

AMENDED IN SENATE JUNE 15, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2092

Introduced by Assembly Member Huffman

February 18, 2010

An act to add Sections ~~85215~~ 85053.5, 85215, and 85216 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2092, as amended, Huffman. ~~Delta Stewardship Council: planning and administration: long-term financing plan.~~ *Delta Plan: financing.*

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. The council is required, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Sacramento-San Joaquin Delta (Delta Plan), meeting specified requirements.

This bill would require the council to develop a ~~long-term financing~~ *long-term finance* plan to pay for the costs of implementing the Delta Plan ~~and for the ongoing administration of the council~~ by January 1, 2013. ~~The bill would require the long-term financing plan to include fee proposals to pay for private benefits associated with implementation of the Delta Plan.~~ The bill would prohibit the council from adopting a ~~fee~~ *new fees* for these purposes unless authorized by statute. The bill would require the council, before adopting and collecting ~~fees or long-term~~ *long-term* revenue sources, to seek to obtain early funding

contributions from entities that may benefit from implementation of the Delta Plan and to track those contributions to provide credit against future fee or funding requirements.

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

3 (a) The Sacramento-San Joaquin Delta is a critically important
4 natural resource for California and the nation and serves
5 Californians as both the most valuable estuary on the west coast
6 of North America and the hub of the California water system.

7 (b) The Sacramento-San Joaquin Delta watershed and water
8 infrastructure are in crisis.

9 (c) In 2009, the Legislature and Governor adopted a
10 comprehensive water package that included new policies and
11 programs to address the crisis.

12 (d) Senate Bill 1 of the Seventh Extraordinary Session adopted
13 the Sacramento-San Joaquin Delta Reform Act of 2009, which
14 created the Delta Stewardship Council and directed the council
15 to develop a comprehensive Delta Plan to address the coequal
16 goals of providing a more reliable water supply for California and
17 protecting, restoring, and enhancing the Delta ecosystem.

18 (e) Long-term funding is needed to support the implementation
19 of the Delta Plan.

20 (f) A finance plan for implementing the Delta Plan should
21 recognize that public and private interests should contribute in
22 proportion to the benefits received or negative impacts caused.

23 SEC. 2. Section 85053.5 is added to the Water Code, to read:

24 85053.5. "Beneficiary pays principle" means the allocation
25 of costs to public or private interests in approximate proportion
26 to benefits received or negative impacts caused.

27 SECTION 1.

28 SEC. 3. Section 85215 is added to the Water Code, to read:

29 85215. (a) By January 1, 2013, the council shall develop a
30 ~~long-term financing~~ long-term finance plan to pay for the costs of
31 implementing the Delta Plan ~~and for the ongoing administration~~
32 ~~of the council. The financing~~ that includes all projects, programs,

1 *and related administrative costs identified in the Delta Plan. The*
2 *finance plan shall be developed through an analytically based,*
3 *transparent, and open process.*

4 *(b) The finance plan shall include, but not be limited to, all of*
5 *the following information:*

6 *(1) An annual expenditure plan for implementation of the Delta*
7 *Plan.*

8 *(2) An estimate of all existing state and federal funds, including*
9 *General Fund moneys, special fund moneys, fees, and other sources*
10 *of revenue reasonably expected to be available to support*
11 *expenditures.*

12 *(3) An evaluation of existing programs and projects to determine*
13 *if funding could be redirected to the Delta Plan, including, but not*
14 *limited to, funding previously directed at the CALLED Bay Delta*
15 *Program.*

16 *(4) A definition of public and private benefits.*

17 *(5) An analysis and description of the basis for allocating*
18 *program and project costs among private and public interests.*

19 *(6) An enforceable mechanism that ensures that fees, contractual*
20 *payments, cost-share agreements, and contributions are expended*
21 *as intended, and not diverted to other purposes.*

22 *(c) The finance plan shall recognize the broad public benefit to*
23 *the state and nation of restoring and enhancing the Delta*
24 *ecosystem.*

25 *(d) The finance plan shall identify and evaluate the benefits to*
26 *all groups resulting from the implementation of the Delta Plan,*
27 *including, but not limited to, potential benefits to all of the*
28 *following: Plan. The finance plan shall identify and evaluate the*
29 *negative impacts caused by all groups to the Delta that the Delta*
30 *Plan seeks to address. Benefits to, and impacts caused by, but not*
31 *limited to, all of the following shall be identified and evaluated:*

32 *(1) The public.*

33 *(2) Urban and agricultural water users diverting water in the*
34 *Delta.*

35 *(3) Urban and agricultural water users diverting water in the*
36 *Bay-Delta tributaries and watershed.*

37 *(4) Delta landowners, including, but not limited to, reclamation*
38 *districts and public and private landowners, and building and*
39 *transportation interests.*

40 *(5) Delta recreational users.*

1 (6) Dischargers into the Delta or its tributaries, including
2 wastewater dischargers.

3 (7) Commercial fishing.

4 (8) Other interests with infrastructure or operations in the Delta.

5 ~~(b) The financing plan shall allocate program costs based on~~
6 ~~the benefits identified in subdivision (a). The plan shall include~~
7 ~~fee proposals to create revenues to pay for the private benefits~~
8 ~~associated with implementation of the Delta Plan.~~

9 *(e) The finance plan shall allocate costs based on the beneficiary*
10 *pays principle and pursuant to the analysis required in subdivision*

11 *(d). Financing proposals to pay for public benefits or impacts shall*
12 *include, but not be limited to, new and existing state and federal*
13 *funding including proceeds from the sale of bonds. Financing*
14 *proposals to pay for private benefits or impacts shall include, but*
15 *not be limited to, new and existing fees, contractual payments, and*
16 *cost-share agreements.*

17 *(f) The council shall review the finance plan at least once every*
18 *five years and update the plan as the council deems appropriate.*

19 ~~(c) Upon completion, the council shall present the plan to the~~
20 ~~Legislature for approval. The council shall not adopt a fee new~~
21 ~~fees pursuant to this section unless a statute is enacted that~~
22 ~~authorizes the council to adopt a fee pursuant to this section.~~

23 ~~SEC. 2.~~

24 *SEC. 4.* Section 85216 is added to the Water Code, to read:

25 85216. (a) Prior to the establishment or collection of ~~a fee or~~
26 ~~a long term~~ *long-term* revenue source pursuant to Section 85215,
27 the council shall seek to obtain early funding contributions from
28 groups that may benefit from the implementation of the Delta Plan,
29 for purposes of funding the council’s planning and administrative
30 activities.

31 (b) The council shall track early funding contributions and shall
32 provide credit for those contributions against future ~~fee or~~ funding
33 requirements.