

AMENDED IN ASSEMBLY NOVEMBER 1, 2009

CALIFORNIA LEGISLATURE—2009—10 SEVENTH EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 9**

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**Introduced by Assembly Member Bass**  
*(Principal coauthors: Assembly Members Galgiani and Salas)*

October 29, 2009

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~~An act to add Section 29700.5 to the Public Resources Code, relating to the Sacramento-San Joaquin Delta. 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 Sections 29762 and 29764 of, and to repeal and add Sections 29736, 29739, 29753, 29761, and 29761.5 of, the Public Resources Code, relating to the Sacramento-San Joaquin Delta.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 9, as amended, Bass. ~~Management of the Sacramento-San Joaquin Delta. Delta: Delta Protection Commission: Delta conservancy.~~

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 (Delta).*

~~This bill would require state agencies, in managing the natural resources in the Sacramento-San Joaquin Delta, to strive to achieve 2~~

~~coequal goals of providing a more reliable water supply for the state and protecting, restoring, and enhancing the delta ecosystem.~~

*This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of commission 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 of 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 certain 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, to finance projects, including ecosystem restoration and economic sustainability projects.*

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

*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:

5     (a) *Achieve the two coequal goals of providing a more reliable*  
6 *water supply for California and protecting, restoring, and*  
7 *enhancing the Delta ecosystem. The coequal goals shall be*  
8 *achieved in a manner that protects and enhances the unique*  
9 *cultural, recreational, natural resource, and agricultural values*  
10 *of the Delta as an evolving place.*

11     ~~(a)~~

12     (b) *Protect, maintain, and, where possible, enhance and restore*  
13 *the overall quality of the ~~delta~~ Delta environment, including, but*  
14 *not limited to, agriculture, wildlife habitat, and recreational*  
15 *activities.*

16     ~~(b) Assure~~

17     (c) *Ensure orderly, balanced conservation and development of*  
18 *delta Delta land resources.*

19     ~~(e)~~

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

22     *SEC. 2. Section 29703.5 is added to the Public Resources Code,*  
23 *to read:*

24     29703.5. *The Legislature further finds and declares both of*  
25 *the following:*

26     (a) *The Delta Protection Commission created pursuant to*  
27 *Section 29735 provides an existing forum for Delta residents to*  
28 *engage in decisions regarding actions to recognize and enhance*  
29 *the unique cultural, recreational, and agricultural resources of*  
30 *the Delta. As such, the commission is the appropriate agency to*  
31 *identify and provide recommendations to the Delta Stewardship*  
32 *Council on methods of preserving the Delta as an evolving place*  
33 *as the Delta Stewardship Council develops and implements the*  
34 *Delta Plan.*

35     (b) *There is a need for the five Delta counties to establish and*  
36 *implement a resources management plan for the Delta and for the*  
37 *Delta Stewardship Council to consider that plan and*

1 *recommendations of the commission in the adoption of the Delta*  
2 *Plan.*

3 *SEC. 3. Section 29722.5 is added to the Public Resources Code,*  
4 *to read:*

5 *29722.5. “Delta Plan” means the plan adopted by the Delta*  
6 *Stewardship Council pursuant to Section 85300 of the Water Code.*

7 *SEC. 4. Section 29722.7 is added to the Public Resources Code,*  
8 *to read:*

9 *29722.7. “Economic sustainability plan” means the plan*  
10 *adopted by the commission pursuant to Section 29759.*

11 *SEC. 5. Section 29725 of the Public Resources Code is*  
12 *amended to read:*

13 *29725. “Local government” means the Counties of Contra*  
14 *Costa, Sacramento, San Joaquin, Solano, and Yolo, and the Cities*  
15 *of Sacramento, Stockton, Tracy, Antioch, Pittsburg, Isleton,*  
16 *Lathrop, Brentwood, ~~Rio Vista~~, West Sacramento, and Oakley,*  
17 *and any other cities that may be incorporated in the future in the*  
18 *primary zone.*

19 *SEC. 6. Section 29727 of the Public Resources Code is*  
20 *amended to read:*

21 *29727. “Port” means the Port of Sacramento and the Port of*  
22 *Stockton, including all the land owned or leased by those ports,*  
23 *or potential sites identified in the Delta county general plans as*  
24 *of January 1, 2010, and otherwise authorized by law.*

25 *SEC. 7. Section 29728.5 is added to the Public Resources Code,*  
26 *to read:*

27 *29728.5. “Resources management plan” means the plan*  
28 *adopted by the commission pursuant to Section 29760.*

29 *SEC. 8. Section 29733 of the Public Resources Code is*  
30 *amended to read:*

31 *29733. “Unincorporated towns” means the communities of*  
32 *Walnut Grove, Clarksburg, Courtland, Hood, Locke, *Knightsen,**  
33 *Collinsville, and Ryde.*

34 *SEC. 9. Section 29735 of the Public Resources Code is*  
35 *amended to read:*

36 *29735. There is hereby created the Delta Protection*  
37 *Commission consisting of ~~23~~ 15 members as follows:*

38 *(a) One member of the board of supervisors, or his or her*  
39 *designee, of each of the five counties within the ~~delta~~ Delta whose*  
40 *supervisorial district is within the primary zone shall be appointed*

1 by the board of supervisors of ~~the county~~ *each of those respective*  
2 *counties.*

3 (b) (1) ~~Three~~ *Two* elected city council members shall be selected  
4 and appointed by city selection committees, from ~~regional and~~  
5 ~~area councils of government~~ *the appropriate regions specified in*  
6 *subparagraphs (A) and (B), one in each of the following areas:*

7 ~~(A) One from the north delta, consisting of the Counties of Yolo~~  
8 ~~and Sacramento.~~

9 ~~(B)~~

10 (A) One from the south ~~delta~~ *Delta*, consisting of the County of  
11 San Joaquin.

12 ~~(C)~~

13 (B) One from the west ~~delta~~ *Delta*, ~~consisting of~~ *from either the*  
14 ~~Counties~~ *County of Contra Costa and or the County of Solano, on*  
15 *a rotating basis.*

16 (2) *One elected city council member shall be selected and*  
17 *appointed by city selection committees, from regional and area*  
18 *councils of government from the north Delta, consisting of the*  
19 *Counties of Yolo and Sacramento.*

20 ~~(2)~~

21 (3) A city council member *appointed pursuant to this*  
22 *subdivision may select a designee for purposes of* ~~paragraph (1)~~  
23 *this subdivision.*

24 (4) *Notwithstanding Section 29736, the term of office of the*  
25 *members selected pursuant to this subdivision shall be two years.*

26 (c) ~~(1)~~ *One member each from the board of directors of five*  
27 *three different reclamation districts that are located within the*  
28 *primary zone who are residents of the* ~~delta~~ *Delta, and who are*  
29 *elected by the trustees of* ~~reclamations~~ *reclamation districts within*  
30 ~~the following areas:~~ *pursuant to paragraphs (1), (2), and (3). Each*  
31 *reclamation district may nominate one director to be a member.*  
32 *The member from an area described in paragraph (1), (2), or (3)*  
33 *shall be selected from among the nominees by a majority vote of*  
34 *the reclamation districts in that area. A member selected pursuant*  
35 *to this subdivision may select a designee for this purpose. For the*  
36 *purposes of this section, each reclamation district shall have one*  
37 *vote. Reclamation district members shall consist of the following:*

38 ~~(A) Two members~~

39 (1) *One member from the area of the North Delta Water Agency*  
40 *as described in Section 9.1 of the North Delta Water Agency Act*

1 (Chapter 283 of the Statutes of 1973); ~~provided at least one member~~  
 2 ~~is also a member of the Delta Citizens Municipal Advisory Council.~~  
 3 ~~(B)~~  
 4 (2) One member from *an area including the west-delta Delta*  
 5 *consisting of the area of Contra Costa County within the-delta*  
 6 *Delta and within the Central Delta Water Agency as described in*  
 7 *Section 9.1 of the Central Delta Water Agency Act (Chapter 1133*  
 8 *of the Statutes of 1973).*  
 9 ~~(C) One member from the area of the Central Delta Water~~  
 10 ~~Agency as described in Section 9.1 of the Central Delta Water~~  
 11 ~~Agency Act (Chapter 1133 of the Statutes of 1973).~~  
 12 ~~(D)~~  
 13 (3) One member from the area of the South Delta Water Agency  
 14 as described in Section 9.1 of the South Delta Water Agency Act  
 15 (Chapter 1089 of the Statutes of 1973).  
 16 ~~(2) Each reclamation district may nominate one director to be~~  
 17 ~~a member. The member from an area shall be selected from among~~  
 18 ~~the nominees by a majority vote of the reclamation districts in that~~  
 19 ~~area. The member may select a designee for this purpose. For~~  
 20 ~~purposes of this section, each reclamation district shall have one~~  
 21 ~~vote. The north delta area shall conduct separate votes to select~~  
 22 ~~each of its two members.~~  
 23 ~~(d) The Director of Parks and Recreation, or the director's sole~~  
 24 ~~designee.~~  
 25 ~~(e) The Director of Fish and Game, or the director's sole~~  
 26 ~~designee.~~  
 27 ~~(f)~~  
 28 (d) The Secretary of Food and Agriculture, or the secretary's  
 29 sole designee.  
 30 ~~(g)~~  
 31 (e) The executive officer of the State Lands Commission, or the  
 32 executive officer's sole designee.  
 33 ~~(h) The Director of Boating and Waterways, or the director's~~  
 34 ~~sole designee.~~  
 35 ~~(i) The Director of Water Resources, or the director's sole~~  
 36 ~~designee.~~  
 37 (j) The public member of the California Bay-Delta Authority  
 38 who represents the delta region or his or her designee.

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

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

7 ~~(B) One member and one alternate shall represent the interests~~  
8 ~~of conservation of wildlife and habitat resources of the delta region~~  
9 ~~and ecosystem.~~

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

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

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

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

18 *SEC. 10. Section 29735.1 of the Public Resources Code is*  
19 *amended to read:*

20 29735.1. (a) A member of the commission described in  
21 subdivision (a), ~~(b), (c), or (j)~~ of Section 29735 may, subject to  
22 the confirmation of his or her appointing power, appoint an  
23 alternate to represent him or her at a commission meeting. An  
24 alternate may serve prior to confirmation for a period not to exceed  
25 90 days from the date of appointment, unless and until confirmation  
26 is denied.

27 (b) The alternate shall serve at the pleasure of the member who  
28 appoints him or her and shall have all of the powers and duties of  
29 a member of the commission, except that the alternate shall only  
30 participate and vote in a meeting in the absence of the member  
31 who appoints him or her. All provisions of law relating to conflicts  
32 of interest that are applicable to a member shall apply to an  
33 alternate. ~~Whenever~~ *If* a member has, or is known to have, a  
34 conflict of interest on any matter, the member's alternate is  
35 ineligible to vote on that matter.

36 *SEC. 11. Section 29736 of the Public Resources Code is*  
37 *repealed.*

38 ~~29736. The term of office of the members of the commission~~  
39 ~~shall be for four years, and a member may serve for one or more~~  
40 ~~consecutive terms.~~

1 SEC. 12. Section 29736 is added to the Public Resources Code,  
2 to read:

3 29736. The appointed members of the commission shall serve  
4 at the pleasure of their appointing entities.

5 SEC. 13. Section 29738 of the Public Resources Code is  
6 amended to read:

7 29738. ~~The position office of a an appointed member of the~~  
8 ~~commission shall be considered is~~ vacated upon the loss of any  
9 qualification required for appointment, and in that event the  
10 appointing authority shall appoint a successor within 30 days of  
11 the occurrence of the vacancy. ~~Upon the occurrence of the first~~  
12 ~~vacancy among any of the members listed in subdivision (d), (e),~~  
13 ~~(f), (g), (h), or (i) of Section 29735, the Director of Conservation~~  
14 ~~or the director's designee shall serve as the successor member.~~

15 SEC. 14. Section 29739 of the Public Resources Code is  
16 repealed.

17 29739. ~~The commission shall elect from its own members a~~  
18 ~~chairperson and vice chairperson whose terms of office shall be~~  
19 ~~two years, and who may be reelected. If a vacancy occurs in either~~  
20 ~~office, the commission shall fill the vacancy for the unexpired~~  
21 ~~term.~~

22 SEC. 15. Section 29739 is added to the Public Resources Code,  
23 to read:

24 29739. (a) The commission, during the first meeting of the  
25 commission after January 1, 2010, shall elect from among the  
26 members identified in subdivision (a) of Section 29735 a  
27 chairperson who shall serve for one year.

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

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

33 SEC. 16. Section 29741 of the Public Resources Code is  
34 amended to read:

35 29741. The time and place of the first meeting of the  
36 commission, ~~on and after March 1, 2010,~~ shall be prescribed by  
37 the Governor, but in no event shall it be scheduled for a date later  
38 than ~~January March 31, 1993~~ 2010. All meetings after the first  
39 meeting shall be held in a city within the ~~delta~~ Delta.

1     *SEC. 17. Section 29751 of the Public Resources Code is*  
2 *amended to read:*

3     29751. A majority of the voting members of the commission  
4 shall constitute a quorum for the transaction of the business of the  
5 commission. A majority vote of the voting ~~members present~~  
6 *membership* shall be required to take action with respect to any  
7 matter unless otherwise specified in this division. The vote of each  
8 member shall be individually recorded.

9     *SEC. 18. Section 29752 of the Public Resources Code is*  
10 *amended to read:*

11     29752. The commission shall adopt its own rules, regulations,  
12 and procedures necessary for its organization and operation, *and*  
13 *shall conduct its meetings in compliance with the Bagley-Keene*  
14 *Open Meeting Act (Article 9 (commencing with Section 11120) of*  
15 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
16 *Code).*

17     *SEC. 19. Section 29753 of the Public Resources Code is*  
18 *repealed.*

19     ~~29753.—The commission shall appoint agricultural,~~  
20 ~~environmental, and recreational advisory committees for the~~  
21 ~~purpose of providing the commission with timely comments,~~  
22 ~~advice, and information. The commission may appoint committees~~  
23 ~~from its membership or may appoint additional advisory~~  
24 ~~committees from members of other interested public agencies and~~  
25 ~~private groups. The commission shall seek advice and~~  
26 ~~recommendations from advisory committees appointed by local~~  
27 ~~government which are involved in subject matters affecting the~~  
28 ~~delta.~~

29     *SEC. 20. Section 29753 is added to the Public Resources Code,*  
30 *to read:*

31     29753. (a) *The commission shall appoint at least one advisory*  
32 *committee to provide recommendations regarding the diverse*  
33 *interests within the Delta. At a minimum, the advisory committees*  
34 *shall include representatives of state agencies and other*  
35 *stakeholders with interests in the Delta's ecosystem, water supply,*  
36 *and socioeconomic sustainability, including, but not limited to, its*  
37 *recreational, agricultural, flood control, environmental, and water*  
38 *resources, and state, local, and utility infrastructure. The*  
39 *commission shall encourage participation of various federal*  
40 *agencies, including the United States Bureau of Reclamation, the*

1 *United States Fish and Wildlife Service, the United States Army*  
 2 *Corps of Engineers, and others as appropriate.*

3 *(b) The commission may appoint committees from its*  
 4 *membership or may appoint additional advisory committees from*  
 5 *members of other interested public agencies and private groups.*

6 *(c) The commission shall seek advice and recommendations*  
 7 *from advisory committees appointed by local government that are*  
 8 *involved in subject matters affecting the Delta.*

9 *SEC. 21. Section 29754 of the Public Resources Code is*  
 10 *amended to read:*

11 29754. The commission shall establish and maintain an office  
 12 within the ~~delta~~ *Delta or the City of Rio Vista*, and for this purpose  
 13 the commission may rent or own property and equipment. Any  
 14 rule, regulation, procedure, plan, or other record of the commission  
 15 which is of such a nature as to constitute a public record under  
 16 state law shall be available for inspection and copying ~~during~~  
 17 ~~regular office hours~~ *pursuant to the California Public Records Act*  
 18 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*  
 19 *Title 1 of the Government Code).*

20 *SEC. 22. Section 29756.5 of the Public Resources Code is*  
 21 *amended to read:*

22 29756.5. The commission may act as the facilitating agency  
 23 for the implementation of any joint habitat restoration or  
 24 enhancement programs located within the primary zone of the  
 25 ~~delta~~ *Delta, including, but not limited to, a national heritage area*  
 26 *designation in the Delta.*

27 *SEC. 23. Section 29759 is added to the Public Resources Code,*  
 28 *to read:*

29 29759. (a) *Not later than July 1, 2011, the commission shall*  
 30 *prepare and adopt, by a majority vote of the membership of the*  
 31 *commission, an economic sustainability plan. The economic*  
 32 *sustainability plan shall include information and recommendations*  
 33 *that inform the Delta Stewardship Council’s policies regarding*  
 34 *the socioeconomic sustainability of the Delta region.*

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

37 *(1) Public safety recommendations, such as flood protection*  
 38 *recommendations.*

39 *(2) The economic goals, policies, and objectives in local general*  
 40 *plans and other local economic efforts, including recommendations*

1 *on continued socioeconomic sustainability of agriculture and its*  
2 *infrastructure and legacy communities in the Delta.*

3 *(3) Comments and recommendations to the Department of Water*  
4 *Resources concerning its periodic update of the flood management*  
5 *plan for the Delta.*

6 *(4) Identification of ways to encourage recreational investment*  
7 *along the key river corridors, as appropriate.*

8 *SEC. 24. Section 29761 of the Public Resources Code is*  
9 *repealed.*

10 ~~29761. The Director of the Office of Planning and Research~~  
11 ~~shall submit comments and recommendations on the resource~~  
12 ~~management plan for the commission's consideration, prior to the~~  
13 ~~plan's adoption.~~

14 *SEC. 25. Section 29761 is added to the Public Resources Code,*  
15 *to read:*

16 *29761. The commission shall adopt, by a majority vote, the*  
17 *economic sustainability plan and each plan update after at least*  
18 *three public hearings, with at least one hearing held in a*  
19 *community in the north Delta, one hearing in the south Delta, and*  
20 *one hearing in the west Delta.*

21 *SEC. 26. Section 29761.5 of the Public Resources Code is*  
22 *repealed.*

23 ~~29761.5. Not later than January 7, 1995, the commission shall~~  
24 ~~transmit copies of the resource management plan to the Governor.~~  
25 ~~Copies of the resource management plan shall be made available,~~  
26 ~~upon request, to Members of the Legislature.~~

27 *SEC. 27. Section 29761.5 is added to the Public Resources*  
28 *Code, to read:*

29 *29761.5. (a) The commission shall review, and, as determined*  
30 *to be necessary, amend the economic sustainability plan every five*  
31 *years on or before December 31 in years ending in six or one.*

32 *(b) The commission shall transmit copies of the economic*  
33 *sustainability plan and any subsequent amendments to the*  
34 *Governor, Legislature, each local government as defined in Section*  
35 *29725, and Delta Stewardship Council within 60 days of adoption*  
36 *or amendment. Within 180 days of the commission's adoption or*  
37 *amendment of the economic sustainability plan, the Delta*  
38 *Stewardship Council shall review the economic sustainability plan*  
39 *for consistency with the Delta Plan.*

1     *SEC. 28. Section 29762 of the Public Resources Code is*  
2     *repealed.*

3     ~~29762. The commission shall adopt, by a majority vote of the~~  
4     ~~membership of the commission, the resource management plan~~  
5     ~~after at least three public hearings, with at least one hearing held~~  
6     ~~in a city in the north delta, the south delta, and the west delta.~~

7     *SEC. 29. Section 29763 of the Public Resources Code is*  
8     *amended to read:*

9     29763. Within 180 days from the date of the adoption of the  
10    ~~resource resources~~ management plan or any amendments, changes,  
11    or updates, to the ~~resource resources~~ management plan by the  
12    commission, ~~all each local governments government~~ shall submit  
13    to the commission proposed amendments ~~that will cause their~~  
14    ~~general plans to be to its general plan that are intended to make~~  
15    ~~the general plan consistent with the criteria in Section 29763.5~~  
16    ~~resources management plan~~ with respect to land located within  
17    the primary zone.

18    *SEC. 30. Section 29764 of the Public Resources Code is*  
19    *repealed.*

20    ~~29764. This division does not confer any permitting authority~~  
21    ~~upon the commission or require any local government to conform~~  
22    ~~their general plan, or land use entitlement decisions, to the resource~~  
23    ~~management plan, except with regard to lands within the primary~~  
24    ~~zone. The resource management plan does not preempt local~~  
25    ~~government general plans for lands within the secondary zone.~~

26    *SEC. 31. Section 29771 of the Public Resources Code is*  
27    *amended to read:*

28    29771. After a hearing on an appealed action *pursuant to*  
29    *Section 29770*, the commission shall either deny the appeal or  
30    remand the matter to the local government or local agency for  
31    reconsideration, after making specific findings. Upon remand, the  
32    local government or local agency shall modify the appealed action  
33    and resubmit the matter for review to the commission. A proposed  
34    action appealed pursuant to this section shall not be effective until  
35    the commission has adopted written findings, based on substantial  
36    evidence in the record, that the action is consistent with the  
37    ~~resource resources~~ management plan, the approved portions of  
38    local government general plans that implement the ~~resource~~  
39    ~~resources~~ management plan, and this division.

1 SEC. 32. Section 29773 is added to the Public Resources Code,  
2 to read:

3 29773. (a) The commission may review and provide comments  
4 and recommendations to the Delta Stewardship Council on any  
5 significant project or proposed project within the scope of the  
6 Delta Plan, including, but not limited to, actions by state and  
7 federal agencies, that may affect the unique cultural, recreational,  
8 and agricultural values within the primary and secondary zones.  
9 Review and comment authority granted to the commission shall  
10 include, but is not limited to, all of the following:

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

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

16 (3) Review of consistency of the project or proposed project  
17 with the resources management plan and the Delta Plan.

18 (4) Identification and recommendation of methods to address  
19 Delta community concerns regarding large-scale habitat plan  
20 development and implementation.

21 (b) The council shall take into consideration the  
22 recommendations of the commission, including the  
23 recommendations included in the economic sustainability plan. If  
24 the council, in its discretion, determines that a recommendation  
25 of the commission is feasible and consistent with the objectives of  
26 the Delta Plan and the purposes of this division, the council shall  
27 adopt the recommendation.

28 SEC. 33. Section 29773.5 is added to the Public Resources  
29 Code, to read:

30 29773.5. On or before July 1, 2010, the commission shall  
31 prepare and submit to the Legislature recommendations regarding  
32 the potential expansion of or change to the primary zone or the  
33 Delta. The commission shall consider recommendations on the  
34 status of all of the following areas:

35 (a) Rio Vista.

36 (b) Isleton.

37 (c) Bethel Island.

38 (d) Brannan-Andrus Island.

39 (e) Cosumnes/Mokelumne floodway.

40 (f) The San Joaquin/South Delta lowlands.

1 SEC. 34. Section 29778.5 is added to the Public Resources  
2 Code, to read:

3 29778.5. The Delta Investment Fund is hereby created in the  
4 State Treasury. Any funds within the Delta Investment Fund shall  
5 be available, upon appropriation by the Legislature, to the  
6 commission for the implementation of the regional economic  
7 sustainability plan, developed pursuant to Section 29759, for the  
8 purposes of enhancing Delta communities. The Delta Investment  
9 Fund may receive funds from federal, state, local, and private  
10 sources.

11 SEC. 35. Section 29780 of the Public Resources Code is  
12 amended to read:

13 29780. On January 1 of each year, the commission shall submit  
14 to the Governor and the Legislature a report describing the progress  
15 that has been made in achieving the objectives of this division.  
16 The report shall include, but need not be limited to, all of the  
17 following information:

18 ~~(a) An evaluation of the effectiveness of the resource~~  
19 ~~management plan in preserving agricultural lands, restoring delta~~  
20 ~~habitat, improving levee protection and water quality, providing~~  
21 ~~increased public access and recreational opportunities, and in~~  
22 ~~undertaking other functions prescribed in this division.~~

23 (a) An evaluation of the effectiveness of the commission in  
24 undertaking its functions prescribed in this division, including,  
25 but not limited to, its mandates as follows:

26 (1) Determining the consistency of local general plans with the  
27 Delta Plan.

28 (2) Outcomes of appealed local land use decisions pursuant to  
29 Sections 29770 and 29771.

30 (3) Outcomes of reviews initiated by the commission.

31 (4) Facilitating regional economic sustainability.

32 (5) Supporting other regional activities for the enhancement of  
33 Delta communities.

34 (b) An update of the ~~resource management~~ economic  
35 sustainability plan, using baseline conditions set forth in the  
36 original ~~resource management~~ economic sustainability plan.

37 (c) The status of the environmental thresholds established by  
38 the commission in the original resource management plan.

39 SEC. 36. Division 22.3 (commencing with Section 32300) is  
40 added to the Public Resources Code, to read:



1 *and is traversed by energy, communications, and transportation*  
 2 *facilities vital to the economic health of California.*

3 *(i) A Sacramento-San Joaquin Delta Conservancy can support*  
 4 *efforts that advance both environmental protection and the*  
 5 *economic well-being of Delta residents in a complementary*  
 6 *manner, including all of the following:*

- 7 *(1) Protect and enhance habitat and habitat restoration.*
- 8 *(2) Protect and preserve Delta agriculture and working*  
 9 *landscapes.*
- 10 *(3) Provide increased opportunities for tourism and recreation.*
- 11 *(4) Promote Delta legacy communities and economic vitality*  
 12 *in the Delta in coordination with the Delta Protection Commission.*
- 13 *(5) Increase the resilience of the Delta to the effects of natural*  
 14 *disasters such as floods and earthquakes, in coordination with the*  
 15 *Delta Protection Commission.*
- 16 *(6) Protect and improve water quality.*
- 17 *(7) Assist the Delta regional economy through the operation of*  
 18 *the conservancy’s program.*
- 19 *(8) Identify priority projects and initiatives for which funding*  
 20 *is needed.*
- 21 *(9) Protect, conserve, and restore the region’s physical,*  
 22 *agricultural, cultural, historical, and living resources.*
- 23 *(10) Assist local entities in the implementation of their habitat*  
 24 *conservation plans (HCPs) and natural community conservation*  
 25 *plans (NCCPs).*
- 26 *(11) Facilitate take protection and safe harbor agreements*  
 27 *under the federal Endangered Species Act of 1973 (16 U.S.C. Sec.*  
 28 *1531 et seq.) and the California Endangered Species Act (Chapter*  
 29 *1.5 (commencing with Section 2050) of Division 3 of the Fish and*  
 30 *Game Code) for adjacent landowners and local public agencies.*
- 31 *(12) Promote environmental education.*

32  
 33 *CHAPTER 2. DEFINITIONS*  
 34

35 *32310. For the purposes of this division, the following terms*  
 36 *have the following meanings:*

- 37 *(a) “Board” means the governing board of the Sacramento-San*  
 38 *Joaquin Delta Conservancy.*
- 39 *(b) “Conservancy” means the Sacramento-San Joaquin Delta*  
 40 *Conservancy.*

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

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

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

7 (f) “Nonprofit organization” means a private, nonprofit  
8 organization that qualifies for exempt status under Section  
9 501(c)(3) of Title 26 of the United States Code and that has among  
10 its principal charitable purposes preservation of land for scientific,  
11 recreational, scenic, or open-space opportunities, protection of  
12 the natural environment, preservation or enhancement of wildlife,  
13 preservation of cultural and historical resources, or efforts to  
14 provide for the enjoyment of public lands.

15 (g) “Suisun Marsh” means the area defined in Section 29101  
16 and protected by Division 19 (commencing with Section 29000).

17

18 *CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY*

19

20 32320. There is in the Natural Resources Agency the  
21 Sacramento-San Joaquin Delta Conservancy, which is created as  
22 a state agency to work in collaboration and cooperation with local  
23 governments and interested parties.

24 32322. (a) The conservancy shall act as a primary state agency  
25 to implement ecosystem restoration in the Delta.

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

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

30 (2) Protect and preserve Delta agriculture and working  
31 landscapes.

32 (3) Provide increased opportunities for tourism and recreation  
33 in the Delta.

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

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

39 (6) Protect and improve water quality.

- 1     (7) Assist the Delta regional economy through the operation of
- 2     the conservancy’s program.
- 3     (8) Identify priority projects and initiatives for which funding
- 4     is needed.
- 5     (9) Protect, conserve, and restore the region’s physical,
- 6     agricultural, cultural, historical, and living resources.
- 7     (10) Assist local entities in the implementation of their habitat
- 8     conservation plans (HCPs) and natural community conservation
- 9     plans (NCCPs).
- 10    (11) Facilitate take protection and safe harbor agreements
- 11    under the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
- 12    1531 et seq.), the California Endangered Species Act (Chapter 1.5
- 13    (commencing with Section 2050) of Division 3 of the Fish and
- 14    Game Code), and the Natural Community Conservation Planning
- 15    Act (Chapter 10 (commencing with Section 2800) of Division 3 of
- 16    the Fish and Game Code) for adjacent landowners and local public
- 17    agencies.
- 18    (12) Promote environmental education through grant funding.
- 19    (c) When implementing subdivision (b), the conservancy shall
- 20    undertake efforts to enhance public use and enjoyment of lands
- 21    owned by the public.

22  
23                    CHAPTER 4. GOVERNING BOARD

- 24
- 25     32330. The board shall consist of 11 voting members and two
- 26     nonvoting members, appointed or designated as follows:
- 27     (a) The 11 voting members of the board shall consist of all of
- 28     the following:
- 29     (1) The Secretary of the Natural Resources Agency, or his or
- 30     her designee.
- 31     (2) The Director of Finance, or his or her designee.
- 32     (3) One member of the board or a designee who is appointed
- 33     by the Contra Costa County Board of Supervisors, who is a resident
- 34     of that county.
- 35     (4) One member of the board or a designee who is appointed
- 36     by the Sacramento County Board of Supervisors, who is a resident
- 37     of that county.
- 38     (5) One member of the board or a designee who is appointed
- 39     by the San Joaquin County Board of Supervisors, who is a resident
- 40     of that county.

1 (6) *One member of the board or a designee who is appointed*  
2 *by the Solano County Board of Supervisors, who is a resident of*  
3 *that county.*

4 (7) *One member of the board or a designee who is appointed*  
5 *by the Yolo County Board of Supervisors, who is a resident of that*  
6 *county.*

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

9 (9) *One public member appointed by the Senate Committee on*  
10 *Rules.*

11 (10) *One public member appointed by the Speaker of the*  
12 *Assembly.*

13 (b) *The two nonvoting members shall consist of a Member of*  
14 *the Senate, appointed by the Senate Committee on Rules, and a*  
15 *Member of the Assembly, appointed by the Speaker of the Assembly.*  
16 *The members appointed under this subdivision shall meet with the*  
17 *conservancy and participate in its activities to the extent that this*  
18 *participation is not incompatible with their positions as Members*  
19 *of the Legislature. The appointed members shall represent a district*  
20 *that encompasses a portion of the Delta.*

21 (c) *Ten liaison advisers who shall serve in an advisory,*  
22 *nonvoting capacity shall consist of all of the following:*

23 (1) *One representative of the United States Fish and Wildlife*  
24 *Service, designated by the United States Secretary of Commerce.*

25 (2) *One representative of the United States National Marine*  
26 *Fisheries Service, designated by the United States Secretary of the*  
27 *Interior.*

28 (3) *One representative of the United States Bureau of*  
29 *Reclamation, designated by the United States Secretary of the*  
30 *Interior.*

31 (4) *One representative of the United States Army Corps of*  
32 *Engineers, designated by the Commanding Officer, United States*  
33 *Army Corps of Engineers, South Pacific Division.*

34 (5) *A designee of the San Francisco Bay Conservation and*  
35 *Development Commission for coordination purposes.*

36 (6) *A designee of the State Coastal Conservancy for*  
37 *coordination purposes.*

38 (7) *A designee of the Suisun Resource Conservation District*  
39 *for coordination purposes.*

40 (8) *A designee of the Central Valley Flood Protection Board.*

- 1     (9) *A designee of the Yolo Basin Foundation.*
- 2     (10) *A designee of the Delta Protection Commission.*
- 3     (d) *The public members appointed by the Governor shall serve*
- 4 *for a term of four years, with a two-term limit.*
- 5     (e) *The locally appointed members and alternates shall serve*
- 6 *at the pleasure of the appointing board of supervisors.*
- 7     (f) *The public members appointed by the Senate Committee on*
- 8 *Rules or the Speaker of the Assembly shall serve for a term of four*
- 9 *years, with a two-term limit.*
- 10    (g) *The Members of the Senate and Assembly shall serve at the*
- 11 *pleasure of the appointing body.*
- 12    (h) *Alternates may be appointed by the county boards of*
- 13 *supervisors, the Senate Committee on Rules, and the Speaker of*
- 14 *the Assembly.*
- 15    32332. *Annually, the voting members of the board shall elect*
- 16 *from among the voting members a chairperson and vice*
- 17 *chairperson, and other officers as necessary. If the office of the*
- 18 *chairperson or vice chairperson becomes vacant, a new*
- 19 *chairperson or vice chairperson shall be elected by the voting*
- 20 *members of the board to serve for the remainder of the term. The*
- 21 *chairperson shall be selected from among the members specified*
- 22 *in paragraphs (3) to (7), inclusive, of subdivision (a) of Section*
- 23 *32330.*
- 24    32334. *A majority of the voting members shall constitute a*
- 25 *quorum for the transaction of the business of the conservancy. The*
- 26 *board shall not transact the business of the conservancy if a*
- 27 *quorum is not present at the time a vote is taken. A decision of the*
- 28 *board requires an affirmative vote of six of the voting membership,*
- 29 *and the vote is binding with respect to all matters acted on by the*
- 30 *conservancy.*
- 31    32336. *The board shall adopt rules and procedures for the*
- 32 *conduct of business by the conservancy.*
- 33    32338. *The board may establish advisory boards or committees,*
- 34 *hold community meetings, and engage in public outreach.*
- 35    32340. *The board shall establish and maintain a headquarters*
- 36 *office within the Delta. The conservancy may rent or own real and*
- 37 *personal property and equipment pursuant to applicable statutes*
- 38 *and regulations.*
- 39    32342. *The board shall determine the qualifications of, and*
- 40 *shall appoint, an executive officer of the conservancy, who shall*

1 *be exempt from civil service. The board shall employ other staff*  
2 *as necessary to execute the powers and functions provided for in*  
3 *this division.*

4 *32344. The board may enter into contracts with private entities*  
5 *and public agencies to procure consulting and other services*  
6 *necessary to achieve the purposes of this division.*

7 *32346. The conservancy's expenses for support and*  
8 *administration may be paid from the conservancy's operating*  
9 *budget and any other funding sources available to the conservancy.*

10 *32348. The board shall conduct business in accordance with*  
11 *the Bagley-Keene Open Meeting Act (Article 9 (commencing with*  
12 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*  
13 *the Government Code).*

14 *32350. The board shall hold its regular meetings within the*  
15 *Delta or the City of Rio Vista.*

16

17 *CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS*

18

19 *32360. (a) Except as specified in Section 32360.5, the*  
20 *jurisdiction and activities of the conservancy are limited to the*  
21 *Delta and Suisun Marsh.*

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

26 *(2) Funds provided for ecosystem restoration and enhancement*  
27 *shall be available for ecosystem restoration projects consistent*  
28 *with the conservancy's strategic plan adopted pursuant to Section*  
29 *32376.*

30 *(3) Funds may be allocated to a separate program within the*  
31 *conservancy for economic sustainability in the Delta. The economic*  
32 *sustainability plan adopted pursuant to Section 29759 shall be the*  
33 *basis for the program. Funds provided to the conservancy to*  
34 *implement ecosystem restoration projects pursuant to the Bay*  
35 *Delta Conservation Plan shall only be used for ecosystem*  
36 *restoration purposes.*

37 *32360.5. In furtherance of the conservancy's role in*  
38 *implementing the Delta Plan, the conservancy may take or fund*  
39 *an action outside the Delta and Suisun Marsh if the board makes*  
40 *all of the following findings:*

1 (a) The project implements the ecosystem goals of the Delta  
2 Plan.

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

5 (c) The conservancy has given notice to and reviewed any  
6 comments received from affected local jurisdictions and the Delta  
7 Protection Commission.

8 (d) The conservancy has given notice to and reviewed any  
9 comments received from any state conservancy where the project  
10 is located.

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

12 32362. The conservancy may engage in partnerships with  
13 nonprofit organizations, local public agencies, and landowners.

14 32363. In implementing this division, the conservancy shall  
15 cooperate and consult with the city or county in which a grant is  
16 proposed to be expended or an interest in real property is proposed  
17 to be acquired, and shall, as necessary or appropriate, coordinate  
18 its efforts with other state agencies, in cooperation with the  
19 Secretary of the Natural Resources Agency. The conservancy shall,  
20 as necessary or appropriate, cooperate and consult with a public  
21 water system, levee, flood control, or drainage agency that owns  
22 or operates facilities, including lands appurtenant thereto, where  
23 a grant is proposed to be expended or an interest in land is  
24 proposed to be acquired.

25 32364. (a) The conservancy may require a grantee to enter  
26 into an agreement with the conservancy on terms and conditions  
27 specified by the conservancy.

28 (b) The conservancy may require a cost-share or local funding  
29 requirement for a grant. The conservancy may make that cost-share  
30 or local funding requirement contingent upon the total amount of  
31 funding available, the fiscal resources of the applicant, or urgency  
32 of the project. The conservancy may waive cost-share requirements.

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

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

39 (e) The conservancy may require any funds that exceed the costs  
40 of eligible or approved projects or of acquisition to be returned

1 to the conservancy, to be available for expenditure when  
2 appropriated by the Legislature.

3 32364.5. (a) The conservancy may provide grants and loans  
4 to state agencies, local public agencies, and nonprofit  
5 organizations to further the goals of the conservancy.

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

9 (1) The intended use of the property.

10 (2) The manner in which the land will be managed.

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

15 (4) Grantees shall demonstrate, where applicable, how they  
16 will provide payments in lieu of taxes, assessments, or charges  
17 otherwise due to local government.

18 32365. The conservancy may sue and be sued.

19 32366. (a) The conservancy may acquire from willing sellers  
20 or transferors interests in real property and improve, lease, or  
21 transfer interests in real property, in order to carry out the  
22 purposes of this division.

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

25 32368. The conservancy may enter into an agreement with a  
26 public agency, nonprofit organization, or private entity for the  
27 construction, management, or maintenance of facilities authorized  
28 by the conservancy.

29 32370. The conservancy shall not exercise the power of eminent  
30 domain.

31 32372. (a) The conservancy may pursue and accept funds from  
32 various sources, including, but not limited to, federal, state, and  
33 local funds or grants, gifts, donations, bequests, devises,  
34 subventions, grants, rents, royalties, or other assistance and funds  
35 from public and private sources.

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

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

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

1 32376. *Within two years of hiring an executive officer, the*  
 2 *board shall prepare and adopt a strategic plan to achieve the goals*  
 3 *of the conservancy. The plan shall describe its interaction with*  
 4 *local, regional, state, and federal land use, recreation, water and*  
 5 *flood management, and habitat conservation and protection efforts*  
 6 *within and adjacent to the Delta. The strategic plan shall establish*  
 7 *priorities and criteria for projects and programs, based upon an*  
 8 *assessment of program requirements, institutional capabilities,*  
 9 *and funding needs throughout the Delta. The strategic plan shall*  
 10 *be consistent with the Delta Plan, the Delta Protection*  
 11 *Commission’s resources management plan, the Central Valley*  
 12 *Flood Protection Plan, the Suisun Marsh Preservation Act of 1977*  
 13 *(Division 19 (commencing with Section 29000)), and the Habitat*  
 14 *Management, Preservation and Restoration Plan for the Suisun*  
 15 *Marsh.*

16 32378. (a) *The conservancy may expend funds and award*  
 17 *grants and loans to facilitate collaborative planning efforts and*  
 18 *to develop projects and programs that are designed to further the*  
 19 *purposes of this division.*

20 (b) *The conservancy may provide and make available technical*  
 21 *information, expertise, and other nonfinancial assistance to public*  
 22 *agencies, nonprofit organizations, and tribal organizations, to*  
 23 *support program and project development and implementation.*

24 32380. *The conservancy may acquire water or water rights to*  
 25 *support the goals of the conservancy.*

26 32381. *This division does not grant to the conservancy any of*  
 27 *the following:*

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

29 (b) *The power to regulate any activities on land, except as the*  
 30 *owner of an interest in the land, or pursuant to an agreement with,*  
 31 *or a license or grant of management authority from, the owner of*  
 32 *an interest in the land.*

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

34 SECTION 1. ~~Section 29700.5 is added to the Public Resources~~  
 35 ~~Code, to read:~~

36 ~~29700.5. In managing the natural resources in the~~  
 37 ~~Sacramento-San Joaquin Delta, state agencies shall strive to~~  
 38 ~~achieve two cocqual goals of providing a more reliable water~~

- 1 ~~supply for the state and protecting, restoring, and enhancing the~~
- 2 ~~delta ecosystem.~~

O