

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1520**

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**Introduced by Assembly Member Evans**  
***(Coauthor: Assembly Member Chesbro)***

February 27, 2009

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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 amended, 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 mileage reimbursement for travel expenses 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.~~

*The bill would require that the provisions of the Statewide Watershed Program only be implemented in a fiscal year for which funding is provided in the annual Budget 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.~~ *to ensure their*  
12 *preservation for future generations.*

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

1 ~~(c) It is in the state's interest to empower its citizens to help~~  
2 ~~achieve the state's objectives for natural resources management,~~  
3 ~~including the conservation, protection, restoration, and management~~  
4 ~~of watersheds. The state government cannot protect and restore~~  
5 ~~its watersheds alone.~~

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

9 ~~(e)~~

10 (c) This chapter is not intended to establish a precedent, to  
11 supersede or reduce, or in any way alter any federal or state law  
12 or regulation, including, but not limited to, laws regarding water  
13 quality, water rights, land use, forestry practices or otherwise  
14 establish regulation of watersheds, water, land, or land use.

15 ~~(f) The purposes of this chapter are enhanced by the many and~~  
16 ~~varied efforts of federal, state, municipal, public, community, and~~  
17 ~~volunteer organizations to conserve, restore, and manage~~  
18 ~~watersheds.~~

19 ~~(g) This chapter is enacted in the public interest and in the~~  
20 ~~exercise of the police power of the state for the purpose of~~  
21 ~~protecting the health, peace, safety, and general welfare of the~~  
22 ~~people of this state.~~

23 5809.2. ~~(a) The Legislature hereby declares that conservation,~~  
24 ~~protection, restoration, and management of the state's watersheds~~  
25 ~~and the broad range of products, goods, services, and values they~~  
26 ~~provide are of fundamental importance to the prosperity and~~  
27 ~~welfare of the people of this state. The Legislature declares that~~  
28 ~~the state must~~

29 (d) *The state should* assume leadership in formulating and  
30 putting into effect a statewide program that will advance  
31 sustainable watershed-based management of California's natural  
32 resources using community-based strategies, ~~and do so by~~  
33 ~~empowering its citizens to help achieve the state's objectives for~~  
34 ~~natural resources management, and to work cooperatively to~~  
35 ~~conserve, protect, restore, and manage watersheds and related~~  
36 ~~natural resources.~~

37 (e) *The expenditure of state, county, city, city and county,*  
38 *district, special district, or other public funds that are available*  
39 *or may become available for planning, designing, or implementing*  
40 *the program and for the construction or maintenance of control*

1 *or preservation or restoration projects in furtherance of this*  
2 *program on privately or publicly owned land constitutes an*  
3 *expenditure for the general public benefit.*

4 ~~(b) The Legislature hereby declares that this chapter is enacted~~

5 *(f) This chapter is enacted to accomplish all of the following*  
6 *purposes:*

7 (1) Establish the Statewide Watershed Program as a voluntary  
8 and nonregulatory program to ~~implement the purposes of this~~  
9 ~~chapter.~~

10 ~~(2) Provide the means by which the state may provide assistance~~  
11 ~~and funds to local community-based efforts in the conservation,~~  
12 ~~protection, and restoration of the state's watersheds and promote~~  
13 ~~coordinated management of watersheds under the authority of the~~  
14 ~~Secretary of the Natural Resources Agency and the Department~~  
15 ~~of Conservation. The leadership and assistance to be provided~~  
16 ~~pursuant to this chapter shall include all of the following:~~

17 (A) Coordination and communication.

18 (B) Information and data management.

19 (C) Training and technical assistance.

20 (D) Education.

21 (E) Scientific assistance.

22 (F) Financial assistance.

23 (3) Increase collaboration among the Natural Resources Agency,  
24 including the Department of Conservation, the Department of  
25 Water Resources, the Department of Fish and Game, the  
26 Department of Forestry and Fire Protection, the California  
27 Environmental Protection Agency, the Department of Food and  
28 Agriculture, the State Water Resources Control Board, and the  
29 Ocean Protection Council to implement this chapter.

30 (4) Encourage participation by local governments and  
31 community organizations ~~in the Statewide Watershed Program as~~  
32 ~~a strategy to improve management of natural resources for which~~  
33 ~~those agencies are directly responsible.~~

34 ~~5809.3.~~

35 ~~5809.2.~~ As used in this chapter, unless otherwise specified, the  
36 following terms have the following meanings:

37 (a) "Committee" means the State Watershed Advisory  
38 Committee.

39 (b) "Department" means the Department of Conservation.

1 (c) "Person" means a natural person, association, corporation,  
2 city, county, city and county, special district, or joint powers  
3 authority, the state, a political subdivision of the state, or the federal  
4 government.

5 (d) "Secretary" means the Secretary of the Natural Resources  
6 Agency.

7 (e) "Director" means the Director of Conservation.

8 (f) "Watershed" means all lands enclosed by a continuous  
9 hydrologic drainage divide and lying upslope from a specified  
10 point on a stream, river, lake, or other body of water.

11 (g) "Agency" means the Natural Resources Agency.

12 (h) "Program" means the Statewide Watershed Program  
13 established in the Department of Conservation.

14 (i) "Stakeholder" means a person who has a direct interest in a  
15 watershed as a result of jurisdiction, residence, land ownership,  
16 water rights, or other effect from his or her use of the water or land  
17 in the watershed.

18 (j) "Community" means the persons who are stakeholders within  
19 the local watershed.

20 ~~5809.4.~~

21 5809.3. (a) The secretary shall create within the department  
22 the State Watershed Advisory Committee, which shall consist of  
23 at least 10, but not more than 25 members, with membership from  
24 each of the state's ten hydrologic regions as determined by the  
25 Department of Water Resources. Members of the committee shall  
26 be appointed by and serve at the pleasure of the secretary.

27 ~~(b) The secretary may appoint additional members to the~~  
28 ~~committee, in his or her discretion, to provide additional assistance~~  
29 ~~in the establishment, administration, or operation of the program.~~

30 ~~(c)~~

31 (b) The members of the committee shall be familiar with and  
32 understand the community-based watershed efforts occurring in  
33 their region and may include representatives of county, city, city  
34 and county, special district, and stakeholder interests.

35 ~~(d) The secretary and other appropriate individuals, as~~  
36 ~~determined by the secretary, shall be nonvoting ex officio members~~  
37 ~~of the committee.~~

38 ~~(e)~~

1 (c) Members of the committee shall serve a term of two years,  
2 and may be reappointed for ~~any additional~~ *additional two-year*  
3 terms by the secretary at his or her discretion.

4 ~~(f)~~

5 (d) Persons appointed to the committee are intended to represent  
6 and further the interests of the state, their community, and  
7 watershed, and their representation and furtherance of the program  
8 are intended to serve the public interest. Therefore, the Legislature  
9 finds that, with respect to persons who are appointed to the  
10 committee, the state, community, and watershed are tantamount  
11 to, and constitute, the public generally within the meaning of  
12 Section 87103 of the Government Code.

13 ~~5809.5.~~

14 *5809.4.* (a) The committee shall be advisory only, to assist the  
15 secretary and the director.

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

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

20 (A) Conservation, restoration, protection, and management of  
21 the state's watersheds.

22 (B) *Identification and prioritization of problems, opportunities,*  
23 *and recommendations for solutions to problems associated with*  
24 *the state's natural resources.*

25 (C) *Criteria for measuring progress made toward the*  
26 *conservation, restoration, protection, and management of the*  
27 *state's watersheds.*

28 ~~(B)~~

29 (D) Administration of the program.

30 ~~(C)~~

31 (E) Operation of the committee, including but not limited to,  
32 all of the following:

33 (i) Selection of committee members.

34 (ii) The program's annual budget.

35 ~~(D)~~

36 (F) Expenditures made to implement the program.

37 (2) Adopt, amend, and rescind all proper and necessary bylaws  
38 and procedures for the committee's operation.

39 (c) Upon authorization *and preapproval* from the agency or  
40 department, members of the committee may receive ~~per diem and~~

1 ~~mileage reimbursement for travel expenses~~ in accordance with the  
2 rules of the Department of Personnel Administration for attendance  
3 at meetings and other approved committee activities.

4 ~~5809.6. (a) The secretary or director may appoint additional~~  
5 ~~advisory bodies, or persons to serve in an advisory capacity,~~  
6 ~~including, but not limited to, scientific experts, university~~  
7 ~~researchers, and persons with interests in watershed, water, or~~  
8 ~~natural resources that may be affected by this division.~~

9 ~~(b) Persons serving in an advisory capacity may be reimbursed,~~  
10 ~~upon request, for necessary and actual expenses incurred by them~~  
11 ~~in the performance of their duties pursuant to law.~~

12 ~~5809.7.~~

13 ~~5809.5.~~ An action in law or equity shall not be brought against  
14 a member or agent of the committee, and a member or agent of  
15 the committee shall not be personally liable for the actions of the  
16 committee or the department or agency. A member or agent of the  
17 committee is not responsible individually to another person for  
18 errors in judgment, mistakes, or other acts of commission or  
19 omission, as a principal, agent, or employee, except for his or her  
20 own individual acts including dishonesty, fraud, or crime. A  
21 member or agent of the committee is not responsible individually  
22 for an act or omission of another member or agent of the  
23 committee, or the department or agency. Liability is several and  
24 not joint, and a member or agent of the committee is not liable for  
25 the default of another member or agent of the committee, or the  
26 department or agency.

27 ~~5809.8.~~

28 ~~5809.6.~~ Except as provided in Section ~~5809.9~~ ~~5809.7~~, data and  
29 related information and materials produced during the course of  
30 research conducted pursuant to this chapter that are in the  
31 possession of the department, the committee, or any other body  
32 engaged in research funded pursuant to this chapter, shall be  
33 property of the state, and may be released at the discretion of the  
34 secretary or the director under delegation from the secretary in  
35 furtherance of the purposes of this chapter.

36 ~~5809.9.~~

37 ~~5809.7.~~ (a) All proprietary information obtained by the  
38 committee, the department, or the agency in furtherance of this  
39 chapter, including, *related to private land*, but not limited to,  
40 information not made public pursuant to other state or federal laws,

1 that comes into possession of the committee, the department, or  
2 the agency, is confidential and shall not be disclosed, except when  
3 required by a court order issued upon a showing of good cause  
4 and that the information is necessary to a judicial proceeding  
5 involving this article.

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

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

12 ~~5809.10.~~

13 5809.8. (a) There is hereby created within the Department of  
14 Conservation the Statewide Watershed Program.

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

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

20 (d) *The department may contract with a public or private entity*  
21 *to carry out activities in furtherance of this chapter.*

22 ~~5809.11.~~

23 5809.9. The director shall implement, administer, and take  
24 those actions as he or she deems necessary, in his or her discretion,  
25 to fulfill the purposes of this chapter and carry out the  
26 responsibilities of the program.

27 5809.10. *The director shall establish clear priorities for the*  
28 *program and ensure that those priorities are met in a timely*  
29 *manner.*

30 ~~5809.12.~~

31 5809.11. (a) The program shall provide assistance and funds  
32 to local community-based efforts in the conservation, protection,  
33 and restoration of the state's watersheds and promote coordinated  
34 management of watersheds. The leadership and assistance provided  
35 pursuant to this chapter shall include all of the following:

- 36 (1) Coordination and communication.
- 37 (2) Information and data management.
- 38 (3) Training and technical assistance.
- 39 (4) Education.
- 40 (5) Scientific assistance.

1 (6) Financial assistance.

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

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

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

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

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

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

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

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

36 ~~5809.13.~~

37 ~~5809.12.~~ The secretary may cooperate with the federal  
38 government, other states, other agencies of this state, local  
39 government, public entities, or any person in furtherance of the  
40 purposes of this chapter, and to that end the program may receive,

1 expend, and use contributions, grants, or any other private or public  
2 funds or property provided from those entities or persons.

3 ~~5809.14. The following is hereby declared a matter of~~  
4 ~~legislative determination:~~

5 (a) ~~The construction and maintenance on privately or publicly~~  
6 ~~owned land of works for watershed conservation, protection,~~  
7 ~~restoration, and management are matters of vital, statewide interest~~  
8 ~~and for the general public benefit.~~

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

15 ~~5809.15.~~

16 5809.13. Notwithstanding any other provision of law, the  
17 secretary, upon the secretary's own initiative or upon the  
18 recommendation of the committee, may contract with any  
19 authoritative scientific body with expertise relating to the  
20 conservation, restoration, protection, and management of the state's  
21 watersheds, for research or other activities in furtherance of the  
22 purposes of this chapter.

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

29 ~~5809.17.~~

30 5809.14. The adoption of guidelines, qualifications, or  
31 conditions applicable to the award of program grants shall be  
32 exempt from Chapter 3.5 (commencing with Section 11340) of  
33 Part 1 of Division 3 of the Government Code.

34 ~~5809.18. This chapter shall be liberally construed to further its~~  
35 ~~purposes.~~

36 5809.15. *On or before January 1, 2012, and on or before*  
37 *January 1 every two years thereafter the Department of*  
38 *Conservation, in consultation with the Department of Fish and*  
39 *Game, the Department of Water Resources, and any other relevant*

1 *state agencies, shall submit a report to the secretary on the*  
2 *progress in implementing this chapter.*

3 *5809.16. This chapter shall be implemented only in a fiscal*  
4 *year for which funding is provided for that purpose in the annual*  
5 *Budget Act.*

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