

ASSEMBLY BILL

No. 1520

Introduced by Assembly Member Evans

February 27, 2009

An act to add Chapter 6.6 (commencing with Section 5809.1) to Division 5 of the Public Resources Code, relating to watersheds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1520, as introduced, Evans. Statewide Watershed Program.

The California Watershed Protection and Restoration Act requires state agencies to adopt guidelines for use by local watershed partnerships to provide specified mechanisms and authorizes state agencies with jurisdiction over watershed planning and protection to provide technical assistance to watershed management partnerships, to the extent that funds are available.

This bill would establish the Statewide Watershed Program as a voluntary and nonregulatory program to provide the means by which the state may provide assistance and funds to local community-based efforts in the conservation, protection, and restoration of the state's watersheds and to promote coordinated management of watersheds under the authority of the Secretary of the Natural Resources Agency and the Department of Conservation.

The bill would create within the department a State Watershed Advisory Committee consisting of at least 10 members appointed by the secretary, with at least one member from each of the state's hydrologic regions, as specified, and would authorize the secretary to appoint additional members and advisory persons to provide additional assistance in the establishment, administration, or operation of the program. The bill would authorize members to receive per diem and

milage in accordance with specified rules and would prohibit the disclosure of proprietary information, except as specified.

The bill would also authorize the secretary to cooperate with the federal government, other states, and other state and local agencies in furtherance of the purposes of the program and would authorize the program to receive contributions or funds from specified private or public entities or persons. The bill would authorize the secretary to contract with any authoritative scientific body, as specified, would exempt the expenditure of funds, the awarding of grants, and the adoption of guidelines from the California Environmental Quality Act (CEQA), and would exempt the adoption of guidelines, qualifications, or conditions from the Administrative Procedure Act.

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. Chapter 6.6 (commencing with Section 5809.1)
2 is added to Division 5 of the Public Resources Code, to read:

3
4 CHAPTER 6.6. STATEWIDE WATERSHED PROGRAM

5
6 5809.1. The Legislature finds and declares all of the following:

7 (a) Clean water and healthy watersheds are necessary to support
8 human communities as well as the state’s native fish, wildlife, and
9 plant communities, and are part of the legacy of California. Each
10 generation has an obligation to be good stewards of those resources
11 in order to pass them on to the next generation.

12 (b) Watershed management is a proven and valuable approach
13 to meeting comprehensive natural resource management objectives.
14 Watersheds provide a useful natural unit for managing chemical,
15 physical, biological and socioeconomic processes in an integrated
16 and productive fashion.

17 (c) It is in the state’s interest to empower its citizens to help
18 achieve the state’s objectives for natural resources management,
19 including the conservation, protection, restoration, and management
20 of watersheds. The state government cannot protect and restore
21 its watersheds alone.

1 (d) The environment, economy, and health and welfare of the
2 people of the state could be seriously damaged if the state's
3 watersheds are not adequately managed and protected.

4 (e) This chapter is not intended to establish a precedent, to
5 supersede or reduce, or in any way alter any federal or state law
6 or regulation, including, but not limited to, laws regarding water
7 quality, water rights, land use, forestry practices or otherwise
8 establish regulation of watersheds, water, land, or land use.

9 (f) The purposes of this chapter are enhanced by the many and
10 varied efforts of federal, state, municipal, public, community, and
11 volunteer organizations to conserve, restore, and manage
12 watersheds.

13 (g) This chapter is enacted in the public interest and in the
14 exercise of the police power of the state for the purpose of
15 protecting the health, peace, safety, and general welfare of the
16 people of this state.

17 5809.2. (a) The Legislature hereby declares that conservation,
18 protection, restoration, and management of the state's watersheds
19 and the broad range of products, goods, services, and values they
20 provide are of fundamental importance to the prosperity and
21 welfare of the people of this state. The Legislature declares that
22 the state must assume leadership in formulating and putting into
23 effect a statewide program that will advance sustainable
24 watershed-based management of California's natural resources
25 using community-based strategies, and do so by empowering its
26 citizens to help achieve the state's objectives for natural resources
27 management, and to work cooperatively to conserve, protect,
28 restore, and manage watersheds and related natural resources.

29 (b) The Legislature hereby declares that this chapter is enacted
30 to accomplish all of the following purposes:

31 (1) Establish the Statewide Watershed Program as a voluntary
32 and nonregulatory program to implement the purposes of this
33 chapter.

34 (2) Provide the means by which the state may provide assistance
35 and funds to local community-based efforts in the conservation,
36 protection, and restoration of the state's watersheds and promote
37 coordinated management of watersheds under the authority of the
38 Secretary of the Natural Resources Agency and the Department
39 of Conservation. The leadership and assistance to be provided
40 pursuant to this chapter shall include all of the following:

- 1 (A) Coordination and communication.
- 2 (B) Information and data management.
- 3 (C) Training and technical assistance.
- 4 (D) Education.
- 5 (E) Scientific assistance.
- 6 (F) Financial assistance.

7 (3) Increase collaboration among the Natural Resources Agency,
 8 including the Department of Conservation, the Department of
 9 Water Resources, the Department of Fish and Game, the
 10 Department of Forestry and Fire Protection, the California
 11 Environmental Protection Agency, the Department of Food and
 12 Agriculture, the State Water Resources Control Board, and the
 13 Ocean Protection Council to implement this chapter.

14 (4) Encourage participation by local governments and
 15 community organizations in the Statewide Watershed Program as
 16 a strategy to improve management of natural resources for which
 17 those agencies are directly responsible.

18 5809.3. As used in this chapter, unless otherwise specified, the
 19 following terms have the following meanings:

20 (a) “Committee” means the State Watershed Advisory
 21 Committee.

22 (b) “Department” means the Department of Conservation.

23 (c) “Person” means a natural person, association, corporation,
 24 city, county, city and county, special district, or joint powers
 25 authority, the state, a political subdivision of the state, or the federal
 26 government.

27 (d) “Secretary” means the Secretary of the Natural Resources
 28 Agency.

29 (e) “Director” means the Director of Conservation.

30 (f) “Watershed” means all lands enclosed by a continuous
 31 hydrologic drainage divide and lying upslope from a specified
 32 point on a stream, river, lake, or other body of water.

33 (g) “Agency” means the Natural Resources Agency.

34 (h) “Program” means the Statewide Watershed Program
 35 established in the Department of Conservation.

36 (i) “Stakeholder” means a person who has a direct interest in a
 37 watershed as a result of jurisdiction, residence, land ownership,
 38 water rights, or other effect from his or her use of the water or land
 39 in the watershed.

1 (j) “Community” means the persons who are stakeholders within
2 the local watershed.

3 5809.4. (a) The secretary shall create within the department
4 the State Watershed Advisory Committee, which shall consist of
5 at least 10, but not more than 25 members, with membership from
6 each of the state’s ten hydrologic regions as determined by the
7 Department of Water Resources. Members of the committee shall
8 be appointed by and serve at the pleasure of the secretary.

9 (b) The secretary may appoint additional members to the
10 committee, in his or her discretion, to provide additional assistance
11 in the establishment, administration, or operation of the program.

12 (c) The members of the committee shall be familiar with and
13 understand the community-based watershed efforts occurring in
14 their region and may include representatives of county, city, city
15 and county, special district, and stakeholder interests.

16 (d) The secretary and other appropriate individuals, as
17 determined by the secretary, shall be nonvoting ex officio members
18 of the committee.

19 (e) Members of the committee shall serve a term of two years,
20 and may be reappointed for any additional terms by the secretary
21 at his or her discretion.

22 (f) Persons appointed to the committee are intended to represent
23 and further the interests of the state, their community, and
24 watershed, and their representation and furtherance of the program
25 are intended to serve the public interest. Therefore, the Legislature
26 finds that, with respect to persons who are appointed to the
27 committee, the state, community, and watershed are tantamount
28 to, and constitute, the public generally within the meaning of
29 Section 87103 of the Government Code.

30 5809.5. (a) The committee shall be advisory only, to assist the
31 secretary and the director.

32 (b) In carrying out its responsibilities, the committee may do
33 all of the following:

34 (1) Submit recommendations to the secretary or director
35 regarding, but not limited to, all of the following:

36 (A) Conservation, restoration, protection, and management of
37 the state’s watersheds.

38 (B) Administration of the program.

39 (C) Operation of the committee, including but not limited to,
40 all of the following:

- 1 (i) Selection of committee members.
- 2 (ii) The program’s annual budget.
- 3 (D) Expenditures made to implement the program.
- 4 (2) Adopt, amend, and rescind all proper and necessary bylaws
- 5 and procedures for the committee’s operation.
- 6 (c) Upon authorization from the agency or department, members
- 7 of the committee may receive per diem and mileage in accordance
- 8 with the rules of the Department of Personnel Administration for
- 9 attendance at meetings and other approved committee activities.
- 10 5809.6. (a) The secretary or director may appoint additional
- 11 advisory bodies, or persons to serve in an advisory capacity,
- 12 including, but not limited to, scientific experts, university
- 13 researchers, and persons with interests in watershed, water, or
- 14 natural resources that may be affected by this division.
- 15 (b) Persons serving in an advisory capacity may be reimbursed,
- 16 upon request, for necessary and actual expenses incurred by them
- 17 in the performance of their duties pursuant to law.
- 18 5809.7. An action in law or equity shall not be brought against
- 19 a member or agent of the committee, and a member or agent of
- 20 the committee shall not be personally liable for the actions of the
- 21 committee or the department or agency. A member or agent of the
- 22 committee is not responsible individually to another person for
- 23 errors in judgment, mistakes, or other acts of commission or
- 24 omission, as a principal, agent, or employee, except for his or her
- 25 own individual acts including dishonesty, fraud, or crime. A
- 26 member or agent of the committee is not responsible individually
- 27 for an act or omission of another member or agent of the
- 28 committee, or the department or agency. Liability is several and
- 29 not joint, and a member or agent of the committee is not liable for
- 30 the default of another member or agent of the committee, or the
- 31 department or agency.
- 32 5809.8. Except as provided in Section 5809.9, data and related
- 33 information and materials produced during the course of research
- 34 conducted pursuant to this chapter that are in the possession of the
- 35 department, the committee, or any other body engaged in research
- 36 funded pursuant to this chapter, shall be property of the state, and
- 37 may be released at the discretion of the secretary or the director
- 38 under delegation from the secretary in furtherance of the purposes
- 39 of this chapter.

1 5809.9. (a) All proprietary information obtained by the
2 committee, the department, or the agency in furtherance of this
3 chapter, including, but not limited to, information not made public
4 pursuant to other state or federal laws, that comes into possession
5 of the committee, the department, or the agency, is confidential
6 and shall not be disclosed, except when required by a court order
7 issued upon a showing of good cause and that the information is
8 necessary to a judicial proceeding involving this article.

9 (b) Disclosure, as permitted under this section, shall be
10 conducted in camera by the court.

11 (c) The court shall, in its discretion, issue orders restraining a
12 party or parties to a judicial proceeding involving this chapter from
13 disseminating any proprietary information to the public or another
14 person not a party to the judicial proceeding.

15 5809.10. (a) There is hereby created within the Department
16 of Conservation the Statewide Watershed Program.

17 (b) The program shall be conducted under the control of the
18 secretary and administered by the department.

19 (c) The department shall provide staffing and logistical support
20 that in the director's discretion is necessary for administering the
21 program.

22 5809.11. The director shall implement, administer, and take
23 those actions as he or she deems necessary, in his or her discretion,
24 to fulfill the purposes of this chapter and carry out the
25 responsibilities of the program.

26 5809.12. (a) The program shall provide assistance and funds
27 to local community-based efforts in the conservation, protection,
28 and restoration of the state's watersheds and promote coordinated
29 management of watersheds. The leadership and assistance provided
30 pursuant to this chapter shall include all of the following:

- 31 (1) Coordination and communication.
- 32 (2) Information and data management.
- 33 (3) Training and technical assistance.
- 34 (4) Education.
- 35 (5) Scientific assistance.
- 36 (6) Financial assistance.

37 (b) Funds made available to implement the program pursuant
38 to this chapter may be expended for all of the following:

1 (1) Reasonable administrative expenses of the agency,
2 department, and committee in carrying out the responsibilities,
3 purposes, and policies of this chapter.

4 (2) Coordination and communication for the provision of
5 assistance in making programs, permits, educational materials,
6 methods, reporting, and any other relevant information available
7 for the conservation, restoration, and management of watersheds.

8 (3) Information and data management and collection of
9 information regarding watershed conservation, protection,
10 restoration, and management, including, but not limited to, water
11 quality, water supply and demand, vegetation management, land
12 use activities, socioeconomic conditions, and other information as
13 may be useful in understanding, designing, permitting,
14 implementing, or otherwise furthering the purposes of this chapter.

15 (4) Training and technical assistance to persons who are engaged
16 in, or seek to be engaged in, or contribute to, watershed
17 conservation, protection, restoration, and management.

18 (5) Education of the general public, including, but not limited
19 to, schools, organizations, groups, and others regarding the
20 importance to the state of watershed conservation, protection,
21 restoration, and management.

22 (6) Science and research regarding the operation, conservation,
23 restoration, and management of watersheds, including
24 recommendations for scientific studies that may be useful to, or
25 further efforts by, local planners and practitioners, and communities
26 involved in local watershed conservation, protection, restoration,
27 and management.

28 (7) Financial assistance, including, but not limited to, the
29 awarding of grants to community-based programs for coordination,
30 watershed assessment and planning, implementation of
31 management plans, and monitoring of watershed conditions and
32 the effect of management practices on those conditions.

33 5809.13. The secretary may cooperate with the federal
34 government, other states, other agencies of this state, local
35 government, public entities, or any person in furtherance of the
36 purposes of this chapter, and to that end the program may receive,
37 expend, and use contributions, grants, or any other private or public
38 funds or property provided from those entities or persons.

39 5809.14. The following is hereby declared a matter of
40 legislative determination:

1 (a) The construction and maintenance on privately or publicly
2 owned land of works for watershed conservation, protection,
3 restoration, and management are matters of vital, statewide interest
4 and for the general public benefit.

5 (b) The expenditure of state, county, city, city and county,
6 district, special district, or other public funds that are available or
7 may become available for planning, designing, or implementing
8 the program and for the construction or maintenance of control or
9 preventive works on privately or publicly owned land constitutes
10 an expenditure for the general public benefit.

11 5809.15. Notwithstanding any other provision of law, the
12 secretary, upon the secretary's own initiative or upon the
13 recommendation of the committee, may contract with any
14 authoritative scientific body with expertise relating to the
15 conservation, restoration, protection, and management of the state's
16 watersheds, for research or other activities in furtherance of the
17 purposes of this chapter.

18 5809.16. The expenditure of funds, the awarding of grants, or
19 the adoption of guidelines for expenditures, awards, or the
20 operation of the program, as authorized by this chapter, shall not
21 constitute a project within the meaning of the California
22 Environmental Quality Act, (Division 13, commencing with
23 Section 21000 of the Public Resources Code).

24 5809.17. The adoption of guidelines, qualifications, or
25 conditions applicable to the award of program grants shall be
26 exempt from Chapter 3.5 (commencing with Section 11340) of
27 Part 1 of Division 3 of the Government Code.

28 5809.18. This chapter shall be liberally construed to further its
29 purposes.

30 SEC. 2. The provisions of this chapter are severable. If any
31 provision of this chapter or its application is held invalid, that
32 invalidity shall not affect other provisions or applications that can
33 be given effect without the invalid provision or application.