancy.

19 32370. The conservancy shall not exercise the power of eminent  
20 domain.

21 32372. (a) The conservancy may pursue and accept funds from  
22 various sources, including, but not limited to, federal, state, and  
23 local funds or grants, private philanthropy, gifts, donations,  
24 bequests, devises, subventions, grants, rents, royalties, or other  
25 assistance and funds from public and private sources.

26 (b) The conservancy may accept fees levied by others.

27 (c) The conservancy may create and manage endowments.

28 (d) All funds received by the conservancy shall be deposited in  
29 the fund for expenditure for the purposes of this division.

30 32376. Within two years of hiring an executive officer, the  
31 board shall prepare and adopt a strategic plan to achieve the goals  
32 of the conservancy. The plan shall describe its interaction with  
33 local, regional, state, and federal land use, recreation, water and  
34 flood management, and habitat conservation and protection efforts  
35 within and adjacent to the Delta. The strategic plan shall establish  
36 priorities and criteria for projects and programs, based upon an  
37 assessment of program requirements, institutional capabilities, and  
38 funding needs throughout the Delta. The strategic plan shall be  
39 consistent with the Delta Plan, the Delta Protection Commission's  
40 resources management plan, the Central Valley Flood Protection

1 Plan, the Suisun Marsh Preservation Act of 1977 (Division 19  
2 (commencing with Section 29000)), and the Habitat Management,  
3 Preservation and Restoration Plan for the Suisun Marsh.

4 32378. (a) The conservancy may expend funds and award  
5 grants and loans to facilitate collaborative planning efforts and to  
6 develop projects and programs that are designed to further the  
7 purposes of this division.

8 (b) The conservancy may provide and make available technical  
9 information, expertise, and other nonfinancial assistance to public  
10 agencies, nonprofit organizations, and recognized tribes, to support  
11 program and project development and implementation.

12 32380. The conservancy may acquire water or water rights to  
13 support the goals of the conservancy.

14 32381. This division does not grant to the conservancy any of  
15 the following:

16 (a) The power of a city or county to regulate land use.

17 (b) The power to regulate any activities on land, except as the  
18 owner of an interest in the land, or pursuant to an agreement with,  
19 or a license or grant of management authority from, the owner of  
20 an interest in the land.

21 (c) The power over water rights held by others.

22 SEC. 38. Section 1052 of the Water Code is amended to read:

23 1052. (a) The diversion or use of water subject to this division  
24 other than as authorized in this division is a trespass.

25 ~~(b) Civil liability may be administratively imposed by the board  
26 pursuant to Section 1055 for a trespass as defined in this section  
27 in an amount not to exceed five hundred dollars (\$500) for each  
28 day in which the trespass occurs.~~

29 ~~(e)~~

30 (b) The Attorney General, upon request of the board, shall  
31 institute in the superior court in and for any county ~~wherein in~~  
32 *which* the diversion or use is threatened, is occurring, or has  
33 occurred ~~appropriate~~ *an* action for the issuance of injunctive relief  
34 as may be warranted by way of temporary restraining order,  
35 preliminary injunction, or permanent injunction.

36 ~~(d)~~

37 (c) (1) Any person or entity committing a trespass as defined  
38 in this section may be liable ~~for a sum in an amount~~ not to exceed  
39 ~~five hundred dollars (\$500) for each day in which the trespass~~  
40 ~~occurs. The one thousand dollars (\$1,000) for each day in which~~

1 *the trespass occurs after the date on which that person or entity*  
 2 *receives service of a complaint alleging a violation of this section.*

3 (2) The Attorney General, upon request of the board, shall  
 4 petition the superior court to impose, assess, and recover any sums  
 5 pursuant to this subdivision. In determining the appropriate amount,  
 6 the court shall take into consideration all relevant circumstances,  
 7 including, but not limited to, the extent of harm caused by the  
 8 violation, the nature and persistence of the violation, the length of  
 9 time over which the violation occurs, and the corrective action, if  
 10 any, taken by the violator.

11 (3) *Civil liability may be imposed by the board pursuant to*  
 12 *Section 1055.*

13 (4) *The board may delay, for good cause including economic*  
 14 *waste, a request for the imposition of a penalty, a corrective action,*  
 15 *or both, pursuant to this subdivision.*

16 (e)

17 (d) All funds recovered pursuant to this section shall be  
 18 deposited in the Water Rights Fund established pursuant to Section  
 19 1550.

20 (f)

21 (e) The remedies prescribed in this section are cumulative and  
 22 not alternative.

23 SEC. 39. Section 1055 of the Water Code is amended to read:

24 1055. (a) The executive director of the board may issue a  
 25 complaint to any person or entity on which administrative civil  
 26 liability may be imposed pursuant to Section 1052, ~~Section 1536,~~  
 27 ~~Section 1845, or Section~~ or 5107. The complaint shall allege the  
 28 act or failure to act that constitutes a trespass or violation, the  
 29 provision of law authorizing civil liability to be imposed, and the  
 30 proposed civil liability.

31 (b) The complaint shall be served by personal notice or certified  
 32 mail, and shall inform the party served that the party may request  
 33 a hearing not later than 20 days from the date the party was served.  
 34 The hearing shall be before *the board, or* a member of the board  
 35 ~~as it may specify.~~

36 (c) After any hearing, the member shall report a proposed  
 37 decision and order to the board and shall supply a copy to the party  
 38 served with the complaint, the board's executive director, and any  
 39 other person requesting a copy. The member of the board acting  
 40 as hearing officer may sit as a member of the board in deciding

1 the matter. The board, after making an independent review of the  
2 record and taking any additional evidence as may be necessary  
3 that could not reasonably have been offered before the hearing  
4 officer, may adopt, with or without revision, the proposed decision  
5 and order.

6 *(d) The board may adopt an order setting administrative civil*  
7 *liability, or determining that no liability will be imposed, after any*  
8 *necessary hearing.*

9 ~~(d)~~

10 *(e) Orders setting administrative civil liability shall become*  
11 *effective and final upon issuance thereof and payment shall be*  
12 *made.*

13 SEC. 40. Section 1055.2 of the Water Code is amended to read:  
14 1055.2. No person or entity shall be subject to both civil  
15 liability imposed under Section 1055 and civil liability imposed  
16 by the superior court under ~~subdivision (d) of Section 1052, Section~~  
17 ~~1536, or Section 1845, or Section 1846~~ for the same act or failure  
18 to act.

19 SEC. 41. Section 1551 of the Water Code is amended to read:  
20 1551. All of the following shall be deposited in the Water  
21 Rights Fund:

22 (a) All fees, expenses, and penalties collected by the board or  
23 the State Board of Equalization under this chapter and Part 3  
24 (commencing with Section 2000).

25 (b) All funds collected under Section 1052, ~~1845,~~ or 5107.

26 (c) All fees collected under Section 13160.1 in connection with  
27 certificates for activities involving hydroelectric power projects  
28 subject to licensing by the Federal Energy Regulatory Commission.

29 SEC. 42. Section 1845 of the Water Code is amended to read:

30 1845. (a) Upon the failure of any person to comply with a  
31 cease and desist order issued by the board pursuant to this chapter,  
32 the Attorney General, upon the request of the board, shall petition  
33 the superior court for the issuance of prohibitory or mandatory  
34 injunctive relief as appropriate, including a temporary restraining  
35 order, preliminary injunction, or permanent injunction.

36 (b) (1) Any person or entity who violates a cease and desist  
37 order issued pursuant to this chapter may be liable for a sum in an  
38 amount not to exceed ~~one thousand dollars (\$1,000) for each day~~  
39 ~~in which the violation occurs.~~ *the following:*

1 (A) For a violation of the first cease and desist order issued  
2 pursuant to this chapter, one thousand dollars (\$1,000) for each  
3 day in which the violation occurs after the date on which the person  
4 or entity receives service of the cease and desist order.

5 (B) For a violation of the second or any subsequent cease and  
6 desist order issued pursuant to this chapter within the same 10-year  
7 period, five thousand dollars (\$5,000) for each day in which the  
8 violation occurs after the date on which the person or entity  
9 receives service of the cease and desist order.

10 (2) Civil liability may be imposed by the superior court. The  
11 Attorney General, upon the request of the board, shall petition the  
12 superior court to impose, assess, and recover those sums.

13 (3) Civil liability may be imposed administratively by the board  
14 pursuant to Section 1055.

15 (c) In determining the appropriate amount, the court, or the  
16 board, as the case may be, shall take into consideration all relevant  
17 circumstances, including, but not limited to, the extent of harm  
18 caused by the violation, the nature and persistence of the violation,  
19 the length of time over which the violation occurs, and the  
20 corrective action, if any, taken by the violator.

21 (d) All funds recovered pursuant to this section shall be  
22 deposited in the Water Rights Fund established pursuant to Section  
23 1550.

24 SEC. 43. Section 1846 is added to the Water Code, to read:

25 1846. (a) Any person or entity subject to a monitoring or  
26 reporting requirement specified in subdivision (f) who violates  
27 that reporting or monitoring requirement, and willfully makes a  
28 material misstatement in any record or report submitted under that  
29 reporting or monitoring requirement, or willfully and maliciously  
30 tampers with or renders inaccurate any monitoring device required  
31 under that reporting or monitoring requirement shall be liable for  
32 a sum not to exceed five hundred dollars (\$500).

33 (b) Civil liability may be imposed by the superior court. The  
34 Attorney General, upon the request of the board, shall petition the  
35 superior court to impose, assess, and recover those sums.

36 (c) Civil liability may be imposed administratively by the board  
37 pursuant to Section 1055.

38 (d) In determining the appropriate amount, the court, or the  
39 board, as the case may be, shall take into consideration all relevant  
40 circumstances, including, but not limited to, the extent of harm

1 caused by the violation, the nature and persistence of the violation,  
2 the length of time over which the violation occurs, and the  
3 corrective action, if any, taken by the violator.

4 (e) All funds recovered pursuant to this section shall be  
5 deposited in the Water Rights Fund established pursuant to Section  
6 1550.

7 (f) (1) This section applies to any reporting or monitoring  
8 requirement established under any permit, license, certificate,  
9 registration, decision or order, or regulation issued by the board  
10 pursuant to this division, Section 275, Article 7 (commencing with  
11 Section 13550) of Division 7, or any other law.

12 (2) This section also applies to any reporting or monitoring  
13 requirement established by the department under Section 275, if  
14 the department requests enforcement pursuant to this section.

15 (3) This section does not provide a basis for imposing liability  
16 on a watermaster who is subject to reporting or monitoring  
17 requirements but does not divert or use the water subject to those  
18 requirements.

19 SEC. 44. Section 5101 of the Water Code is amended to read:

20 5101. Each person who, after December 31, 1965, diverts water  
21 shall file with the board, prior to July 1 of the succeeding year, a  
22 statement of his *or her* diversion and use; ~~provided, however, use,~~  
23 ~~except that no a statement need is not required to be filed if the~~  
24 ~~diversion is any of the following:~~

25 (a) From a spring ~~which that~~ does not flow off the property on  
26 which it is located *and from which the person's aggregate*  
27 *diversions do not exceed 25 acre-feet in any year.*

28 (b) Covered by ~~an application,~~ *a registration for small domestic*  
29 *or livestock pond uses, or a permit or license to appropriate water*  
30 *on file with the board.*

31 (c) Included in a notice filed pursuant to Part 5 (commencing  
32 with Section 4999) ~~of this division.~~

33 (d) Regulated by a watermaster appointed by the department  
34 *and included in annual reports filed with a court or the board by*  
35 *the watermaster, which reports identify the persons who have*  
36 *diverted water and describe the general purposes and the place,*  
37 *the use, and the quantity of water that has been diverted from each*  
38 *source.*

39 ~~(g)~~

40 ~~(e) Reported by the department in its hydrologic data bulletins.~~

1 ~~(f) Included in the consumptive use data for the delta lowlands~~  
 2 ~~published by the department in its hydrologic data bulletins.~~

3 (e) Included in annual reports filed with a court or the board by  
 4 a watermaster appointed by a court or pursuant to statute to  
 5 administer a final judgment determining rights to water, which  
 6 reports identify the persons who have diverted water and give the  
 7 general place of use and the quantity of water ~~which~~ *that* has been  
 8 diverted from each source.

9 ~~(h)~~  
 10 (f) For use in compliance with ~~the provisions of Article 2.5~~  
 11 ~~(commencing with Section 1226) or Article 2.7 (commencing with~~  
 12 ~~Section 1228) of Chapter 1 of Part 2 of this division.~~

13 (g) *A diversion that occurs before January 1, 2009, if any of*  
 14 *the following applies:*

15 (1) *The diversion is from a spring that does not flow off the*  
 16 *property on which it is located, and the person's aggregate*  
 17 *diversions exceed 25 acre-feet in any year.*

18 (2) *The diversion is covered by an application to appropriate*  
 19 *water on file with the board.*

20 (3) *The diversion is reported by the department in its hydrologic*  
 21 *data bulletins.*

22 (4) *The diversion is included in the consumptive use data for*  
 23 *the Delta lowlands published by the department in its hydrologic*  
 24 *data bulletins.*

25 SEC. 45. Section 5103 of the Water Code is amended to read:  
 26 5103. Each statement shall be prepared on a form provided by  
 27 the board. The statement shall include all of the following  
 28 information:

29 (a) The name and address of the person who diverted water  
 30 and of the person filing the statement.

31 (b) The name of the stream or other source from which water  
 32 was diverted, and the name of the next major stream or other body  
 33 of water to which the source is tributary.

34 (c) The place of diversion. ~~If a public land survey has been~~  
 35 ~~made, location of diversion works shall be described to the nearest~~  
 36 ~~40-acre subdivision. If not, it shall be described by reference to~~  
 37 ~~nearest local landmarks or other recorded surveys. The location~~  
 38 ~~of the diversion works shall be depicted on a specific United States~~  
 39 ~~Geological Survey topographic map, or shall be identified using~~  
 40 ~~the California Coordinate System, or latitude and longitude~~

1 *measurements. If assigned, the public land description to the*  
2 *nearest 40-acre subdivision and the assessor's parcel number*  
3 *shall also be provided.*

4 (d) The capacity of the diversion works and of the storage  
5 reservoir, if any, and the months in which water was used during  
6 the preceding calendar year.

7 (e) (1) On and after January 1, 2012, monthly records of water  
8 diversions. The measurements of the diversion shall be made using  
9 best available technologies and best professional practices. Nothing  
10 in this paragraph shall be construed to require the implementation  
11 of technologies or practices ~~that are~~ *by a person who provides to*  
12 *the board documentation demonstrating that the implementation*  
13 *of those practices is not locally cost effective.*

14 ~~(2) Paragraph (1) does not apply to a surface water diversion~~  
15 ~~with a combined diversion capacity from a natural channel that is~~  
16 ~~less than 50 cubic feet per second or to diverters using siphons in~~  
17 ~~the tidal zone.~~

18 ~~(3)~~

19 (2) (A) The terms of, and eligibility for, any grant or loan  
20 awarded or administered by the department, the board, or the  
21 California Bay-Delta Authority on behalf of a person that is subject  
22 to paragraph (1) shall be conditioned on compliance with that  
23 paragraph.

24 (B) Notwithstanding subparagraph (A), the board may  
25 determine that a person is eligible for a grant or loan even though  
26 the person is not complying with paragraph (1), if both of the  
27 following apply:

28 (i) The board determines that the grant or loan will assist the  
29 grantee or loan recipient in complying with paragraph (1).

30 (ii) The person has submitted to the board a one-year schedule  
31 for complying with paragraph (1).

32 (C) It is the intent of the Legislature that the requirements of  
33 this subdivision shall complement and not affect the scope of  
34 authority granted to the board by provisions of law other than this  
35 article.

36 ~~(g)~~

37 ~~(f) For persons not subject to paragraph (1) of subdivision (e),~~  
38 ~~a description of the acreage of each crop irrigated, the average~~  
39 ~~number of people served with water, the average number of stock~~  
40 ~~watered, and the nature and extent of any other use during the~~

1 preceding calendar year, or other equivalent information that  
2 indicates the quantity of water used as may be prescribed by the  
3 board. Those who maintain water measuring devices and keep  
4 monthly records of water diversions shall state the quantity of  
5 water diverted by months during the preceding calendar year.

6 (f) The purpose of use.

7 ~~(h)~~

8 (g) A general description of the area in which the water was  
9 used. ~~If the water was used on an area within the  $\frac{1}{16}$ -section~~  
10 ~~containing the point of diversion, a statement to that effect will~~  
11 ~~suffice; otherwise a description or sketch of the general area of~~  
12 ~~use shall be given. *The location of the place of use shall be depicted*~~  
13 ~~*on a specific United States Geological Survey topographic map*~~  
14 ~~*and on any other maps with identifiable landmarks. If assigned,*~~  
15 ~~*the public land description to the nearest 40-acre subdivision and*~~  
16 ~~*the assessor's parcel number shall also be provided.*~~

17 ~~(i)~~

18 (h) The year in which the diversion was commenced as near as  
19 is known.

20 SEC. 46. Section 5107 of the Water Code is amended to read:

21 5107. (a) The making of any willful *and material* misstatement  
22 pursuant to this part is a misdemeanor punishable by a fine not  
23 exceeding one thousand dollars (\$1,000) or by imprisonment in  
24 the county jail for not to exceed six months, or both.

25 (b) Any person who ~~makes a material misstatement pursuant~~  
26 ~~to this part may be liable civilly as provided in subdivision (c) fails~~  
27 ~~to file a statement required to be filed under this part for a~~  
28 ~~diversion or use that occurs after January 1, 2009, who willfully~~  
29 ~~and maliciously tampers with any measuring device, or who~~  
30 ~~willfully makes a material misstatement pursuant to this part may~~  
31 ~~be liable civilly as provided in subdivisions (c) and (d).~~

32 (c) Civil liability may be administratively imposed by the board  
33 pursuant to Section 1055 in an amount not to exceed the following  
34 amounts:

35 (1) *For failure to file a statement, an amount not exceeding one*  
36 *thousand dollars (\$1,000), plus an amount not exceeding five*  
37 *hundred dollars (\$500) per day for each additional day on which*  
38 *the violation continues if the person fails to file a statement within*  
39 *30 days after the board has called the violation to the attention of*  
40 *that person.*

1 (2) *For a violation resulting from a physical malfunction of a*  
2 *measuring device not caused by the person or any other*  
3 *unintentional misstatement, an amount not exceeding two hundred*  
4 *fifty dollars (\$250) per day for each day on which the measuring*  
5 *device continues to malfunction or the misstatement is not*  
6 *corrected if the person fails to correct or repair the measuring*  
7 *device or correct the misstatement within 60 days after the board*  
8 *has called the malfunction or violation to the attention of that*  
9 *person.*

10 (3) *For any other violation, an amount not exceeding five*  
11 *hundred dollars (\$500), plus an amount not exceeding two hundred*  
12 *fifty dollars (\$250) for each additional day on which the violation*  
13 *continues if the person fails to correct the violation within 30 days*  
14 *after the board has called the violation to the attention of that*  
15 *person.*

16 (d) *When an additional penalty may be imposed under*  
17 *subdivision (c) for failure to correct a violation or correct or repair*  
18 *a malfunctioning measuring device within a specified period after*  
19 *the violation has been called to a person's attention by the board,*  
20 *the board, for good cause, may provide for a longer period for*  
21 *correction of the problem, and the additional penalty shall not*  
22 *apply if the violation is corrected within the period specified by*  
23 *the board.*

24 (e)

25 ~~(e) Civil liability may be administratively imposed by the board~~  
26 ~~pursuant to Section 1055 in an amount not to exceed five hundred~~  
27 ~~dollars (\$500) for each violation. In determining the appropriate~~  
28 ~~amount, the board shall consider all relevant circumstances,~~  
29 ~~including, but not limited to, all of the following factors:~~

- 30 (1) ~~The extent of harm caused by the violation.~~  
31 (2) ~~The nature and persistence of the violation.~~  
32 (3) ~~The length of time over which the violation occurs.~~  
33 (4) ~~Any corrective action undertaken by the violator.~~

34 (f)

35 (f) ~~All funds recovered pursuant to this section shall be deposited~~  
36 ~~in the Water Rights Fund established pursuant to Section 1550.~~

37 (g) ~~Remedies under this section are in addition to, and do not~~  
38 ~~supersede or limit, any other remedies, civil or criminal.~~

39 SEC. 47. Section 5108 of the Water Code is repealed.

1 ~~5108. Statements filed pursuant to this part shall be for~~  
2 ~~informational purposes only, and neither the failure to file a~~  
3 ~~statement nor any error in the information filed shall have any~~  
4 ~~legal consequences whatsoever other than those specified in this~~  
5 ~~part.~~

6 SEC. 48. Part 2.55 (commencing with Section 10608) is added  
7 to Division 6 of the Water Code, to read:

8  
9 PART 2.55. SUSTAINABLE WATER USE AND DEMAND  
10 REDUCTION

11  
12 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

13  
14 10608. The Legislature finds and declares all of the following:

15 (a) Water is a public resource that the California Constitution  
16 protects against waste and unreasonable use.

17 (b) Growing population, climate change, and the need to protect  
18 and grow California’s economy while protecting and restoring our  
19 fish and wildlife habitats make it essential that the state manage  
20 its water resources as efficiently as possible.

21 (c) Diverse regional water supply portfolios will increase water  
22 supply reliability and reduce dependence on the Delta.

23 (d) Reduced water use through conservation provides significant  
24 energy and environmental benefits, and can help protect water  
25 quality, improve streamflows, and reduce greenhouse gas  
26 emissions.

27 (e) The success of state and local water conservation programs  
28 to increase efficiency of water use is best determined on the basis  
29 of measurable outcomes related to water use or efficiency.

30 (f) Improvements in technology and management practices offer  
31 the potential for increasing water efficiency in California over  
32 time, providing an essential water management tool to meet the  
33 need for water for urban, agricultural, and environmental uses.

34 (g) The Governor has called for a 20 percent per capita reduction  
35 in urban water use statewide by 2020.

36 (h) The factors used to formulate water use efficiency targets  
37 can vary significantly from location to location based on factors  
38 including weather, patterns of urban and suburban development,  
39 and past efforts to enhance water use efficiency.

1 (i) Per capita water use is a valid measure of a water provider's  
2 efforts to reduce urban water use within its service area. However,  
3 per capita water use is less useful for measuring relative water use  
4 efficiency between different water providers. Differences in  
5 weather, historical patterns of urban and suburban development,  
6 and density of housing in a particular location need to be  
7 considered when assessing per capita water use as a measure of  
8 efficiency.

9 10608.4. It is the intent of the Legislature, by the enactment  
10 of this part, to do all of the following:

11 (a) Require all water suppliers to increase the efficiency of use  
12 of this essential resource.

13 (b) Establish a framework to meet the state targets for urban  
14 water conservation identified in this part and called for by the  
15 Governor.

16 (c) Measure increased efficiency of urban water use on a per  
17 capita basis.

18 (d) Establish a method or methods for urban retail water  
19 suppliers to determine targets for achieving increased water use  
20 efficiency by the year 2020, in accordance with the Governor's  
21 goal of a 20-percent reduction.

22 (e) Establish consistent water use efficiency planning and  
23 implementation standards for urban water suppliers and agricultural  
24 water suppliers.

25 (f) Promote urban water conservation standards that are  
26 consistent with the California Urban Water Conservation Council's  
27 adopted best management practices and the requirements for  
28 demand management in Section 10631.

29 (g) Establish standards that recognize and provide credit to water  
30 suppliers that made substantial capital investments in urban water  
31 conservation since the drought of the early 1990s.

32 (h) Recognize and account for the investment of urban retail  
33 water suppliers in providing recycled water for beneficial uses.

34 (i) Require implementation of specified efficient water  
35 management practices for agricultural water suppliers.

36 (j) Support the economic productivity of California's  
37 agricultural, commercial, and industrial sectors.

38 (k) Advance regional water resources management.

39 10608.8. (a) (1) Water use efficiency measures adopted and  
40 implemented pursuant to this part and pursuant to Part 2.8

1 (commencing with Section 10800) are water conservation measures  
2 subject to the protections provided under Section 1011.

3 (2) An urban retail water supplier’s failure to meet the per capita  
4 targets established in Section 10608.20 shall not be evidence of  
5 waste or unreasonable use under Section 2 of Article X of the  
6 California Constitution or Section 100 or 275. This paragraph does  
7 not limit the use of data reported to the department or the board  
8 in litigation or an administrative proceeding.

9 (3) To the extent feasible, the department and the board shall  
10 provide for the use of water conservation reports required under  
11 this part to meet the requirements of Section 1011 for water  
12 conservation reporting.

13 (b) This part does not limit or otherwise affect the application  
14 of Chapter 3.5 (commencing with Section 11340), Chapter 4  
15 (commencing with Section 11370), Chapter 4.5 (commencing with  
16 Section 11400), and Chapter 5 (commencing with Section 11500)  
17 of Part 1 of Division 3 of Title 2 of the Government Code.

18 (c) This part does not require a reduction in the total water used  
19 in the agricultural or urban sectors, because other factors, including,  
20 but not limited to, changes in agricultural economics or population  
21 growth may have greater effects on water use. This part does not  
22 limit the economic productivity of California’s agricultural,  
23 commercial, or industrial sectors.

24 (d) The requirements of this part do not apply to an agricultural  
25 water supplier that is a party to the Quantification Settlement  
26 Agreement, as defined in subdivision (a) of Section 1 of Chapter  
27 617 of the Statutes of 2002, during the period within which the  
28 Quantification Settlement Agreement remains in effect. After the  
29 expiration of the Quantification Settlement Agreement, to the  
30 extent conservation water projects implemented as part of the  
31 Quantification Settlement Agreement remain in effect, the  
32 conserved water created as part of those projects shall be credited  
33 against the obligations of the agricultural water supplier pursuant  
34 to this part.

35  
36 CHAPTER 2. DEFINITIONS

37  
38 10608.12. Unless the context otherwise requires, the following  
39 definitions govern the construction of this part:

1 (a) “Agricultural water supplier” means a water supplier, either  
2 publicly or privately owned, providing water to 35,000 or more  
3 irrigated acres, excluding recycled water. “Agricultural water  
4 supplier” includes a supplier or contractor for water, regardless of  
5 the basis of right, that distributes or sells water for ultimate resale  
6 to customers.

7 (b) “Base daily per capita water use” means any of the  
8 following:

9 (1) The urban retail water supplier’s estimate of its average  
10 gross water use, reported in gallons per capita per day and  
11 calculated over a continuous 10-year period ending no earlier than  
12 December 31, 2004, and no later than December 31, 2010.

13 (2) For the purposes of Section 10608.22, the urban retail water  
14 supplier’s estimate of its average gross water use, reported in  
15 gallons per capita per day and calculated over a continuous  
16 five-year period ending no earlier than December 31, 2007, and  
17 no later than December 31, 2010.

18 (c) “Baseline commercial, industrial, and institutional water  
19 use” means an urban retail water supplier’s base daily per capita  
20 water use for commercial, industrial, and institutional users.

21 (d) “Commercial water user” means a water user that provides  
22 or distributes a product or service.

23 (e) “Compliance daily per capita water use” means the gross  
24 daily water use per capita during the final year of the reporting  
25 period, reported in gallons per capita per day.

26 (f) “Disadvantaged community” means a community with an  
27 annual median household income that is less than 80 percent of  
28 the statewide annual median household income.

29 (g) “Gross water use” means the total volume of water, whether  
30 treated or untreated, entering the distribution system of an urban  
31 retail water supplier, excluding all of the following:

32 (1) Recycled water that is delivered within the service area of  
33 an urban retail water supplier or its urban wholesale water supplier.

34 (2) The net volume of water that the urban retail water supplier  
35 places into long-term storage.

36 (3) The volume of water the urban retail water supplier conveys  
37 for use by another urban water supplier.

38 (4) The volume of water delivered for agricultural use, except  
39 as otherwise provided in subdivision (f) of Section 10608.24.

1 (h) “Industrial water user” means a water user that is primarily  
2 a manufacturer or processor of materials as defined by the North  
3 American Industry Classification System code sectors 31 to 33,  
4 inclusive, or an entity that is primarily engaged in research and  
5 development.

6 (i) “Institutional water user” means a water user dedicated to  
7 public service. This type of user includes, among other things,  
8 higher education institutions, schools, courts, churches, hospitals,  
9 government facilities, and not-for-profit research institutions.

10 (j) “Interim urban water use target” means the midpoint between  
11 the urban retail water supplier’s base daily per capita water use  
12 and the urban retail water supplier’s urban water use target for  
13 2020.

14 (k) “Locally cost effective” means that the present value of the  
15 local benefits of implementing an agricultural efficiency water  
16 management practice is greater than or equal to the present value  
17 of the local cost of implementing that measure.

18 (l) “Process water” means water used for producing electricity,  
19 for cooling processes by industrial and institutional water users,  
20 or for producing a product or product content, including, but not  
21 limited to, continuous manufacturing processes. Process water  
22 uses, include, but are not limited to, water used for testing and  
23 maintaining equipment used in producing a product or product  
24 content, water used in combined heat and power facilities used in  
25 producing a product or product content, and water used for research  
26 and development. Process water does not mean incidental water  
27 uses not related to the production of a product or product content,  
28 including, but not limited to, water used for restrooms, landscaping,  
29 air conditioning, heating, kitchens, and laundry.

30 (m) “Recycled water” means recycled water, as defined in  
31 subdivision (n) of Section 13050, that is used to offset existing or  
32 future potable demand, including recycled water supplied for direct  
33 use and indirect potable reuse, that meet the following  
34 requirements, where applicable:

35 (1) For groundwater recharge, including recharge through  
36 spreading basins, water supplies that are all of the following:

37 (A) Metered.

38 (B) Developed through planned investment by the urban water  
39 supplier or a wastewater treatment agency.

40 (C) Treated to a minimum tertiary level.

1 (D) Delivered within the service area of an urban retail water  
2 supplier or its urban wholesale water supplier that helps an urban  
3 retail water supplier meet its urban water use target.

4 (2) For reservoir augmentation, water supplies that meet the  
5 criteria of paragraph (1) and are conveyed through a distribution  
6 system constructed specifically for recycled water.

7 (n) “Regional water resources management” means sources of  
8 water resulting from watershed-based planning for sustainable  
9 local water supply reliability, or any of the following alternative  
10 sources of water:

11 (1) The capture and reuse of stormwater or rainwater.

12 (2) The use of recycled water.

13 (3) The desalination of brackish groundwater.

14 (4) The conjunctive use of surface water and groundwater in a  
15 manner that is consistent with the safe yield of the groundwater  
16 basin.

17 (o) “Reporting period” means the years for which an urban retail  
18 water supplier reports compliance with the urban water use targets.

19 (p) “Urban retail water supplier” means a water supplier, either  
20 publicly or privately owned, that directly provides potable  
21 municipal water to more than 3,000 end users or that supplies more  
22 than 3,000 acre-feet of potable water annually at retail for  
23 municipal purposes.

24 (q) “Urban water use target” means the urban retail water  
25 supplier’s targeted future daily per capita water use.

26 (r) “Urban wholesale water supplier,” means a water supplier,  
27 either publicly or privately owned, that provides more than 3,000  
28 acre-feet of water annually at wholesale for potable municipal  
29 purposes.

30  
31 CHAPTER 3. URBAN RETAIL WATER SUPPLIERS

32  
33 10608.16. (a) The state shall achieve a 20-percent reduction  
34 in urban per capita water use in California on or before December  
35 31, 2020.

36 (b) The state shall make incremental progress towards the state  
37 target specified in subdivision (a) by reducing per capita water use  
38 by at least 10 percent on or before December 31, 2015.

39 10608.20. (a) (1) Each urban retail water supplier shall  
40 develop urban water use targets and an interim urban water use

1 target by December 31, 2010. Urban retail water suppliers may  
2 elect to determine and report progress toward achieving these  
3 targets on an individual or regional basis, as provided in  
4 subdivision (a) of Section 10608.28, and may determine the targets  
5 on a fiscal year or calendar year basis.

6 (2) It is the intent of the Legislature that the urban water use  
7 targets described in subdivision (a) cumulatively result in a  
8 20-percent reduction from the baseline daily per capita water use  
9 by December 31, 2020.

10 (b) An urban retail water supplier shall adopt one of the  
11 following methods for determining its urban water use target  
12 pursuant to subdivision (a):

13 (1) Eighty percent of the urban retail water supplier’s baseline  
14 per capita daily water use.

15 (2) The per capita daily water use that is estimated using the  
16 sum of the following performance standards:

17 (A) For indoor residential water use, 55 gallons per capita daily  
18 water use as a provisional standard. Upon completion of the  
19 department’s 2016 report to the Legislature pursuant to Section  
20 10608.42, this standard may be adjusted by the Legislature by  
21 statute.

22 (B) For landscape irrigated through dedicated or residential  
23 meters or connections, water efficiency equivalent to the standards  
24 of the Model Water Efficient Landscape Ordinance set forth in  
25 Chapter 2.7 (commencing with Section 490) of Division 2 of Title  
26 23 of the California Code of Regulations, as in effect the later of  
27 the year of the landscape’s installation or 1992. An urban retail  
28 water supplier using the approach specified in this subparagraph  
29 shall use satellite imagery, site visits, or other best available  
30 technology to develop an accurate estimate of landscaped areas.

31 (C) For commercial, industrial, and institutional uses, a  
32 10-percent reduction in water use from the baseline commercial,  
33 industrial, and institutional water use by December 31, 2020.

34 (3) Ninety-five percent of the applicable state hydrologic region  
35 target, as set forth in the state’s draft 20x2020 Water Conservation  
36 Plan (dated April 30, 2009). If the service area of an urban water  
37 supplier includes more than one hydrologic region, the supplier  
38 shall apportion its service area to each region based on population  
39 or area.

1 (4) A method that shall be identified and developed by the  
2 department, through a public process, and reported to the  
3 Legislature no later than December 31, 2010. The method  
4 developed by the department shall identify targets that cumulatively  
5 result in a statewide 20 percent reduction in urban daily per capita  
6 water use by December 31, 2020. In developing urban daily per  
7 capita water use targets, the department shall do all of the  
8 following:

- 9 (A) Consider climatic differences within the state.
  - 10 (B) Consider population density differences within the state.
  - 11 (C) Provide flexibility to communities and regions in meeting  
12 the targets.
  - 13 (D) Devise equitable targets that account for different levels of  
14 per capita water use according to plant water needs in different  
15 regions.
  - 16 (E) Devise equitable targets that account for different levels of  
17 commercial, industrial, and institutional water use in different  
18 regions of the state.
  - 19 (F) Devise targets that do not place an undue hardship on  
20 communities that have implemented conservation measures or  
21 taken actions to keep per capita water use low.
  - 22 (G) Ensure that agricultural water uses are excluded from urban  
23 uses for purposes of setting individual, regional, and statewide  
24 urban water use targets.
- 25 (c) The department shall update the method described in  
26 paragraph (4) of subdivision (b) and report to the Legislature by  
27 December 31, 2014. An urban retail water supplier that adopted  
28 the method described in paragraph (4) of subdivision (b) may adopt  
29 a new urban daily per capita water use target pursuant to this  
30 updated method.
- 31 (d) An urban retail water supplier shall include in its urban water  
32 management plan required pursuant to Part 2.6 (commencing with  
33 Section 10610) due in 2010 the baseline daily per capita water use,  
34 urban water use target, interim urban water use target, and  
35 compliance daily per capita water use, along with the bases for  
36 determining those estimates, including references to supporting  
37 data.
- 38 (e) When calculating per capita values for the purposes of this  
39 chapter, an urban retail water supplier shall determine population  
40 using federal, state, and local population reports and projections.

1 (f) An urban retail water supplier may update its 2020 urban  
2 water use target in its 2015 urban water management plan required  
3 pursuant to Part 2.6 (commencing with Section 10610).

4 (g) (1) The department shall, through a public process and in  
5 consultation with the California Urban Water Conservation  
6 Council, develop technical methodologies for the consistent  
7 implementation of this part, including, but not limited to, both of  
8 the following:

9 (A) Methodologies for calculating base daily per capita water  
10 use, baseline commercial, industrial, and institutional water use,  
11 compliance daily per capita water use, gross water use, service  
12 area population, indoor residential water use, and landscaped area.

13 (B) Criteria for adjustments pursuant to subdivisions (d) and  
14 (e) of Section 10608.24.

15 (2) The department shall post the methodologies and criteria  
16 developed pursuant to this subdivision on its Internet Web site,  
17 and make written copies available, by October 1, 2010. An urban  
18 retail water supplier shall use the methods developed by the  
19 department in compliance with this part.

20 (h) (1) The department shall adopt regulations for the  
21 implementation of the provisions relating to process water in  
22 accordance with subdivision (l) of Section 10608.12, subdivision  
23 (e) of Section 10608.24, and subdivision (d) of Section 10608.26.

24 (2) An urban retail water supplier shall be granted an extension  
25 to July 1, 2011, for adoption of an urban water management plan  
26 pursuant to Part 2.6 (commencing with Section 10610) due in 2010  
27 to allow use of technical methodologies developed by the  
28 department under paragraph (4) of subdivision (b) and subdivision  
29 (g). An urban retail water supplier that adopts an urban water  
30 management plan due in 2010 that does not use the methodologies  
31 developed by the department pursuant to subdivision (g) shall  
32 amend the plan by July 1, 2011, in order to be in compliance with  
33 this part.

34 10608.22. Notwithstanding the method adopted by an urban  
35 retail water supplier pursuant to Section 10608.20, an urban retail  
36 water supplier's per capita daily water use reduction shall be no  
37 less than 5 percent of base daily per capita water use, as defined  
38 in paragraph (3) of subdivision (b) of Section 10608.12.

39 10608.24. (a) Each urban retail water supplier shall meet its  
40 interim urban water use target by December 31, 2015.

1 (b) Each urban retail water supplier shall meet its urban water  
2 use target by December 31, 2020.

3 (c) An urban retail water supplier's compliance daily per capita  
4 water use shall be the measure of progress toward achievement of  
5 its urban water use target.

6 (d) (1) When determining compliance daily per capita water  
7 use, an urban retail water supplier may consider the following  
8 factors:

9 (A) Differences in evapotranspiration and rainfall in the baseline  
10 period compared to the compliance reporting period.

11 (B) Substantial changes to commercial or industrial water use  
12 resulting from increased business output and economic  
13 development that have occurred during the reporting period.

14 (C) Substantial changes to institutional water use resulting from  
15 fire suppression services or other extraordinary events, or from  
16 new or expanded operations, that have occurred during the  
17 reporting period.

18 (2) If the urban retail water supplier elects to adjust its estimate  
19 of compliance daily per capita water use due to one or more of the  
20 factors described in paragraph (1), it shall provide the basis for,  
21 and data supporting, the adjustment in the report required by  
22 Section 10608.40.

23 (e) When determining gross water use, an urban retail water  
24 supplier that has a substantial percentage of industrial water use  
25 in its service area shall exclude process water in order to avoid a  
26 disproportionate burden on another customer sector, if the supplier  
27 measures process water separately.

28 (f) (1) An urban retail water supplier that includes agricultural  
29 water use in an urban water management plan pursuant to Part 2.6  
30 (commencing with Section 10610) may include the agricultural  
31 water use in determining gross water use. An urban retail water  
32 supplier that includes agricultural water use in determining gross  
33 water use and develops its urban water use target pursuant to  
34 paragraph (2) of subdivision (b) of Section 10608.20 shall use a  
35 water efficient standard for agricultural irrigation of 100 percent  
36 of reference evapotranspiration multiplied by the crop coefficient  
37 for irrigated acres.

38 (2) An urban retail water supplier that is also an agricultural  
39 water supplier is not subject to the requirements of Chapter 4  
40 (commencing with Section 10608.48), if the agricultural water use

1 is incorporated into its urban water use target pursuant to paragraph  
2 (1).

3 10608.26. (a) In complying with this part, an urban retail water  
4 supplier shall conduct at least one public hearing to accomplish  
5 all of the following:

6 (1) Allow community input regarding the urban retail water  
7 supplier’s implementation plan for complying with this part.

8 (2) Consider the economic impacts of the urban retail water  
9 supplier’s implementation plan for complying with this part.

10 (3) Adopt a method, pursuant to subdivision (b) of Section  
11 10608.20, for determining its urban water use target.

12 (b) In complying with this part, an urban retail water supplier  
13 shall avoid placing a disproportionate burden on any customer  
14 sector.

15 (c) For an urban retail water supplier that supplies water to a  
16 United States Department of Defense military installation, the  
17 urban retail water supplier’s implementation plan for complying  
18 with this part shall consider the United States Department of  
19 Defense military installation’s requirements under federal  
20 Executive Order 13423.

21 (d) (1) Any ordinance or resolution adopted by an urban retail  
22 water supplier after January 1, 2010, shall not require existing  
23 customers, as of January 1, 2010, to undertake changes in product  
24 formulation, operations, or equipment that would reduce process  
25 water use, but may provide technical assistance and financial  
26 incentives to those customers to implement efficiency measures  
27 for process water. This paragraph shall not limit an ordinance or  
28 resolution adopted pursuant to a declaration of drought emergency  
29 by an urban retail water supplier.

30 (2) Notwithstanding any other provision of law, this part shall  
31 not be construed or enforced so as to interfere with the requirements  
32 of Section 110105 of the Health and Safety Code or Chapter 4  
33 (commencing with Section 113980) to Chapter 13 (commencing  
34 with Section 114380), inclusive, of Part 7 of Division 104 of the  
35 Health and Safety Code, or any requirement or standard for the  
36 protection of public health, public safety, or worker safety  
37 established by federal, state, or local governments or recommended  
38 by recognized standard setting organizations or trade associations.

1 10608.28. (a) An urban retail water supplier may meet its  
2 urban water use target within its retail service area, or through  
3 mutual agreement, by any of the following:

- 4 (1) Through an urban wholesale water supplier.
- 5 (2) Through a regional agency authorized to plan and implement  
6 water conservation, including, but not limited to, an agency  
7 established under the Bay Area Water Supply and Conservation  
8 Agency Act (Division 31 (commencing with Section 81300)).
- 9 (3) Through a regional water management group.
- 10 (4) By an integrated regional water management funding area.
- 11 (5) By hydrologic region.
- 12 (6) Through other appropriate geographic scales for which  
13 computation methods have been developed by the department.

14 (b) A regional water management group, with the written  
15 consent of its member agencies, may undertake any or all planning,  
16 reporting, and implementation functions under this chapter for the  
17 member agencies that consent to those activities. Any data or  
18 reports shall provide information both for the regional water  
19 management group and separately for each consenting urban retail  
20 water supplier and urban wholesale water supplier.

21 (c) An urban retail water supplier may meet its urban water use  
22 target entirely through efficiency gains in its residential water use  
23 sector, entirely through efficiency gains in its landscape water use  
24 sector, entirely through efficiency gains in its commercial,  
25 institutional, and industrial sector, or through any combination  
26 among these sectors.

27 10608.32. All costs incurred pursuant to this part by a water  
28 utility regulated by the Public Utilities Commission may be  
29 recoverable in rates subject to review and approval by the Public  
30 Utilities Commission, and may be recorded in a memorandum  
31 account and reviewed for reasonableness by the Public Utilities  
32 Commission.

33 10608.36. Urban wholesale water suppliers shall include in  
34 the urban water management plans required pursuant to Part 2.6  
35 (commencing with Section 10610) an assessment of their present  
36 and proposed future measures, programs, and policies to help  
37 achieve the water use reductions required by this part.

38 10608.40. Urban water retail suppliers shall report to the  
39 department on their progress in meeting their urban water use  
40 targets as part of their urban water management plans submitted

1 pursuant to Section 10631. The data shall be reported using a  
2 standardized form developed pursuant to Section 10608.52.

3 10608.42. The department shall review the 2015 urban water  
4 management plans and report to the Legislature by December 31,  
5 2016, on progress towards achieving a 20-percent reduction in  
6 urban water use by 2020. The report shall include recommendations  
7 on changes to water efficiency standards or urban water use targets  
8 in order to achieve the 20-percent reduction and to reflect updated  
9 efficiency information and technology changes.

10 10608.43. The department shall, in conjunction with the  
11 California Urban Water Conservation Council, by April 1, 2010,  
12 convene a representative task force consisting of academic experts,  
13 urban retail water suppliers, environmental organizations,  
14 commercial water users, industrial water users, and institutional  
15 water users to identify alternative best management practices for  
16 commercial, industrial, and institutional users and an assessment  
17 of the potential statewide water use efficiency improvement in  
18 water use in the commercial, industrial, and institutional sectors  
19 that would result from implementation of these best management  
20 practices. The task force shall submit a report to the Legislature  
21 by April 1, 2012, that shall include a review of multiple sectors  
22 within commercial, industrial, and institutional users. The report  
23 shall include, but not be limited to, the following:

- 24 (a) Appropriate metrics for evaluating commercial, industrial,  
25 and institutional water use.
- 26 (b) Evaluation of water demands for manufacturing processes,  
27 goods, and cooling.
- 28 (c) Evaluation of public infrastructure necessary for delivery of  
29 recycled water to the commercial, industrial, and institutional  
30 sectors.
- 31 (d) Evaluation of institutional and economic barriers to increased  
32 recycled water use within the commercial, industrial, and  
33 institutional sectors.
- 34 (e) Identification of technically feasible and locally cost effective  
35 best management practices to achieve more efficient water use  
36 statewide in the commercial, industrial, and institutional sectors  
37 that is consistent with the public interest and reflects past  
38 investments in water use efficiency.

1 10608.44. Each state agency shall reduce water use on facilities  
2 it operates to support urban retail water suppliers in meeting the  
3 target identified in Section 10608.16.

4  
5 CHAPTER 4. AGRICULTURAL WATER SUPPLIERS  
6

7 10608.48. (a) On or before July 31, 2012, an agricultural water  
8 supplier shall implement efficient water management practices  
9 pursuant to subdivisions (b) and (c), if the practices are technically  
10 feasible and locally cost effective.

11 (b) Agricultural water suppliers shall implement all of the  
12 following critical efficient management practices:

13 (1) Measure the volume of water delivered to customers with  
14 sufficient accuracy to comply with Section 531.10.

15 (2) Adopt a pricing structure for water customers based at least  
16 in part on quantity delivered.

17 (c) Agricultural water suppliers shall implement additional  
18 efficient management practices, including, but not limited to,  
19 practices to accomplish all of the following, if the measures are  
20 locally cost effective and technically feasible:

21 (1) Facilitate alternative land use for lands with exceptionally  
22 high water duties or whose irrigation contributes to significant  
23 problems, including drainage.

24 (2) Facilitate use of available recycled water that otherwise  
25 would not be used beneficially, meets all health and safety criteria,  
26 and does not harm crops or soils.

27 (3) Facilitate the financing of capital improvements for on-farm  
28 irrigation systems.

29 (4) Implement an incentive pricing structure that promotes one  
30 or more of the following goals:

31 (A) More efficient water use at the farm level.

32 (B) Conjunctive use of groundwater.

33 (C) Appropriate increase of groundwater recharge.

34 (D) Reduction in problem drainage.

35 (E) Improved management of environmental resources.

36 (F) Effective management of all water sources throughout the  
37 year by adjusting seasonal pricing structures based on current  
38 conditions.

- 1 (5) Expand line or pipe distribution systems, and construct
- 2 regulatory reservoirs to increase distribution system flexibility and
- 3 capacity, decrease maintenance, and reduce seepage.
- 4 (6) Increase flexibility in water ordering by, and delivery to,
- 5 water customers within operational limits.
- 6 (7) Construct and operate supplier spill and tailwater recovery
- 7 systems.
- 8 (8) Increase planned conjunctive use of surface and groundwater
- 9 within the supplier service area.
- 10 (9) Automate canal control structures.
- 11 (10) Facilitate or promote customer pump testing and evaluation.
- 12 (11) Designate a water conservation coordinator who will
- 13 develop and implement the water management plan and prepare
- 14 progress reports.
- 15 (12) Provide for the availability of water management services
- 16 to water users. These services may include, but are not limited to,
- 17 all of the following:
- 18 (A) On-farm irrigation and drainage system evaluations.
- 19 (B) Normal year and real-time irrigation scheduling and crop
- 20 evapotranspiration information.
- 21 (C) Surface water, groundwater, and drainage water quantity
- 22 and quality data.
- 23 (D) Agricultural water management educational programs and
- 24 materials for farmers, staff, and the public.
- 25 (13) Evaluate the policies of agencies that provide the supplier
- 26 with water to identify the potential for institutional changes to
- 27 allow more flexible water deliveries and storage.
- 28 (14) Evaluate and improve the efficiencies of the supplier's
- 29 pumps.
- 30 (d) Agricultural water suppliers shall include in the agricultural
- 31 water management plans required pursuant to Part 2.8
- 32 (commencing with Section 10800) a report on which efficient
- 33 water management practices have been implemented and are
- 34 planned to be implemented, an assessment of the water use
- 35 efficiency improvements that have occurred since the last report,
- 36 and an assessment of the water use efficiency improvements
- 37 projected to occur five and 10 years in the future. If an agricultural
- 38 water supplier determines that an efficient water management
- 39 practice is not locally cost effective or technically feasible, the
- 40 supplier shall submit information documenting that determination.

1 (e) The data shall be reported using a standardized form  
2 developed pursuant to Section 10608.52.

3 (f) An agricultural water supplier may meet the requirements  
4 of subdivisions (d) and (e) by submitting to the department a water  
5 conservation plan submitted to the United States Bureau of  
6 Reclamation that meets the requirements described in Section  
7 10828.

8 (g) The department may update the efficient water management  
9 practices required pursuant to subdivision (c), in consultation with  
10 the Agricultural Water Management Council, the United States  
11 Bureau of Reclamation, and the board. All efficient water  
12 management practices for agricultural water use pursuant to this  
13 chapter shall be adopted or revised by the department only after  
14 the department conducts public hearings to allow participation of  
15 the diverse geographical areas and interests of the state.

16  
17 CHAPTER 5. SUSTAINABLE WATER MANAGEMENT  
18

19 10608.50. (a) The department, in consultation with the board,  
20 shall promote implementation of regional water resource  
21 management practices through increased incentives and removal  
22 of barriers consistent with state and federal law. Potential changes  
23 may include, but are not limited to, all of the following:

24 (1) Revisions to the requirements for urban and agricultural  
25 water management plans.

26 (2) Revisions to the requirements for integrated regional water  
27 management plans.

28 (3) Revisions to the eligibility for state water management grants  
29 and loans.

30 (4) Revisions to state or local permitting requirements that  
31 increase water supply opportunities, but do not weaken water  
32 quality protection under state and federal law.

33 (5) Increased funding for research, feasibility studies, and project  
34 construction.

35 (6) Expanding technical and educational support for local land  
36 use and water management agencies.

37 (b) No later than January 1, 2011, and updated as part of the  
38 California Water Plan, the department, in consultation with the  
39 board, and with public input, shall propose new statewide targets,  
40 or review and update existing statewide targets, for regional water

1 resources management practices, including, but not limited to,  
2 recycled water, brackish groundwater desalination, and infiltration  
3 and direct use of urban stormwater runoff.

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5  
6

CHAPTER 6. STANDARDIZED DATA COLLECTION

7 10608.52. (a) The department, in consultation with the board,  
8 the California Bay-Delta Authority or its successor agency, the  
9 State Department of Public Health, and the Public Utilities  
10 Commission, shall develop a single standardized water use  
11 reporting form to meet the water use information needs of each  
12 agency, including the needs of urban water suppliers that elect to  
13 determine and report progress toward achieving targets on a  
14 regional basis as provided in subdivision (a) of Section 10608.28.

15 (b) At a minimum, the form shall be developed to accommodate  
16 information sufficient to assess an urban water supplier’s  
17 compliance with conservation targets pursuant to Section 10608.24  
18 and an agricultural water supplier’s compliance with  
19 implementation of efficient water management practices pursuant  
20 to subdivision (a) of Section 10608.48. The form shall  
21 accommodate reporting by urban water suppliers on an individual  
22 or regional basis as provided in subdivision (a) of Section  
23 10608.28.

24  
25  
26

CHAPTER 7. FUNDING PROVISIONS

27 10608.56. (a) Beginning July 1, 2016, the terms of, and  
28 eligibility for, a water management grant or loan made to urban  
29 retail water suppliers and awarded or administered by the  
30 department, board, or California Bay-Delta Authority or its  
31 successor agency shall be conditioned on the implementation of  
32 Chapter 3 (commencing with Section 10608.16).

33 (b) Beginning July 1, 2013, the terms of, and eligibility for, a  
34 water management grant or loan made to agricultural water  
35 suppliers and awarded or administered by the department, board,  
36 or California Bay-Delta Authority or its successor agency shall be  
37 conditioned on the implementation of Chapter 4 (commencing  
38 with Section 10608.48).

39 (c) Notwithstanding subdivision (a), the department shall  
40 determine that an urban retail water supplier is eligible for a water

1 management grant or loan even though the supplier has not met  
2 the per capita reductions required pursuant to Section 10608.24,  
3 if the urban retail water supplier has submitted to the department  
4 for approval a schedule, financing plan, and budget, to be included  
5 in the grant or loan agreement, for achieving the per capita  
6 reductions. The supplier may request grant or loan funds to achieve  
7 the per capita reductions to the extent the request is consistent with  
8 the eligibility requirements applicable to the water management  
9 funds.

10 (d) Notwithstanding subdivision (b), the department shall  
11 determine that an agricultural water supplier is eligible for a water  
12 management grant or loan even though the supplier is not  
13 implementing all of the efficient water management practices  
14 described in Section 10608.48, if the agricultural water supplier  
15 has submitted to the department for approval a schedule, financing  
16 plan, and budget, to be included in the grant or loan agreement,  
17 for implementation of the efficient water management practices.  
18 The supplier may request grant or loan funds to implement the  
19 efficient water management practices to the extent the request is  
20 consistent with the eligibility requirements applicable to the water  
21 management funds.

22 (e) Notwithstanding subdivision (a), the department shall  
23 determine that an urban retail water supplier is eligible for a water  
24 management grant or loan even though the supplier has not met  
25 the per capita reductions required pursuant to Section 10608.24,  
26 if the urban retail water supplier has submitted to the department  
27 for approval documentation demonstrating that their entire service  
28 area qualifies as a disadvantaged community.

29 (f) The department shall not deny eligibility to an urban retail  
30 water supplier or agricultural water supplier in compliance with  
31 the requirements of this part and Part 2.8 (commencing with  
32 Section 10800) that is participating in a multiagency water project,  
33 or an integrated regional water management plan, developed  
34 pursuant to Section 75026 of the Public Resources Code, solely  
35 on the basis that one or more of the agencies participating in the  
36 project or plan is not implementing all of the requirements of this  
37 part or Part 2.8 (commencing with Section 10800).

38 10608.60. (a) It is the intent of the Legislature that funds made  
39 available by Section 75026 of the Public Resources Code should  
40 be expended, consistent with Division 43 (commencing with

1 Section 75001) of the Public Resources Code and upon  
2 appropriation by the Legislature, for grants to implement this part.  
3 In the allocation of funding, it is the intent of the Legislature that  
4 the department give consideration to disadvantaged communities  
5 to assist in implementing the requirements of this part.

6 (b) It is the intent of the Legislature that funds made available  
7 by Section 75041 of the Public Resources Code should be expended  
8 consistent with Division 43 (commencing with Section 75001) of  
9 the Public Resources Code and, upon appropriation by the  
10 Legislature, for direct expenditures to implement this part.

11 SEC. 49. Section 10631.5 of the Water Code is amended to  
12 read:

13 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and  
14 eligibility for, a water management grant or loan made to an urban  
15 water supplier and awarded or administered by the department,  
16 state board, or California Bay-Delta Authority or its successor  
17 agency shall be conditioned on the implementation of the water  
18 demand management measures described in Section 10631, as  
19 determined by the department pursuant to subdivision (b).

20 (2) For the purposes of this section, water management grants  
21 and loans include funding for programs and projects for surface  
22 water or groundwater storage, recycling, desalination, water  
23 conservation, water supply reliability, and water supply  
24 augmentation. This section does not apply to water management  
25 projects funded by the *federal* American Recovery and  
26 Reinvestment Act of 2009 (Public Law 111-5).

27 (3) Notwithstanding paragraph (1), the department shall  
28 determine that an urban water supplier is eligible for a water  
29 management grant or loan even though the supplier is not  
30 implementing all of the water demand management measures  
31 described in Section 10631, if the urban water supplier has  
32 submitted to the department for approval a schedule, financing  
33 plan, and budget, to be included in the grant or loan agreement,  
34 for implementation of the water demand management measures.  
35 The supplier may request grant or loan funds to implement the  
36 water demand management measures to the extent the request is  
37 consistent with the eligibility requirements applicable to the water  
38 management funds.

39 (4) (A) Notwithstanding paragraph (1), the department shall  
40 determine that an urban water supplier is eligible for a water

1 management grant or loan even though the supplier is not  
2 implementing all of the water demand management measures  
3 described in Section 10631, if an urban water supplier submits to  
4 the department for approval documentation demonstrating that a  
5 water demand management measure is not locally cost effective.  
6 If the department determines that the documentation submitted by  
7 the urban water supplier fails to demonstrate that a water demand  
8 management measure is not locally cost effective, the department  
9 shall notify the urban water supplier and the agency administering  
10 the grant or loan program within 120 days that the documentation  
11 does not satisfy the requirements for an exemption, and include  
12 in that notification a detailed statement to support the  
13 determination.

14 (B) For purposes of this paragraph, “not locally cost effective”  
15 means that the present value of the local benefits of implementing  
16 a water demand management measure is less than the present value  
17 of the local costs of implementing that measure.

18 (b) (1) The department, in consultation with the state board and  
19 the California Bay-Delta Authority or its successor agency, and  
20 after soliciting public comment regarding eligibility requirements,  
21 shall develop eligibility requirements to implement the requirement  
22 of paragraph (1) of subdivision (a). In establishing these eligibility  
23 requirements, the department shall do both of the following:

24 (A) Consider the conservation measures described in the  
25 Memorandum of Understanding Regarding Urban Water  
26 Conservation in California, and alternative conservation approaches  
27 that provide equal or greater water savings.

28 (B) Recognize the different legal, technical, fiscal, and practical  
29 roles and responsibilities of wholesale water suppliers and retail  
30 water suppliers.

31 (2) (A) For the purposes of this section, the department shall  
32 determine whether an urban water supplier is implementing all of  
33 the water demand management measures described in Section  
34 10631 based on either, or a combination, of the following:

35 (i) Compliance on an individual basis.

36 (ii) Compliance on a regional basis. Regional compliance shall  
37 require participation in a regional conservation program consisting  
38 of two or more urban water suppliers that achieves the level of  
39 conservation or water efficiency savings equivalent to the amount  
40 of conservation or savings achieved if each of the participating

1 urban water suppliers implemented the water demand management  
2 measures. The urban water supplier administering the regional  
3 program shall provide participating urban water suppliers and the  
4 department with data to demonstrate that the regional program is  
5 consistent with this clause. The department shall review the data  
6 to determine whether the urban water suppliers in the regional  
7 program are meeting the eligibility requirements.

8 (B) The department may require additional information for any  
9 determination pursuant to this section.

10 (3) The department shall not deny eligibility to an urban water  
11 supplier in compliance with the requirements of this section that  
12 is participating in a multiagency water project, or an integrated  
13 regional water management plan, developed pursuant to Section  
14 75026 of the Public Resources Code, solely on the basis that one  
15 or more of the agencies participating in the project or plan is not  
16 implementing all of the water demand management measures  
17 described in Section 10631.

18 (c) In establishing guidelines pursuant to the specific funding  
19 authorization for any water management grant or loan program  
20 subject to this section, the agency administering the grant or loan  
21 program shall include in the guidelines the eligibility requirements  
22 developed by the department pursuant to subdivision (b).

23 (d) Upon receipt of a water management grant or loan  
24 application by an agency administering a grant and loan program  
25 subject to this section, the agency shall request an eligibility  
26 determination from the department with respect to the requirements  
27 of this section. The department shall respond to the request within  
28 60 days of the request.

29 (e) The urban water supplier may submit to the department  
30 copies of its annual reports and other relevant documents to assist  
31 the department in determining whether the urban water supplier  
32 is implementing or scheduling the implementation of water demand  
33 management activities. In addition, for urban water suppliers that  
34 are signatories to the Memorandum of Understanding Regarding  
35 Urban Water Conservation in California and submit biennial reports  
36 to the California Urban Water Conservation Council in accordance  
37 with the memorandum, the department may use these reports to  
38 assist in tracking the implementation of water demand management  
39 measures.

1 (f) *This section shall remain in effect only until July 1, 2016,*  
2 *and as of that date is repealed, unless a later enacted statute, that*  
3 *is enacted before July 1, 2016, deletes or extends that date.*

4 SEC. 50. Part 2.8 (commencing with Section 10800) of  
5 Division 6 of the Water Code is repealed.

6 SEC. 51. Part 2.8 (commencing with Section 10800) is added  
7 to Division 6 of the Water Code, to read:

8  
9 PART 2.8. AGRICULTURAL WATER MANAGEMENT  
10 PLANNING

11  
12 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

13  
14 10800. This part shall be known, and may be cited, as the  
15 Agricultural Water Management Planning Act.

16 10801. The Legislature finds and declares all of the following:

17 (a) The waters of the state are a limited and renewable resource.

18 (b) The California Constitution requires that water in the state  
19 be used in a reasonable and beneficial manner.

20 (c) Urban water districts are required to adopt water management  
21 plans.

22 (d) The conservation of agricultural water supplies is of great  
23 statewide concern.

24 (e) There is a great amount of reuse of delivered water, both  
25 inside and outside the water service areas.

26 (f) Significant noncrop beneficial uses are associated with  
27 agricultural water use, including streamflows and wildlife habitat.

28 (g) Significant opportunities exist in some areas, through  
29 improved irrigation water management, to conserve water or to  
30 reduce the quantity of highly saline or toxic drainage water.

31 (h) Changes in water management practices should be carefully  
32 planned and implemented to minimize adverse effects on other  
33 beneficial uses currently being served.

34 (i) Agricultural water suppliers that receive water from the  
35 Central Valley Project are required by federal law to prepare and  
36 implement water conservation plans.

37 (j) Agricultural water users applying for a permit to appropriate  
38 water from the board are required to prepare and implement water  
39 conservation plans.

1 10802. The Legislature finds and declares that all of the  
 2 following are the policies of the state:  
 3 (a) The conservation of water shall be pursued actively to protect  
 4 both the people of the state and the state’s water resources.  
 5 (b) The conservation of agricultural water supplies shall be an  
 6 important criterion in public decisions with regard to water.  
 7 (c) Agricultural water suppliers shall be required to prepare  
 8 water management plans to achieve conservation of water.

9  
10 CHAPTER 2. DEFINITIONS

11  
12 10810. Unless the context otherwise requires, the definitions  
 13 set forth in this chapter govern the construction of this part.  
 14 10811. “Agricultural water management plan” or “plan” means  
 15 an agricultural water management plan prepared pursuant to this  
 16 part.  
 17 10812. “Agricultural water supplier” has the same meaning as  
 18 defined in Section 10608.12.  
 19 10813. “Customer” means a purchaser of water from a water  
 20 supplier who uses water for agricultural purposes.  
 21 10814. “Person” means any individual, firm, association,  
 22 organization, partnership, business, trust, corporation, company,  
 23 public agency, or any agency of that entity.  
 24 10815. “Public agency” means any city, county, city and  
 25 county, special district, or other public entity.  
 26 10816. “Urban water supplier” has the same meaning as set  
 27 forth in Section 10617.  
 28 10817. “Water conservation” means the efficient management  
 29 of water resources for beneficial uses, preventing waste, or  
 30 accomplishing additional benefits with the same amount of water.

31  
32 CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

33  
34 Article 1. General Provisions

35  
36 10820. (a) An agricultural water supplier shall prepare and  
 37 adopt an agricultural water management plan in the manner set  
 38 forth in this chapter on or before December 31, 2012, and shall  
 39 update that plan on December 31, 2015, and on or before December  
 40 31 every five years thereafter.

1 (b) Every supplier that becomes an agricultural water supplier  
2 after December 31, 2012, shall prepare and adopt an agricultural  
3 water management plan within one year after the date it has become  
4 an agricultural water supplier.

5 (c) A water supplier that indirectly provides water to customers  
6 for agricultural purposes shall not prepare a plan pursuant to this  
7 part without the consent of each agricultural water supplier that  
8 directly provides that water to its customers.

9 10821. (a) An agricultural water supplier required to prepare  
10 a plan pursuant to this part shall notify each city or county within  
11 which the supplier provides water supplies that the agricultural  
12 water supplier will be preparing the plan or reviewing the plan and  
13 considering amendments or changes to the plan. The agricultural  
14 water supplier may consult with, and obtain comments from, each  
15 city or county that receives notice pursuant to this subdivision.

16 (b) The amendments to, or changes in, the plan shall be adopted  
17 and submitted in the manner set forth in Article 3 (commencing  
18 with Section 10840).

19  
20 Article 2. Contents of Plans  
21

22 10825. (a) It is the intent of the Legislature in enacting this  
23 part to allow levels of water management planning commensurate  
24 with the numbers of customers served and the volume of water  
25 supplied.

26 (b) This part does not require the implementation of water  
27 conservation programs or practices that are not locally cost  
28 effective.

29 10826. An agricultural water management plan shall be adopted  
30 in accordance with this chapter. The plan shall do all of the  
31 following:

32 (a) Describe the agricultural water supplier and the service area,  
33 including all of the following:

- 34 (1) Size of the service area.
- 35 (2) Location of the service area and its water management  
36 facilities.
- 37 (3) Terrain and soils.
- 38 (4) Climate.
- 39 (5) Operating rules and regulations.
- 40 (6) Water delivery measurements or calculations.

- 1 (7) Water rate schedules and billing.
- 2 (8) Water shortage allocation policies.
- 3 (b) Describe the quantity and quality of water resources of the
- 4 agricultural water supplier, including all of the following:
- 5 (1) Surface water supply.
- 6 (2) Groundwater supply.
- 7 (3) Other water supplies.
- 8 (4) Source water quality monitoring practices.
- 9 (5) Water uses within the agricultural water supplier’s service
- 10 area, including all of the following:
- 11 (A) Agricultural.
- 12 (B) Environmental.
- 13 (C) Recreational.
- 14 (D) Municipal and industrial.
- 15 (E) Groundwater recharge.
- 16 (F) Transfers and exchanges.
- 17 (G) Other water uses.
- 18 (6) Drainage from the water supplier’s service area.
- 19 (7) Water accounting, including all of the following:
- 20 (A) Quantifying the water supplier’s water supplies.
- 21 (B) Tabulating water uses.
- 22 (C) Overall water budget.
- 23 (8) Water supply reliability.
- 24 (c) Include an analysis, based on available information, of the
- 25 effect of climate change on future water supplies.
- 26 (d) Describe previous water management activities.
- 27 (e) Include in the plan the water use efficiency information
- 28 required pursuant to Section 10608.48.
- 29 10827. Agricultural water suppliers that are members of the
- 30 Agricultural Water Management Council, and that submit water
- 31 management plans to that council in accordance with the
- 32 “Memorandum of Understanding Regarding Efficient Water
- 33 Management Practices By Agricultural Water Suppliers In
- 34 California,” dated January 1, 1999, may submit the water
- 35 management plans identifying water demand management
- 36 measures currently being implemented, or scheduled for
- 37 implementation, to satisfy the requirements of Section 10826.
- 38 10828. (a) Agricultural water suppliers that are required to
- 39 submit water conservation plans to the United States Bureau of
- 40 Reclamation pursuant to either the Central Valley Project

1 Improvement Act (Public Law 102-575) or the Reclamation  
2 Reform Act of 1982, or both, may submit those water conservation  
3 plans to satisfy the requirements of Section 10826, if both of the  
4 following apply:

5 (1) The agricultural water supplier has adopted and submitted  
6 the water conservation plan to the United States Bureau of  
7 Reclamation within the previous four years.

8 (2) The United States Bureau of Reclamation has accepted the  
9 water conservation plan as adequate.

10 (b) This part does not require agricultural water suppliers that  
11 are required to submit water conservation plans to the United States  
12 Bureau of Reclamation pursuant to either the Central Valley Project  
13 Improvement Act (Public Law 102-575) or the Reclamation  
14 Reform Act of 1982, or both, to prepare and adopt water  
15 conservation plans according to a schedule that is different from  
16 that required by the United States Bureau of Reclamation.

17 10829. An agricultural water supplier may satisfy the  
18 requirements of this part by adopting an urban water management  
19 plan pursuant to Part 2.6 (commencing with Section 10610) or by  
20 participation in areawide, regional, watershed, or basinwide water  
21 management planning if those plans meet or exceed the  
22 requirements of this part.

23

24 Article 3. Adoption and Implementation of Plans

25

26 10840. Every agricultural water supplier shall prepare its plan  
27 pursuant to Article 2 (commencing with Section 10825).

28 10841. Prior to adopting a plan, the agricultural water supplier  
29 shall make the proposed plan available for public inspection, and  
30 shall hold a public hearing on the plan. Prior to the hearing, notice  
31 of the time and place of hearing shall be published within the  
32 jurisdiction of the publicly owned agricultural water supplier  
33 pursuant to Section 6066 of the Government Code. A privately  
34 owned agricultural water supplier shall provide an equivalent notice  
35 within its service area and shall provide a reasonably equivalent  
36 opportunity that would otherwise be afforded through a public  
37 hearing process for interested parties to provide input on the plan.  
38 After the hearing, the plan shall be adopted as prepared or as  
39 modified during or after the hearing.

1 10842. An agricultural water supplier shall implement the plan  
2 adopted pursuant to this chapter in accordance with the schedule  
3 set forth in its plan, as determined by the governing body of the  
4 agricultural water supplier.

5 10843. (a) An agricultural water supplier shall submit to the  
6 entities identified in subdivision (b) a copy of its plan no later than  
7 30 days after the adoption of the plan. Copies of amendments or  
8 changes to the plans shall be submitted to the entities identified in  
9 subdivision (b) within 30 days after the adoption of the  
10 amendments or changes.

11 (b) An agricultural water supplier shall submit a copy of its plan  
12 and amendments or changes to the plan to each of the following  
13 entities:

14 (1) The department.

15 (2) Any city, county, or city and county within which the  
16 agricultural water supplier provides water supplies.

17 (3) Any groundwater management entity within which  
18 jurisdiction the agricultural water supplier extracts or provides  
19 water supplies.

20 (4) Any urban water supplier within which jurisdiction the  
21 agricultural water supplier provides water supplies.

22 (5) Any city or county library within which jurisdiction the  
23 agricultural water supplier provides water supplies.

24 (6) The California State Library.

25 (7) Any local agency formation commission serving a county  
26 within which the agricultural water supplier provides water  
27 supplies.

28 10844. (a) Not later than 30 days after the date of adopting its  
29 plan, the agricultural water supplier shall make the plan available  
30 for public review on the agricultural water supplier’s Internet Web  
31 site.

32 (b) An agricultural water supplier that does not have an Internet  
33 Web site shall submit to the department, not later than 30 days  
34 after the date of adopting its plan, a copy of the adopted plan in  
35 an electronic format. The department shall make the plan available  
36 for public review on the department’s Internet Web site.

37 10845. (a) The department shall prepare and submit to the  
38 Legislature, on or before December 31, 2013, and thereafter in the  
39 years ending in six and years ending in one, a report summarizing  
40 the status of the plans adopted pursuant to this part.

1 (b) The report shall include an evaluation of the effectiveness  
2 of this part in promoting efficient agricultural water management  
3 practices and recommendations relating to proposed changes to  
4 this part, as appropriate.

5 (c) The department shall provide a copy of the report to each  
6 agricultural water supplier that has submitted its plan to the  
7 department. The department shall also prepare reports and provide  
8 data for any legislative hearing designed to consider the  
9 effectiveness of plans submitted pursuant to this part.

10 (d) This section does not authorize the department, in preparing  
11 the report, to approve, disapprove, or critique individual plans  
12 submitted pursuant to this part.

13  
14 CHAPTER 4. MISCELLANEOUS PROVISIONS  
15

16 10850. (a) Any action or proceeding to attack, review, set  
17 aside, void, or annul the acts or decisions of an agricultural water  
18 supplier on the grounds of noncompliance with this part shall be  
19 commenced as follows:

20 (1) An action or proceeding alleging failure to adopt a plan shall  
21 be commenced within 18 months after that adoption is required  
22 by this part.

23 (2) Any action or proceeding alleging that a plan, or action taken  
24 pursuant to the plan, does not comply with this part shall be  
25 commenced within 90 days after submitting the plan or  
26 amendments to the plan to entities in accordance with Section  
27 10844 or the taking of that action.

28 (b) In an action or proceeding to attack, review, set aside, void,  
29 or annul a plan, or an action taken pursuant to the plan by an  
30 agricultural water supplier, on the grounds of noncompliance with  
31 this part, the inquiry shall extend only to whether there was a  
32 prejudicial abuse of discretion. Abuse of discretion is established  
33 if the agricultural water supplier has not proceeded in a manner  
34 required by law, or if the action by the agricultural water supplier  
35 is not supported by substantial evidence.

36 10851. The California Environmental Quality Act (Division  
37 13 (commencing with Section 21000) of the Public Resources  
38 Code) does not apply to the preparation and adoption of plans  
39 pursuant to this part. This part does not exempt projects for

1 implementation of the plan or for expanded or additional water  
 2 supplies from the California Environmental Quality Act.  
 3 SEC. 52. Part 2.11 (commencing with Section 10920) is added  
 4 to Division 6 of the Water Code, to read:

5  
 6 PART 2.11. GROUNDWATER MONITORING

7  
 8 CHAPTER 1. GENERAL PROVISIONS

9  
 10 10920. (a) It is the intent of the Legislature that on or before  
 11 January 1, 2014, groundwater elevations in all groundwater basins  
 12 and subbasins be regularly and systematically monitored locally  
 13 and that the resulting groundwater information be made readily  
 14 and widely available.

15 (b) It is the intent of the Legislature that the department continue  
 16 to maintain its current network of more than 60,000 monitoring  
 17 wells, including groundwater elevation and groundwater quality  
 18 monitoring wells, and that the department continue to coordinate  
 19 monitoring with local entities.

20 (c) It is further the intent of the Legislature that the department  
 21 and monitoring entities accept groundwater data from any party  
 22 wishing to submit the data, if the data are of similar quality to data  
 23 collected by the department through its groundwater monitoring  
 24 well network, in order to augment the department's or monitoring  
 25 entity's groundwater monitoring program.

26 10921. This part does not require the monitoring of  
 27 groundwater elevations in an area that is not within a basin or  
 28 subbasin.

29 10922. This part does not expand or otherwise affect the powers  
 30 or duties of the department, or any other groundwater monitoring  
 31 entity, relating to groundwater beyond those expressly granted by  
 32 this part, and does not affect any other provision of law relating  
 33 to groundwater, except as expressly set forth in this part.

34  
 35 CHAPTER 2. DEFINITIONS

36  
 37 10925. Unless the context otherwise requires, the definitions  
 38 set forth in this section govern the construction of this part.

1 (a) “Basin” or “subbasin” means a groundwater basin or  
2 subbasin identified and defined in the department’s Bulletin No.  
3 118.

4 (b) “Bulletin No. 118” means the department’s report entitled  
5 “California’s Groundwater: Bulletin 118” updated in 2003, or as  
6 it may be subsequently updated or revised in accordance with  
7 Section 12924.

8 (c) “Monitoring entity” means a party conducting or  
9 coordinating the monitoring of groundwater elevations pursuant  
10 to this part.

11 (d) “Monitoring functions” and “groundwater monitoring  
12 functions” means the monitoring of groundwater elevations, the  
13 reporting of those elevations to the department.

14 (e) “Monitoring groundwater elevations” means monitoring  
15 groundwater elevations, coordinating the monitoring of  
16 groundwater elevations, or both.

17 (f) “Voluntary cooperative groundwater monitoring association”  
18 means an association formed for the purposes of monitoring  
19 groundwater elevations pursuant to Section 10935.

20

21 CHAPTER 3. GROUNDWATER MONITORING PROGRAM

22

23 10927. One of the following entities shall assume responsibility  
24 for monitoring and reporting groundwater elevations in all or a  
25 part of a basin or subbasin in accordance with this part:

26 (a) A watermaster or water management engineer appointed by  
27 a court or pursuant to statute to administer a final judgment  
28 determining rights to groundwater.

29 (b) (1) A groundwater management agency with statutory  
30 authority to manage groundwater pursuant to its principle act that  
31 is monitoring groundwater elevations in all or a part of a  
32 groundwater basin or subbasin on or before January 1, 2012.

33 (2) A water replenishment district established pursuant to  
34 Division 18 (commencing with Section 60000). This part does not  
35 expand or otherwise affect the authority of a water replenishment  
36 district relating to monitoring groundwater elevations.

37 (c) A local agency that is managing all or part of a groundwater  
38 basin or subbasin pursuant to Part 2.75 (commencing with Section  
39 10750) and that was monitoring groundwater elevations in all or  
40 a part of a groundwater basin or subbasin on or before January 1,

1 2012, or a local agency or county that is managing all or part of a  
 2 groundwater basin or subbasin pursuant to any other legally  
 3 enforceable groundwater management plan with provisions that  
 4 are substantively similar to those described in that part and that  
 5 was monitoring groundwater elevations in all or a part of a  
 6 groundwater basin or subbasin on or before January 1, 2012.

7 (d) A local agency that is managing all or part of a groundwater  
 8 basin or subbasin pursuant to an integrated regional water  
 9 management plan prepared pursuant to Part 2.2 (commencing with  
 10 Section 10530) that includes a groundwater management  
 11 component that complies with the requirements of Section 10753.7.

12 (e) A county that is not managing all or a part of a groundwater  
 13 basin or subbasin pursuant to a legally enforceable groundwater  
 14 management plan with provisions that are substantively similar to  
 15 those described in Part 2.75 (commencing with Section 10750).

16 (f) A voluntary cooperative groundwater monitoring association  
 17 formed pursuant to Section 10935.

18 10928. (a) Any entity described in subdivision (a) or (b) of  
 19 Section 10927 that assumes groundwater monitoring functions in  
 20 accordance with this part shall notify the department, in writing,  
 21 on or before January 1, 2012. The notification shall include all of  
 22 the following information:

23 (1) The entity’s name, address, telephone number, and any other  
 24 relevant contact information.

25 (2) The specific authority described in Section 10927 pursuant  
 26 to which the entity qualifies to assume the groundwater monitoring  
 27 functions.

28 (3) A map showing the area for which the entity is requesting  
 29 to perform the groundwater monitoring functions.

30 (4) A statement that the entity will comply with all of the  
 31 requirements of this part.

32 (b) Any entity described in subdivision (c), (d), (e), or (f) of  
 33 Section 10927 that assumes groundwater monitoring functions in  
 34 accordance with this part shall notify the department, in writing,  
 35 by January 1, 2012. The information provided in the notification  
 36 shall include all of the following:

37 (1) The entity’s name, address, telephone number, and any other  
 38 relevant contact information.

1 (2) The specific authority described in Section 10927 pursuant  
2 to which the entity qualifies to assume the groundwater monitoring  
3 functions.

4 (3) For entities that seek to qualify pursuant to subdivision (c)  
5 or (d) of Section 10927, the notification shall also include a copy  
6 of the current groundwater management plan or the groundwater  
7 component of the integrated regional water management plan, as  
8 appropriate.

9 (4) For entities that seek to qualify pursuant to subdivision (f)  
10 of Section 10927, the notification shall include a statement of  
11 intention to meet the requirements of Section 10935.

12 (5) A map showing the area for which the entity is proposing  
13 to perform the groundwater monitoring functions.

14 (6) A statement that the entity will comply with all of the  
15 requirements of this part.

16 (7) A statement describing the ability and qualifications of the  
17 entity to conduct the groundwater monitoring functions required  
18 by this part.

19 (c) The department may request additional information that it  
20 deems necessary for the purposes of determining the area that is  
21 proposed to be monitored or the qualifications of the entity to  
22 perform the groundwater monitoring functions.

23 10929. (a) (1) The department shall review all notifications  
24 received pursuant to Section 10928.

25 (2) Upon the receipt of a notification pursuant to subdivision  
26 (a) of Section 10928, the department shall verify that the notifying  
27 entity has the appropriate authority under subdivision (a) or (b) of  
28 Section 10927.

29 (3) Upon the receipt of a notification pursuant to subdivision  
30 (b) of Section 10928, the department shall do both of the following:

31 (A) Verify that each notification is complete.

32 (B) Assess the qualifications of the notifying party.

33 (b) If the department has questions about the completeness or  
34 accuracy of a notification, or the qualifications of a party, the  
35 department shall contact the party to resolve any deficiencies. If  
36 the department is unable to resolve the deficiencies, the department  
37 shall notify the party in writing that the notification will not be  
38 considered further until the deficiencies are corrected.

39 (c) If the department determines that more than one party seeks  
40 to become the monitoring entity for the same portion of a basin or

1 subbasin, the department shall consult with the interested parties  
2 to determine which party will perform the monitoring functions.  
3 In determining which party will perform the monitoring functions  
4 under this part, the department shall follow the order in which  
5 entities are identified in Section 10927.

6 (d) The department shall advise each party on the status of its  
7 notification within three months of receiving the notification.

8 10930. Upon completion of each review pursuant to Section  
9 10929, the department shall do both of the following if it  
10 determines that a party will perform monitoring functions under  
11 this part:

12 (a) Notify the party in writing that it is a monitoring entity and  
13 the specific portion of the basin or subbasin for which it shall  
14 assume groundwater monitoring functions.

15 (b) Post on the department's Internet Web site information that  
16 identifies the monitoring entity and the portion of the basin or  
17 subbasin for which the monitoring entity will be responsible.

18 10931. (a) The department shall work cooperatively with each  
19 monitoring entity to determine the manner in which groundwater  
20 elevation information should be reported to the department pursuant  
21 to this part. In determining what information should be reported  
22 to the department, the department shall defer to existing monitoring  
23 programs. The department shall collaborate with the State  
24 Department of Public Health to ensure that the information reported  
25 to the department will not result in the inappropriate disclosure of  
26 the physical address or geographical location of drinking water  
27 sources, storage facilities, pumping operational data, or treatment  
28 facilities. The department shall allow an owner of a groundwater  
29 monitoring well to submit data for the groundwater monitoring  
30 program, if those data meet applicable program standards.

31 (b) The department shall not require a private entity to submit  
32 groundwater monitoring data for purposes of this section.

33 (c) The department shall ensure that any location, ownership,  
34 and groundwater monitoring data provided by a private entity  
35 pursuant to this section are kept confidential.

36 10932. Monitoring entities shall commence monitoring and  
37 reporting groundwater elevations pursuant to this part on or before  
38 January 1, 2013.

1 10933. (a) On or before January 1, 2015, the department shall  
2 produce a report containing groundwater elevation monitoring  
3 information in a database that is easy to read.

4 (b) If the department determines that all or part of a basin or  
5 subbasin is not being monitored pursuant to this part, the  
6 monitoring entity shall do all of the following:

7 (1) Attempt to contact all well owners within the area not being  
8 monitored.

9 (2) Request voluntary participation in a groundwater monitoring  
10 program.

11 (3) Determine if there is an interest in establishing any of the  
12 following:

13 (A) A groundwater management plan pursuant to Part 2.75  
14 (commencing with Section 10750).

15 (B) An integrated regional water management plan pursuant to  
16 Part 2.2 (commencing with Section 10530) that includes a  
17 groundwater management component that complies with the  
18 requirements of Section 10753.7.

19 (C) A voluntary groundwater monitoring association pursuant  
20 to Section 10935.

21 (c) If the department determines that there is sufficient interest  
22 in establishing a plan or association described in paragraph (3) of  
23 subdivision (b), or if the county agrees to perform the groundwater  
24 monitoring functions in accordance with this part, the department  
25 shall work cooperatively with the interested parties to comply with  
26 the requirements of this part within two years.

27 10935. (a) A voluntary cooperative groundwater monitoring  
28 association may be formed for the purposes of monitoring  
29 groundwater elevations in accordance with this part. The  
30 association may be established by contract, a joint powers  
31 agreement, a memorandum of agreement, or other form of  
32 agreement deemed acceptable by the department.

33 (b) Upon notification to the department by one or more entities  
34 that seek to form a voluntary cooperative groundwater monitoring  
35 association, the department shall work cooperatively with the  
36 interested parties to facilitate the formation of the association.

37 (c) The contract or agreement shall include all of the following:

38 (1) The names of the participants.

39 (2) The boundaries of the area covered by the agreement.

1 (3) The name or names of the parties responsible for meeting  
2 the requirements of this part.

3 10937. Beginning July 1, 2016, the terms of, and eligibility  
4 for, a water management grant or loan made to any entity identified  
5 in Section 10927 and awarded or administered by the department,  
6 board, or California Bay-Delta Authority or its successory agency  
7 shall be conditioned on participation in the groundwater monitoring  
8 and reporting program pursuant to this part.

9 10938. This part does not provide any new or additional  
10 authority to an entity identified in Section 10927 to do either of  
11 the following:

12 (a) Enter private property without the consent of the property  
13 owner.

14 (b) Require a private property owner to provide groundwater  
15 monitoring information to the entity.

16 10939. Costs incurred by the department pursuant to this  
17 chapter may be funded from unallocated bond revenues pursuant  
18 to paragraph (12) of subdivision (a) of Section 75027 of the Public  
19 Resources Code, to the extent those funds are available for those  
20 purposes, except as provided in subdivision (c) of Section 10934.

21 SEC. 53. Section 12924 of the Water Code is repealed.

22 ~~12924. (a) The department shall, in conjunction with other  
23 public agencies, conduct an investigation of the state's groundwater  
24 basins. The department shall identify the state's groundwater basins  
25 on the basis of geological and hydrological conditions and  
26 consideration of political boundary lines whenever practical. The  
27 department shall also investigate existing general patterns of  
28 groundwater pumping and groundwater recharge within such basins  
29 to the extent necessary to identify basins which are subject to  
30 critical conditions of overdraft.~~

31 ~~(b) The department shall report its findings to the Governor and  
32 the Legislature not later than January 1, 1980.~~

33 SEC. 54. Section 12924 is added to the Water Code, to read:

34 12924. (a) The department, in conjunction with other public  
35 agencies, shall conduct an investigation of the state's groundwater  
36 basins. The department shall identify the state's groundwater basins  
37 on the basis of geological and hydrological conditions and  
38 consideration of political boundary lines whenever practical. The  
39 department shall also investigate existing general patterns of  
40 groundwater pumping and groundwater recharge within those

1 basins to the extent necessary to identify basins that are subject to  
2 critical conditions of overdraft.

3 (b) The department shall report its findings to the Governor and  
4 the Legislature not later than January 1, 2015, and thereafter in  
5 years ending in 0 or 5.

6 SEC. 55. Division 26.4 (commencing with Section 79400) of  
7 the Water Code is repealed.

8 SEC. 56. Division 35 (commencing with Section 85000) is  
9 added to the Water Code, to read:

10  
11 DIVISION 35. SACRAMENTO-SAN JOAQUIN DELTA  
12 REFORM ACT OF 2009

13  
14 PART 1. GENERAL PROVISIONS

15  
16 CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

17  
18 85000. This division shall be known, and may be cited, as the  
19 Sacramento-San Joaquin Delta Reform Act of 2009.

20 85001. The Legislature finds and declares all of the following:

21 (a) The Sacramento-San Joaquin Delta watershed and  
22 California's water infrastructure are in crisis and existing Delta  
23 policies are not sustainable. Resolving the crisis requires  
24 fundamental reorganization of the state's management of Delta  
25 watershed resources.

26 (b) In response to the Delta crisis, the Legislature and the  
27 Governor required development of a new long-term strategic vision  
28 for managing the Delta. The Governor appointed a Blue Ribbon  
29 Task Force to recommend a new "Delta Vision Strategic Plan" to  
30 his cabinet committee, which, in turn, made recommendations for  
31 a Delta Vision to the Governor and the Legislature on January 3,  
32 2009.

33 (c) By enacting this division, it is the intent of the Legislature  
34 to provide for the sustainable management of the Sacramento-San  
35 Joaquin Delta ecosystem, to provide for a more reliable water  
36 supply for the state, to protect and enhance the quality of water  
37 supply from the Delta, and to establish a governance structure that  
38 will direct efforts across state agencies to develop a legally  
39 enforceable Delta Plan.

1 85002. The Legislature finds and declares that the  
2 Sacramento-San Joaquin Delta, referred to as “the Delta” in this  
3 division, is a critically important natural resource for California  
4 and the nation. It serves Californians concurrently as both the hub  
5 of the California water system and the most valuable estuary and  
6 wetland ecosystem on the west coast of North and South America.

7 85003. The Legislature finds and declares all of the following:

8 (a) Originally, the Delta was a shallow wetland with water  
9 covering the area for many months of the year. Natural levees,  
10 created by deposits of sediment, allowed some islands to emerge  
11 during the dry summer months. Salinity would fluctuate, depending  
12 on the season and the amount of precipitation in any one year, and  
13 the species that comprised the Delta ecosystem had evolved and  
14 adapted to this unique, dynamic system.

15 (b) Delta property ownership developed pursuant to the federal  
16 Swamp Land Act of 1850, and state legislation enacted in 1861,  
17 and as a result of the construction of levees to keep previously  
18 seasonal wetlands dry throughout the year. That property  
19 ownership, and the exercise of associated rights, continue to depend  
20 on the landowners’ maintenance of those nonproject levees and  
21 do not include any right to state funding of levee maintenance or  
22 repair.

23 (c) In 1933, the Legislature approved the California Central  
24 Valley Project Act, which relied upon the transfer of Sacramento  
25 River water south through the Delta and maintenance of a more  
26 constant salinity regime by using upstream reservoir releases of  
27 freshwater to create a hydraulic salinity barrier. As a result of the  
28 operations of state and federal water projects, the natural salinity  
29 variations in the Delta have been altered. Restoring a healthy  
30 estuarine ecosystem in the Delta may require developing a more  
31 natural salinity regime in parts of the Delta.

32 85004. The Legislature finds and declares all of the following:

33 (a) The economies of major regions of the state depend on the  
34 ability to use water within the Delta watershed or to import water  
35 from the Delta watershed. More than two-thirds of the residents  
36 of the state and more than two million acres of highly productive  
37 farm land receive water exported from the Delta watershed.

38 (b) Providing a more reliable water supply for the state involves  
39 implementation of water use efficiency and conservation projects,  
40 wastewater reclamation projects, desalination, and new and

1 improved infrastructure, including water storage and Delta  
2 conveyance facilities.

3

4

CHAPTER 2. DELTA POLICY

5

6 85020. The policy of the State of California is to achieve the  
7 following objectives that the Legislature declares are inherent in  
8 the coequal goals for management of the Delta:

9 (a) Manage the Delta’s water and environmental resources and  
10 the water resources of the state over the long term.

11 (b) Protect and enhance the unique cultural, recreational, and  
12 agricultural values of the California Delta as an evolving place.

13 (c) Restore the Delta ecosystem, including its fisheries and  
14 wildlife, as the heart of a healthy estuary and wetland ecosystem.

15 (d) Promote statewide water conservation, water use efficiency,  
16 and sustainable water use.

17 (e) Improve water quality to protect human health and the  
18 environment consistent with achieving water quality objectives in  
19 the Delta.

20 (f) Improve the water conveyance system and expand statewide  
21 water storage.

22 (g) Reduce risks to people, property, and state interests in the  
23 Delta by effective emergency preparedness, appropriate land uses,  
24 and investments in flood protection.

25 (h) Establish a new governance structure with the authority,  
26 responsibility, accountability, scientific support, and adequate and  
27 secure funding to achieve these objectives.

28 85021. The policy of the State of California is to reduce reliance  
29 on the Delta in meeting California’s future water supply needs  
30 through a statewide strategy of investing in improved regional  
31 supplies, conservation, and water use efficiency. Each region that  
32 depends on water from the Delta watershed shall improve its  
33 regional self-reliance for water through investment in water use  
34 efficiency, water recycling, advanced water technologies, local  
35 and regional water supply projects, and improved regional  
36 coordination of local and regional water supply efforts.

37 85022. (a) It is the intent of the Legislature that state and local  
38 land use actions be consistent with the Delta Plan. This section’s  
39 findings, policies, and goals apply to Delta land use planning and  
40 development.

1 (b) The actions of the council shall be guided by the findings,  
2 policies, and goals expressed in this section when reviewing  
3 decisions of the commission pursuant to Division 19.5  
4 (commencing with Section 29700) of the Public Resources Code.  
5 (c) The Legislature finds and declares all of the following:  
6 (1) The Delta is a distinct and valuable natural resource of vital  
7 and enduring interest to all the people and exists as a delicately  
8 balanced estuary and wetland ecosystem of hemispheric  
9 importance.  
10 (2) The permanent protection of the Delta's natural and scenic  
11 resources is the paramount concern to present and future residents  
12 of the state and nation.  
13 (3) To promote the public safety, health, and welfare, and to  
14 protect public and private property, wildlife, fisheries, and the  
15 natural environment, it is necessary to protect and enhance the  
16 ecosystem of the Delta and prevent its further deterioration and  
17 destruction.  
18 (4) Existing developed uses, and future developments that are  
19 carefully planned and developed consistent with the policies of  
20 this division, are essential to the economic and social well-being  
21 of the people of this state and especially to persons living and  
22 working in the Delta.  
23 (d) The fundamental goals for managing land use in the Delta  
24 are to do all of the following:  
25 (1) Protect, maintain, enhance, and, where feasible, restore the  
26 overall quality of the Delta environment and its natural and  
27 artificial resources.  
28 (2) Ensure the utilization and conservation of Delta resources,  
29 taking into account the social and economic needs of the people  
30 of the state.  
31 (3) Maximize public access to Delta resources and maximize  
32 public recreational opportunities in the Delta consistent with sound  
33 resources conservation principles and constitutionally protected  
34 rights of private property owners.  
35 (4) Encourage state and local initiatives and cooperation in  
36 preparing procedures to implement coordinated planning and  
37 development for mutually beneficial uses, including educational  
38 uses, in the Delta.

1 (5) Develop new or improved aquatic and terrestrial habitat and  
2 protect existing habitats to advance the goal of restoring and  
3 enhancing the Delta ecosystem.

4 (6) Improve water quality to protect human health and the  
5 environment consistent with achieving water quality objectives in  
6 the Delta.

7 85023. The longstanding constitutional principle of reasonable  
8 use and the public trust doctrine shall be the foundation of state  
9 water management policy and are particularly important and  
10 applicable to the Delta.

11  
12 CHAPTER 3. MISCELLANEOUS PROVISIONS  
13

14 85031. (a) This division does not diminish, impair, or  
15 otherwise affect in any manner whatsoever any area of origin,  
16 watershed of origin, county of origin, or any other water rights  
17 protections, including, but not limited to, rights to water  
18 appropriated prior to December 19, 1914, provided under the law.  
19 This division does not limit or otherwise affect the application of  
20 Article 1.7 (commencing with Section 1215) of Chapter 1 of Part  
21 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461,  
22 11462, and 11463, and Sections 12200 to 12220, inclusive.

23 (b) Nothing in this division supersedes, limits, or otherwise  
24 modifies the applicability of Chapter 10 (commencing with Section  
25 1700) of Part 2 of Division 2, including petitions related to any  
26 new conveyance constructed or operated in accordance with  
27 Chapter 2 (commencing with Section 85320) of Part 4.

28 (c) Unless otherwise expressly provided, nothing in this division  
29 supersedes, reduces, or otherwise affects existing legal protections,  
30 both procedural and substantive, relating to the board’s regulation  
31 of diversion and use of water, including, but not limited to, the  
32 protection provided to municipal interests by Sections 106 and  
33 106.5, and changes in water rights. Nothing in this division expands  
34 or otherwise alters the board’s existing authority to regulate the  
35 diversion and use of water or the courts’ existing concurrent  
36 jurisdiction over California water rights.

37 85032. This division does not affect any of the following:

38 (a) The Natural Community Conservation Planning Act (Chapter  
39 10 (commencing with Section 2800) of Division 3 of the Fish and  
40 Game Code).

1 (b) The California Endangered Species Act (Chapter 1.5  
2 (commencing with Section 2050) of Division 3 of the Fish and  
3 Game Code).

4 (c) The Fish and Game Code.

5 (d) The Porter-Cologne Water Quality Control Act (Division 7  
6 (commencing with Section 13000).

7 (e) Chapter 8 (commencing with Section 12930) of Part 6 of  
8 Division 6.

9 (f) The California Environmental Quality Act (Division 13  
10 (commencing with Section 21000) of the Public Resources Code).

11 (g) Section 1702.

12 (h) The application of the public trust doctrine.

13 (i) Any water right.

14 (j) The liability of the state for flood protection in the Delta or  
15 its watershed.

16 85034. (a) (1) The council shall administer all contracts,  
17 grants, easements, and agreements made or entered into by the  
18 California Bay-Delta Authority under Division 26.4 (commencing  
19 with Section 79400), as that division read on December 31, 2009.

20 (2) The exercise of the authority described in paragraph (1) is  
21 not subject to review or approval by the Department of General  
22 Services.

23 (3) A contract, lease, license, or any other agreement to which  
24 the California Bay-Delta Authority is a party is not void or voidable  
25 as a result of the implementation of this subdivision, but shall  
26 continue in full force and effect until the end of its term.

27 (b) The council shall be the successor to and shall assume from  
28 the California Bay-Delta Authority all of the administrative rights,  
29 abilities, obligations, and duties of that authority.

30 (c) The council shall have possession and control of all records,  
31 papers, equipment, supplies, contracts, leases, agreements, and  
32 other property, real or personal, connected with the administration  
33 of Division 26.4 (commencing with Section 79400), as that division  
34 read on December 31, 2009, or held for the benefit or use of the  
35 California Bay-Delta Authority.

36 (d) The council shall assume from the California Bay-Delta  
37 Authority all responsibility to manage, in accordance with Chapter  
38 5 (commencing with Section 85280) of Part 3, the science program  
39 element that was required to be undertaken by Division 26.4  
40 (commencing with Section 79400).

1 (e) Consistent with the responsibilities and duties assumed by  
2 the council pursuant to this section, all staff, resources, and funding  
3 within the Natural Resources Agency and the Department of  
4 Forestry and Fire Protection for the support of the CALFED  
5 Bay-Delta Program are hereby transferred to, and may be expended  
6 for the purposes of, the council. The executive officer of the council  
7 shall confer with the Director of Fish and Game, the director of  
8 the department, and the executive director of the board regarding  
9 possible reallocation of the staff and resources. The status, position,  
10 and rights of any officer or employee shall not be affected by this  
11 transfer and all officers and employees shall be retained pursuant  
12 to the State Civil Service Act (Part 2 (commencing with Section  
13 18500) of Division 5 of Title 2 of the Government Code).

14  
15 CHAPTER 4. DEFINITIONS

16  
17 85050. Unless the context otherwise requires, the definitions  
18 set forth in this chapter govern the construction of this division.

19 85051. “Acquisition” means the acquisition of a fee interest  
20 or any other interest, including easements, leases, and development  
21 rights.

22 85052. “Adaptive management” means a framework and  
23 flexible decisionmaking process for ongoing knowledge  
24 acquisition, monitoring, and evaluation leading to continuous  
25 improvement in management planning and implementation of a  
26 project to achieve specified objectives.

27 85053. “Bay Delta Conservation Plan” or “BDCP” means a  
28 multispecies conservation plan.

29 85054. “Coequal goals” means the two goals of providing a  
30 more reliable water supply for California and protecting, restoring,  
31 and enhancing the Delta ecosystem. The coequal goals shall be  
32 achieved in a manner that protects and enhances the unique cultural,  
33 recreational, natural resource, and agricultural values of the Delta  
34 as an evolving place.

35 85055. “Commission” means the Delta Protection Commission  
36 established in Division 19.5 (commencing with Section 29700) of  
37 the Public Resources Code.

38 85056. “Conservancy” means the Sacramento-San Joaquin  
39 Delta Conservancy established in Section 32320 of the Public  
40 Resources Code.

1 85057. “Council” means the Delta Stewardship Council  
2 established in Section 85200.

3 85057.5. (a) “Covered action” means a plan, program, project,  
4 or activity that meets all of the following conditions:

5 (1) Will occur, in whole or in part, within the boundaries of the  
6 Delta or Suisun Marsh.

7 (2) Will be carried out, approved, or funded by the state or a  
8 local public agency.

9 (3) Is covered by one or more provisions of the Delta Plan.

10 (4) Will have a significant impact on achievement of one or  
11 both of the coequal goals or the implementation of  
12 government-sponsored flood control programs to reduce risks to  
13 people, property, and state interests in the Delta.

14 (b) “Covered action” does not include any of the following:

15 (1) A regulatory action of a state agency.

16 (2) Routine maintenance and operation of the State Water  
17 Project or the federal Central Valley Project.

18 (3) Regional transportation plans prepared pursuant to Section  
19 65080 of the Government Code.

20 (4) Any plan, program, project, or activity within the secondary  
21 zone of the Delta that the applicable metropolitan planning  
22 organization under Section 65080 of the Government Code has  
23 determined is consistent with either a sustainable communities  
24 strategy or an alternative planning strategy that the State Air  
25 Resources Board has determined would, if implemented, achieve  
26 the greenhouse gas emission reduction targets established by that  
27 board pursuant to subparagraph (A) of paragraph (2) of subdivision

28 (b) of Section 65080 of the Government Code. For purposes of  
29 this section, “consistent with” means consistent with the use  
30 designation, density, building intensity, transportation plan, and  
31 applicable policies specified for the area in the sustainable  
32 communities strategy or the alternative planning strategy, as  
33 applicable, and any infrastructure necessary to support the plan,  
34 program, project, or activity.

35 (5) Routine maintenance and operation of any facility located,  
36 in whole or in part, in the Delta, that is owned or operated by a  
37 local public agency.

38 (6) Any plan, program, project, or activity that occurs, in whole  
39 or in part, in the Delta, if both of the following conditions are met:

1 (A) The plan, program, project, or activity is undertaken by a  
2 local public agency that is located, in whole or in part, in the Delta.

3 (B) Either a notice of determination is filed, pursuant to Section  
4 21152 of the Public Resources Code, for the plan, program, project,  
5 or activity by, or the plan, program, project, or activity is fully  
6 permitted by, September 30, 2009.

7 85058. “Delta” means the Sacramento-San Joaquin Delta as  
8 defined in Section 12220 and the Suisun Marsh, as defined in  
9 Section 29101 of the Public Resources Code.

10 85059. “Delta Plan” means the comprehensive, long-term  
11 management plan for the Delta as adopted by the council in  
12 accordance with this division.

13 85060. “Delta watershed” means the Sacramento River  
14 Hydrologic Region and the San Joaquin River Hydrologic Region  
15 as described in the department’s Bulletin No. 160-05.

16 85064. “Public water agency” means a public entity, as defined  
17 in Section 514, that provides water service, as defined in Section  
18 515.

19 85066. “Restoration” means the application of ecological  
20 principles to restore a degraded or fragmented ecosystem and return  
21 it to a condition in which its biological and structural components  
22 achieve a close approximation of its natural potential, taking into  
23 consideration the physical changes that have occurred in the past  
24 and the future impact of climate change and sea level rise.

25 85067. “Strategic Plan” means both the “Delta Vision Strategic  
26 Plan” issued by the Delta Vision Blue Ribbon Task Force on  
27 October 17, 2008, and the “Delta Vision Implementation Report”  
28 adopted by the Delta Vision Committee and dated December 31,  
29 2008.

30

31

## PART 2. EARLY ACTIONS

32

33 85080. The council shall appoint a Delta Independent Science  
34 Board in accordance with Section 85280.

35 85082. The council shall develop and implement a strategy to  
36 appropriately engage participation of the federal agencies with  
37 responsibilities in the Delta.

38 85084. The council shall develop an interim plan that includes  
39 recommendations for early actions, projects, and programs.

1 85084.5. The Department of Fish and Game, in consultation  
2 with the United States Fish and Wildlife Service and the National  
3 Marine Fisheries Service and based on the best available science,  
4 shall develop and recommend to the board Delta flow criteria and  
5 quantifiable biological objectives for aquatic and terrestrial species  
6 of concern dependent on the Delta. The recommendations shall  
7 be developed no later than 12 months after the date of enactment  
8 of this division.

9 85085. The department shall do all of the following:

10 (a) Coordinate with the Department of Fish and Game, the board,  
11 the California regional water quality control boards, and the State  
12 Lands Commission efforts to cooperate with the United States  
13 Bureau of Reclamation to construct and implement the Two-Gates  
14 Fish Protection Demonstration Project by December 1, 2010.

15 (b) Evaluate the effectiveness of the Three Mile Slough Barrier  
16 project.

17 (c) Expeditiously move ahead with other near term actions as  
18 identified in the Strategic Plan.

19 (d) Assist in implementing early action ecosystem restoration  
20 projects, including, but not limited to, Dutch Slough tidal marsh  
21 restoration and Meins Island tidal marsh restoration.

22 85086. (a) The board shall establish an effective system of  
23 Delta watershed diversion data collection and public reporting by  
24 December 31, 2010.

25 (b) It is the intent of the Legislature to establish an accelerated  
26 process to determine instream flow needs of the Delta for the  
27 purposes of facilitating the planning decisions that are required to  
28 achieve the objectives of the Delta Plan.

29 (c) (1) For the purpose of informing planning decisions for the  
30 Delta Plan and the Bay Delta Conservation Plan, the board shall,  
31 pursuant to its public trust obligations, develop new flow criteria  
32 for the Delta ecosystem necessary to protect public trust resources.  
33 In carrying out this section, the board shall review existing water  
34 quality objectives and use the best available scientific information.  
35 The flow criteria for the Delta ecosystem shall include the volume,  
36 quality, and timing of water necessary for the Delta ecosystem  
37 under different conditions. The flow criteria shall be developed in  
38 a public process by the board within nine months of the enactment  
39 of this division. The public process shall be in the form of an  
40 informational proceeding conducted pursuant to Article 3

1 (commencing with Section 649) of Chapter 1.5 of Division 3 of  
2 Title 23 of the California Code of Regulations, and shall provide  
3 an opportunity for all interested persons to participate. The board  
4 shall provide an opportunity for all interested persons to participate  
5 in the informational proceeding. The flow criteria shall not be  
6 considered predecisional with regard to any subsequent board  
7 consideration of a permit, including any permit in connection with  
8 a final BDCP.

9 (2) Any order approving a change in the point of diversion of  
10 the State Water Project or the federal Central Valley Project from  
11 the southern Delta to a point on the Sacramento River shall include  
12 appropriate Delta flow criteria and shall be informed by the analysis  
13 conducted pursuant to this section. The flow criteria shall be subject  
14 to modification over time based on a science-based adaptive  
15 management program that integrates scientific and monitoring  
16 results, including the contribution of habitat and other conservation  
17 measures, into ongoing Delta water management.

18 (3) Nothing in this section amends or otherwise affects the  
19 application of the board's authority under Part 2 (commencing  
20 with Section 1200) of Division 2 to include terms and conditions  
21 in permits that in its judgment will best develop, conserve, and  
22 utilize in the public interest the water sought to be appropriated.

23 (d) The board shall enter into an agreement with the State Water  
24 Project contractors and the federal Central Valley Project  
25 contractors, who rely on water exported from the Sacramento River  
26 watershed, or a joint powers authority comprised of those  
27 contractors, for reimbursement of the costs of the analysis  
28 conducted pursuant to this section.

29 (e) The board shall submit its flow criteria determinations  
30 pursuant to this section to the council for its information within  
31 30 days of completing the determinations.

32 85087. The board, by December 31, 2010, shall submit to the  
33 Legislature a prioritized schedule and estimate of costs to complete  
34 instream flow studies for the Delta and for high priority rivers and  
35 streams in the Delta watershed, not otherwise covered by Section  
36 85086, by 2012, and for all major rivers and streams outside the  
37 Sacramento River watershed by 2018. In developing this schedule,  
38 the board shall consult with the Department of Fish and Game as  
39 to the timing of its submission of recommendations for instream  
40 flow needs.

1 85088. Until the board issues an order approving a change in  
2 the point of diversion of the State Water Project and the federal  
3 Central Valley Project from the southern Delta to a point on the  
4 Sacramento River as specified in subdivision (c) of Section 85086,  
5 the department shall not commence construction of any diversion,  
6 conveyance, or other facility necessary to divert and convey water  
7 pursuant to the change in point of diversion.

8 85089. Construction of a new Delta conveyance facility shall  
9 not be initiated until the persons or entities that contract to receive  
10 water from the State Water Project and the federal Central Valley  
11 Project or a joint powers authority representing those entities have  
12 made arrangements or entered into contracts to pay for both of the  
13 following:

14 (a) The costs of the environmental review, planning, design,  
15 construction, mitigation, and operation and maintenance of any  
16 new Delta water conveyance facility. The costs of mitigation  
17 include the costs of mitigation pursuant to Division 13  
18 (commencing with Section 21000) of the Public Resources Code  
19 in connection with the construction, operation, and maintenance  
20 of any new Delta water conveyance facility.

21 (b) Full mitigation of property tax or assessments levied by local  
22 governments or special districts for land used in the construction,  
23 location, mitigation, or operation of new Delta conveyance  
24 facilities.

25

26 PART 3. DELTA GOVERNANCE

27

28 CHAPTER 1. DELTA STEWARDSHIP COUNCIL

29

30 85200. (a) The Delta Stewardship Council is hereby established  
31 as an independent agency of the state.

32 (b) (1) The council shall consist of seven members, of which  
33 four members shall be appointed by the Governor and confirmed  
34 by the Senate, one member shall be appointed by the Senate  
35 Committee on Rules, one member shall be appointed by the  
36 Speaker of the Assembly, and one member shall be the Chairperson  
37 of the Delta Protection Commission. Initial appointments to the  
38 council shall be made by July 1, 2010.

39 (2) No member of the council shall serve two consecutive terms,  
40 but a member may be reappointed after a period of two years

1 following the end of his or her term, except that those members  
2 of the council that serve an initial term of one or two years may  
3 be immediately appointed to a subsequent full four-year term.

4 (c) (1) (A) The initial terms of two of the four members  
5 appointed by the Governor shall be four years.

6 (B) The initial terms of two of the four members appointed by  
7 the Governor shall be six years.

8 (C) The initial terms of the members appointed by the Senate  
9 Committee on Rules and the Speaker of the Assembly shall be  
10 four years.

11 (D) Upon the expiration of each term described in subparagraphs  
12 (A), (B), or (C), the term of each succeeding member shall be four  
13 years.

14 (2) The Chairperson of the Delta Protection Commission shall  
15 serve as an ex officio member.

16 (d) Any vacancy shall be filled by the appointing authority  
17 within 60 days. If the term of a council member expires, and no  
18 successor is appointed within the allotted timeframe, the existing  
19 member may serve up to 180 days beyond the expiration of his or  
20 her term.

21 (e) The council members shall select a chairperson from among  
22 their members, who shall serve for not more than four years in that  
23 capacity.

24 (f) The council shall meet once a month in a public forum. At  
25 least two meetings each year shall take place at a location within  
26 the Delta.

27 85201. The chairperson shall serve full time. Other members  
28 shall serve one-third time. The council may select a vice  
29 chairperson and other officers determined to be necessary.

30 (a) Each member of the council shall receive the salary provided  
31 for in Section 11564 of the Government Code.

32 (b) The members of the council shall be reimbursed for expenses  
33 necessarily incurred in the performance of official duties.

34 (c) The council shall appoint an executive officer who shall  
35 serve full time at the pleasure of the council.

36 (d) The executive officer shall hire employees necessary to carry  
37 out council functions.

38 (e) The number of employees and qualifications of those  
39 employees shall be determined by the council, subject to the  
40 availability of funds.

1 (f) The salary of each employee of the council shall be  
2 determined by the State Personnel Board, and shall reflect the  
3 duties and responsibilities of the position.

4 (g) All persons employed by the council are state employees,  
5 subject to the duties, responsibilities, limitations, and benefits of  
6 the state.

7 85202. Council members shall possess diverse expertise and  
8 reflect a statewide perspective.

9 85203. The headquarters of the council shall be located in  
10 Sacramento.

11 85204. The council shall establish and oversee a committee of  
12 agencies responsible for implementing the Delta Plan. Each agency  
13 shall coordinate its actions pursuant to the Delta Plan with the  
14 council and the other relevant agencies.

15  
16 CHAPTER 2. MISSION, DUTIES, AND RESPONSIBILITIES OF THE  
17 COUNCIL  
18

19 85210. The council has all of the following powers:

- 20 (a) To sue or be sued.
- 21 (b) To enter into contracts.
- 22 (c) To employ the services of public, nonprofit, and private  
23 entities.
- 24 (d) To delegate administrative functions to council staff.
- 25 (e) To employ its own legal staff or contract with other state or  
26 federal agencies for legal services, or both. The council may  
27 employ special legal counsel with the approval of the Attorney  
28 General.
- 29 (f) To receive funds, including funds from private and local  
30 governmental sources, contributions from public and private  
31 sources, as well as state and federal appropriations.
- 32 (g) To disburse funds through grants, public assistance, loans,  
33 and contracts.
- 34 (h) To request reports from state, federal, and local governmental  
35 agencies on issues related to the implementation of the Delta Plan.
- 36 (i) To adopt regulations or guidelines as needed to carry out the  
37 powers and duties identified in this division.
- 38 (j) To comment on state agency environmental impact reports  
39 for projects outside the Delta that the council determines will have  
40 a significant impact on the Delta.

1 (k) To hold hearings in all parts of the state necessary to carry  
2 out the powers vested in it, and for those purposes has the powers  
3 conferred upon the heads of state departments pursuant to Article  
4 2 (commencing with Section 11180) of Chapter 2 of Part 1 of  
5 Division 3 of Title 2 of the Government Code. Any hearing by the  
6 council may be conducted by any member of the council, or other  
7 designee, upon authorization of the council, and he or she shall  
8 have the powers granted to the council by this section, provided  
9 that any final action of the council shall be taken by a majority of  
10 the members of the council at a meeting duly called and held.

11 85211. The Delta Plan shall include performance measurements  
12 that will enable the council to track progress in meeting the  
13 objectives of the Delta Plan. The performance measurements shall  
14 include, but need not be limited to, quantitative or otherwise  
15 measurable assessments of the status and trends in all of the  
16 following:

17 (a) The health of the Delta’s estuary and wetland ecosystem for  
18 supporting viable populations of aquatic and terrestrial species,  
19 habitats, and processes, including viable populations of Delta  
20 fisheries and other aquatic organisms.

21 (b) The reliability of California water supply imported from the  
22 Sacramento River or the San Joaquin River watershed.

23

24 CHAPTER 3. CONSISTENCY OF STATE AND LOCAL PUBLIC  
25 AGENCY ACTIONS

26

27 85225. A state or local public agency that proposes to undertake  
28 a covered action, prior to initiating the implementation of that  
29 covered action, shall prepare a written certification of consistency  
30 with detailed findings as to whether the covered action is consistent  
31 with the Delta Plan and shall submit that certification to the council.

32 85225.5. To assist state and local public agencies in preparing  
33 the required certification, the council shall develop procedures for  
34 early consultation with the council on the proposed covered action.

35 85225.10. (a) Any person who claims that a proposed covered  
36 action is inconsistent with the Delta Plan and, as a result of that  
37 inconsistency, the action will have a significant adverse impact on  
38 the achievement of one or both of the coequal goals or  
39 implementation of government-sponsored flood control programs  
40 to reduce risks to people and property in the Delta, may file an

1 appeal with regard to a certification of consistency submitted to  
2 the council.

3 (b) The appeal shall clearly and specifically set forth the basis  
4 for the claim, including specific factual allegations, that the covered  
5 action is inconsistent with the Delta Plan. The council may request  
6 from the appellant additional information necessary to clarify,  
7 amplify, correct, or otherwise supplement the information  
8 submitted with the appeal, within a reasonable period.

9 (c) The council, or by delegation the executive officer, may  
10 dismiss the appeal for failure of the appellant to provide  
11 information requested by the council within the period provided,  
12 if the information requested is in the possession or under the control  
13 of the appellant.

14 85225.15. The appeal shall be filed no later than 30 days after  
15 the submission of the certification of consistency. If no person  
16 appeals the certification of consistency, the state or local public  
17 agency may proceed to implement the covered action.

18 85225.20. The appeal shall be heard by the council within 60  
19 days of the date of the filing of the appeal, unless the council, or  
20 by delegation the executive officer, determines that the issue raised  
21 on appeal is not within the council’s jurisdiction or does not raise  
22 an appealable issue. The council shall make its decision on the  
23 appeal within 60 days of hearing the appeal.

24 85225.25. After a hearing on an appealed action, the council  
25 shall make specific written findings either denying the appeal or  
26 remanding the matter to the state or local public agency for  
27 reconsideration of the covered action based on the finding that the  
28 certification of consistency is not supported by substantial evidence  
29 in the record before the state or local public agency that filed the  
30 certification. Upon remand, the state or local agency may determine  
31 whether to proceed with the covered action. If the agency decides  
32 to proceed with the action or with the action as modified to respond  
33 to the findings of the council, the agency shall, prior to proceeding  
34 with the action, file a revised certification of consistency that  
35 addresses each of the findings made by the council and file that  
36 revised certification with the council.

37 85225.30. The council shall adopt administrative procedures  
38 governing appeals, which shall be exempt from Chapter 3.5  
39 (commencing with Section 11340) of Part 1 of Division 3 of Title  
40 2 of the Government Code.

CHAPTER 4. DELTA WATERMASTER

85230. (a) The board, in consultation with the council, shall appoint, for a term of four years, a special master for the Delta, whose title shall be “the Delta Watermaster.”

(b) The board shall adopt internal procedures delegating authority to the Delta Watermaster. The Delta Watermaster shall exercise the board’s authority to provide timely monitoring and enforcement of board orders and permit terms and conditions. The Delta Watermaster’s delegated authority shall include authority to require monitoring and reporting, authority for approvals delegated to an officer or employee of the board by the terms of a water right permit or license, authority to approve temporary urgency changes pursuant to Chapter 6.6 (commencing with Section 1435) of Part 2 of Division 2, and authority to issue a notice of proposed cease and desist order or administrative civil liability complaint. The Delta Watermaster’s authority shall be limited to diversions in the Delta and the application and enforcement of the board’s requirements that apply to conditions in the Delta.

(c) The internal procedures adopted by the board shall provide for due process in adjudicative proceedings, and may establish procedures for the issuance of a stay of any order or decision of the Delta Watermaster for which a petition for reconsideration is filed or reconsideration is ordered under Section 1122. The board may provide any additional duties or needs of the Delta Watermaster that the board deems necessary for effective day-to-day enforcement of its decisions.

(d) The Delta Watermaster shall submit regular reports to the board and the council including, but not limited to, reports on water rights administration, water quality issues, and conveyance operations.

CHAPTER 5. DELTA INDEPENDENT SCIENCE BOARD AND DELTA SCIENCE PROGRAM

85280. (a) The Delta Independent Science Board is hereby established in state government.

(1) The Delta Independent Science Board shall consist of no more than 10 members appointed by the council. The term of office

1 for members of the Delta Independent Science Board shall be five  
2 years. A member may serve no more than two terms.

3 (2) Members of the Delta Independent Science Board shall be  
4 nationally or internationally prominent scientists with appropriate  
5 expertise to evaluate the broad range of scientific programs that  
6 support adaptive management of the Delta. The members shall not  
7 be directly affiliated with a program or agency subject to the review  
8 activities of the Delta Independent Science Board.

9 (3) The Delta Independent Science Board shall provide oversight  
10 of the scientific research, monitoring, and assessment programs  
11 that support adaptive management of the Delta through periodic  
12 reviews of each of those programs that shall be scheduled to ensure  
13 that all Delta scientific research, monitoring, and assessment  
14 programs are reviewed at least once every four years.

15 (4) The Delta Independent Science Board shall submit to the  
16 council a report on the results of each review, including  
17 recommendations for any changes in the programs reviewed by  
18 the board.

19 (b) After consultation with the Delta Independent Science Board,  
20 the council shall appoint a lead scientist for the Delta Science  
21 Program.

22 (1) The lead scientist shall meet all of the following  
23 qualifications:

24 (A) Hold an advanced degree in a field related to water or  
25 ecosystem management.

26 (B) Have a strong record of scientific research and publication  
27 in peer-reviewed scientific journals in a field related to water or  
28 ecosystem management.

29 (C) Have experience advising high-level managers in  
30 science-based decisionmaking in the areas of water management  
31 and ecosystem restoration.

32 (D) Have the capability to guide the application of an adaptive  
33 management process to resource management policy decisions in  
34 the Delta.

35 (2) The term of office for the lead scientist shall be no more  
36 than three years. The lead scientist may serve no more than two  
37 terms.

38 (3) The lead scientist shall oversee the implementation of the  
39 Delta Science Program. In carrying out that responsibility, the lead

1 scientist shall regularly consult with the agencies participating in  
2 the program.

3 (4) The mission of the Delta Science Program shall be to provide  
4 the best possible unbiased scientific information to inform water  
5 and environmental decisionmaking in the Delta. That mission shall  
6 be carried out through funding research, synthesizing and  
7 communicating scientific information to policymakers and  
8 decisionmakers, promoting independent scientific peer review,  
9 and coordinating with Delta agencies to promote science-based  
10 adaptive management. The Delta Science Program shall assist with  
11 development and periodic updates of the Delta Plan's adaptive  
12 management program.

13 (c) The Delta Science Program shall function as a replacement  
14 for, and successor to, the CALFED Science Program and the Delta  
15 Independent Science Board shall replace the CALFED Independent  
16 Science Board.

17  
18 PART 4. COMPREHENSIVE DELTA PLANNING

19  
20 CHAPTER 1. THE DELTA PLAN

21  
22 85300. (a) On or before January 1, 2012, the council shall  
23 develop, adopt, and commence implementation of the Delta Plan  
24 pursuant to this part that furthers the coequal goals. The Delta Plan  
25 shall include subgoals and strategies to assist in guiding state and  
26 local agency actions related to the Delta. In developing the Delta  
27 Plan, the council shall consider each of the strategies and actions  
28 set forth in the Strategic Plan and may include any of those  
29 strategies or actions in the Delta Plan. The Delta Plan may also  
30 identify specific actions that state or local agencies may take to  
31 implement the subgoals and strategies.

32 (b) In developing the Delta Plan, the council shall consult with  
33 federal, state, and local agencies with responsibilities in the Delta.  
34 All state agencies with responsibilities in the Delta shall cooperate  
35 with the council in developing the Delta Plan, upon request of the  
36 council.

37 (c) The council shall review the Delta Plan at least once every  
38 five years and may revise it as the council deems appropriate. The  
39 council may request any state agency with responsibilities in the

1 Delta to make recommendations with respect to revision of the  
2 Delta Plan.

3 (d) The council shall report to the Legislature no later than  
4 March 31, 2012, as to its adoption of the Delta Plan.

5 85301. (a) The commission shall develop, for consideration  
6 and incorporation into the Delta Plan by the council, a proposal to  
7 protect, enhance, and sustain the unique cultural, historical,  
8 recreational, agricultural, and economic values of the Delta as an  
9 evolving place, in a manner consistent with the coequal goals. For  
10 the purpose of carrying out this subdivision, the commission may  
11 include in the proposal the relevant strategies described in the  
12 Strategic Plan.

13 (b) (1) The commission shall include in the proposal a plan to  
14 establish state and federal designation of the Delta as a place of  
15 special significance, which may include application for a federal  
16 designation of the Delta as a National Heritage Area.

17 (2) The commission shall include in the proposal a regional  
18 economic plan to support increased investment in agriculture,  
19 recreation, tourism, and other resilient land uses in the Delta. The  
20 regional economic plan shall include detailed recommendations  
21 for the administration of the Delta Investment Fund created by  
22 Section 29778.5 of the Public Resources Code.

23 (c) For the purposes of assisting the commission in its  
24 preparation of the proposal, both of the following actions shall be  
25 undertaken:

26 (1) The Department of Parks and Recreation shall prepare a  
27 proposal, for submission to the commission, to expand within the  
28 Delta the network of state recreation areas, combining existing  
29 and newly designated areas. The proposal may incorporate  
30 appropriate aspects of any existing plans, including the Central  
31 Valley Vision Implementation Plan adopted by the Department of  
32 Parks and Recreation.

33 (2) The Department of Food and Agriculture shall prepare a  
34 proposal, for submission to the commission, to establish market  
35 incentives and infrastructure to protect and enhance the economic  
36 and public values of Delta agriculture.

37 (d) The commission shall submit the proposal developed  
38 pursuant to subdivision (a) to the council. The council shall  
39 consider the proposal and may include any portion of the proposal  
40 in the Delta Plan if the council, in its discretion, determines that

1 the portion of the proposal is feasible and consistent with the  
2 objectives of the Delta Plan and the purposes of this division.

3 85302. (a) The implementation of the Delta Plan shall further  
4 the restoration of the Delta ecosystem and a reliable water supply.

5 (b) The geographic scope of the ecosystem restoration projects  
6 and programs identified in the Delta Plan shall be the Delta, except  
7 that the Delta Plan may include recommended ecosystem projects  
8 outside the Delta that will contribute to achievement of the coequal  
9 goals.

10 (c) The Delta Plan shall include measures that promote all of  
11 the following characteristics of a healthy Delta ecosystem:

12 (1) Viable populations of native resident and migratory species.

13 (2) Functional corridors for migratory species.

14 (3) Diverse and biologically appropriate habitats and ecosystem  
15 processes.

16 (4) Reduced threats and stresses on the Delta ecosystem.

17 (5) Conditions conducive to meeting or exceeding the goals in  
18 existing species recovery plans and state and federal goals with  
19 respect to doubling salmon populations.

20 (d) The Delta Plan shall include measures to promote a more  
21 reliable water supply that address all of the following:

22 (1) Meeting the needs for reasonable and beneficial uses of  
23 water.

24 (2) Sustaining the economic vitality of the state.

25 (3) Improving water quality to protect human health and the  
26 environment.

27 (e) The following subgoals and strategies for restoring a healthy  
28 ecosystem shall be included in the Delta Plan:

29 (1) Restore large areas of interconnected habitats within the  
30 Delta and its watershed by 2100.

31 (2) Establish migratory corridors for fish, birds, and other  
32 animals along selected Delta river channels.

33 (3) Promote self-sustaining, diverse populations of native and  
34 valued species by reducing the risk of take and harm from invasive  
35 species.

36 (4) Restore Delta flows and channels to support a healthy estuary  
37 and other ecosystems.

38 (5) Improve water quality to meet drinking water, agriculture,  
39 and ecosystem long-term goals.

1 (6) Restore habitat necessary to avoid a net loss of migratory  
2 bird habitat and, where feasible, increase migratory bird habitat  
3 to promote viable populations of migratory birds.

4 (f) The council shall consider, for incorporation into the Delta  
5 Plan, actions designed to implement the subgoals and strategies  
6 described in subdivision (e).

7 (g) In carrying out this section, the council shall make use of  
8 the best available science.

9 (h) The Delta Plan shall include recommendations regarding  
10 state agency management of lands in the Delta.

11 85303. The Delta Plan shall promote statewide water  
12 conservation, water use efficiency, and sustainable use of water.

13 85304. The Delta Plan shall promote options for new and  
14 improved infrastructure relating to the water conveyance in the  
15 Delta, storage systems, and for the operation of both to achieve  
16 the coequal goals.

17 85305. (a) The Delta Plan shall attempt to reduce risks to  
18 people, property, and state interests in the Delta by promoting  
19 effective emergency preparedness, appropriate land uses, and  
20 strategic levee investments.

21 (b) The council may incorporate into the Delta Plan the  
22 emergency preparedness and response strategies for the Delta  
23 developed by the California Emergency Management Agency  
24 pursuant to Section 12994.5.

25 85306. The council, in consultation with the Central Valley  
26 Flood Protection Board, shall recommend in the Delta Plan  
27 priorities for state investments in levee operation, maintenance,  
28 and improvements in the Delta, including both levees that are a  
29 part of the State Plan of Flood Control and nonproject levees.

30 85307. (a) The Delta Plan may identify actions to be taken  
31 outside of the Delta, if those actions are determined to significantly  
32 reduce flood risks in the Delta.

33 (b) The Delta Plan may include local plans of flood protection.

34 (c) The council, in consultation with the Department of  
35 Transportation, may address in the Delta Plan the effects of climate  
36 change and sea level rise on the three state highways that cross the  
37 Delta.

38 (d) The council, in consultation with the State Energy Resources  
39 Conservation and Development Commission and the Public  
40 Utilities Commission, may incorporate into the Delta Plan

1 additional actions to address the needs of Delta energy  
2 development, energy storage, and energy distribution.

3 85308. The Delta Plan shall meet all of the following  
4 requirements:

5 (a) Be based on the best available scientific information and the  
6 independent science advice provided by the Delta Independent  
7 Science Board.

8 (b) Include quantified or otherwise measurable targets associated  
9 with achieving the objectives of the Delta Plan.

10 (c) Where appropriate, utilize monitoring, data collection, and  
11 analysis of actions sufficient to determine progress toward meeting  
12 the quantified targets.

13 (d) Describe the methods by which the council shall measure  
14 progress toward achieving the coequal goals.

15 (e) Where appropriate, recommend integration of scientific and  
16 monitoring results into ongoing Delta water management.

17 (f) Include a science-based, transparent, and formal adaptive  
18 management strategy for ongoing ecosystem restoration and water  
19 management decisions.

20 85309. The department, in consultation with the United States  
21 Army Corps of Engineers and the Central Valley Flood Protection  
22 Board, shall prepare a proposal to coordinate flood and water  
23 supply operations of the State Water Project and the federal Central  
24 Valley Project, and submit the proposal to the council for  
25 consideration for incorporation into the Delta Plan. In drafting the  
26 proposal, the department shall consider all related actions set forth  
27 in the Strategic Plan.

28

29 CHAPTER 2. BAY DELTA CONSERVATION PLAN

30

31 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be  
32 considered for inclusion in the Delta Plan in accordance with this  
33 chapter.

34 (b) The BDCP shall not be incorporated into the Delta Plan and  
35 the public benefits associated with the BDCP shall not be eligible  
36 for state funding, unless the BDCP does all of the following:

37 (1) Complies with Chapter 10 (commencing with Section 2800)  
38 of Division 3 of the Fish and Game Code.

1 (2) Complies with Division 13 (commencing with Section  
2 21000) of the Public Resources Code, including a comprehensive  
3 review and analysis of all of the following:

4 (A) A reasonable range of flow criteria, rates of diversion, and  
5 other operational criteria required to satisfy the criteria for approval  
6 of a natural community conservation plan as provided in  
7 subdivision (a) of Section 2820 of the Fish and Game Code, and  
8 other operational requirements and flows necessary for recovering  
9 the Delta ecosystem and restoring fisheries under a reasonable  
10 range of hydrologic conditions, which will identify the remaining  
11 water available for export and other beneficial uses.

12 (B) A reasonable range of Delta conveyance alternatives,  
13 including through-Delta, dual conveyance, and isolated conveyance  
14 alternatives and including further capacity and design options of  
15 a lined canal, an unlined canal, and pipelines.

16 (C) The potential effects of climate change, possible sea level  
17 rise up to 55 inches, and possible changes in total precipitation  
18 and runoff patterns on the conveyance alternatives and habitat  
19 restoration activities considered in the environmental impact report.

20 (D) The potential effects on migratory fish and aquatic resources.

21 (E) The potential effects on Sacramento River and San Joaquin  
22 River flood management.

23 (F) The resilience and recovery of Delta conveyance alternatives  
24 in the event of catastrophic loss caused by earthquake or flood or  
25 other natural disaster.

26 (G) The potential effects of each Delta conveyance alternative  
27 on Delta water quality.

28 (c) The department shall consult with the council and the Delta  
29 Independent Science Board during the development of the BDCP.  
30 The council shall be a responsible agency in the development of  
31 the environmental impact report. The Delta Independent Science  
32 Board shall review the draft environmental impact report and  
33 submit its comments to the council and the Department of Fish  
34 and Game.

35 (d) If the Department of Fish and Game approves the BDCP as  
36 a natural community conservation plan pursuant to Chapter 10  
37 (commencing with Section 2800) of Division 3 of the Fish and  
38 Game Code, the council shall have at least one public hearing  
39 concerning the incorporation of the BDCP into the Delta Plan.

1 (e) If the Department of Fish and Game approves the BDCP as  
2 a natural community conservation plan pursuant to Chapter 10  
3 (commencing with Section 2800) of Division 3 of the Fish and  
4 Game Code and determines that the BDCP meets the requirements  
5 of this section, and the BDCP has been approved as a habitat  
6 conservation plan pursuant to the federal Endangered Species Act  
7 (16 U.S.C. Section 1531 et seq.), the council shall incorporate the  
8 BDCP into the Delta Plan. The Department of Fish and Game’s  
9 determination that the BDCP has met the requirements of this  
10 section may be appealed to the council.

11 (f) The department, in coordination with the Department of Fish  
12 and Game, or any successor agencies charged with BDCP  
13 implementation, shall report to the council on the implementation  
14 of the BDCP at least once a year, including the status of monitoring  
15 programs and adaptive management.

16 (g) The council may make recommendations to BDCP  
17 implementing agencies regarding the implementation of the BDCP.  
18 BDCP implementing agencies shall consult with the council on  
19 these recommendations. These recommendations shall not change  
20 the terms and conditions of the permits issued by state and federal  
21 regulatory agencies.

22 85321. The BDCP shall include a transparent, real-time  
23 operational decisionmaking process in which fishery agencies  
24 ensure that applicable biological performance measures are  
25 achieved in a timely manner with respect to water system  
26 operations.

27 85322. This chapter does not amend, or create any additional  
28 legal obligation or cause of action under, Chapter 10 (commencing  
29 with Section 2800) of Division 3 of the Fish and Game Code or  
30 Division 13 (commencing with Section 21000) of the Public  
31 Resources Code.

32

33 CHAPTER 3. OTHER PLANS FOR THE DELTA

34

35 85350. The council may incorporate other completed plans  
36 related to the Delta into the Delta Plan to the extent that the other  
37 plans promote the coequal goals.

38 SEC. 57. (a) Pursuant to Section 75026 of the Public Resources  
39 Code, the sum of twenty-eight million dollars (\$28,000,000) is  
40 hereby appropriated to the Department of Water Resources for

1 expenditure by that department pursuant to paragraph (12) of  
2 subdivision (a) of Section 75027 of the Public Resources Code for  
3 the Two-Gates Fish Protection Demonstration Program managed  
4 by the United States Bureau of Reclamation. The Department of  
5 Water Resources shall expend such funds only consistent with the  
6 requirements of Sections 75026 and 75027 of the Public Resources  
7 Code.

8 (b) It is the intent of the Legislature to finance the activities of  
9 the Delta Stewardship Council and the Sacramento-San Joaquin  
10 Delta Conservancy from funds made available pursuant to the  
11 Disaster Preparedness and Flood Prevention Bond Act of 2006  
12 (Chapter 1.699 (commencing with Section 5096.800) of Division  
13 5 of the Public Resources Code) and the Safe Drinking Water,  
14 Water Quality and Supply, Flood Control, River and Coastal  
15 Protection Bond Act of 2006 (Division 43 (commencing with  
16 Section 75001) of the Public Resources Code).

17 SEC. 58. If the Commission on State Mandates determines  
18 that this act contains costs mandated by the state, reimbursement  
19 to local agencies and school districts for those costs shall be made  
20 pursuant to Part 7 (commencing with Section 17500) of Division  
21 4 of Title 2 of the Government Code.

O