

SENATE BILL

No. 1

Introduced by Senator Steinberg

October 23, 2009

An act to amend Sections 6103.1 and 6103.4 of the Government Code, to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29763, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29722.7, 29728.5, 29759, 29773, 29773.5, and 29778.5 to, to add Division 22.3 (commencing with Section 32300) to, to repeal Section 29762 of, and to repeal and add Sections 29736, 29739, 29753, 29761, 29761.5, and 29764 of, the Public Resources Code, to amend Sections 375, 1052, 1055, 1055.2, 1120, 1525, 1535, 1538, 1551, 1825, 1845, 2525, 2526, 2550, 2763.5, 5100, 5101, 5103, 5106, and 5107 of, to amend and repeal Section 10631.5 of, to add Sections 1051.1, 1240.5, 1846, and 1847 to, to add Chapter 2.7 (commencing with Section 348) to Division 1 of, to add Part 2.55 (commencing with Section 10608) and Part 2.11 (commencing with Section 10920) to Division 6 of, to add Division 35 (commencing with Section 85000) to, to repeal Section 5108 of, to repeal Division 26.4 (commencing with Section 79400) of, to repeal and add Section 12924 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, and to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) by amending Items 3940-001-0439 and 3940-001-3058 of Section 2.00 of the Budget Act of 2009, relating to public resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Steinberg. Public resources.

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

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

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

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

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

(2) Existing law requires the Secretary of the Natural Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations for implementing a specified strategic plan relating to the sustainable management of the Delta.

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

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

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

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

(3) The California Bay-Delta Authority Act establishes the California Bay-Delta Authority in the Resources Agency. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended.

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

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

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would provide that urban retail water suppliers, on and after July 1, 2016, and agricultural water suppliers, on and after July 1, 2013, are not eligible for state water grants or loans unless they comply with the water conservation requirements established by the bill. The bill would repeal, on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

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

This bill would revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare

and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is not eligible for state water grants or loans unless the supplier complies with the water management planning requirements established by the bill.

(6) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service. Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality.

This bill would expand the exemption to other provisions relating to water use, including provisions that require the payment of fees to the State Water Resources Control Board for official services relating to statements of water diversion and use.

(7) Existing law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. Under existing law, the board makes determinations with regard to the availability of recycled water.

This bill would authorize the board, in conducting an investigation or proceeding for these purposes, to order any person or entity that diverts water or uses water to submit, under penalty of perjury, any technical or monitoring report related to the diversion or use of water by that person or entity. By expanding the definition of the crime of perjury, the bill would impose a state-mandated local program. The bill

would authorize the board, in connection with the investigation or proceeding, to inspect the facilities of any person or entity to determine compliance with specified water use requirements.

(8) Existing law authorizes the State Water Resources Control Board, upon the submission of a petition signed by a claimant to water of any stream system requesting a determination of rights among the claimants to that water, to enter an order granting the petition. After granting the petition, the board is required to investigate the stream system to gather information necessary to make a determination of the water rights of that stream system.

This bill would authorize the board to initiate a determination of rights under its own motion if after a hearing it finds that the public interest and necessity will be served by a determination of rights.

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

This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed the sum of \$1,000 or \$5,000 for each day in which the trespass occurs, as specified, or the highest market value of the water, whichever is the greater amount.

(10) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a prescribed statement of diversion and use. Existing law requires a statement to include specified information, including, on and after January 1, 2012, monthly records of water diversions. Under existing law, the monthly record requirement does not apply to a surface water diversion with a combined diversion capacity from a natural channel that is less than 50 cubic feet per second or to diverters using siphons in the tidal zone. Existing law subjects a person who makes a material misstatement in connection with the filing of the diversion and use statements to administratively imposed civil penalties in the amount of \$500 for each violation.

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

requirement, and revise requirements relating to the contents of the statement of diversions and use.

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

The bill would authorize the board and the Department of Water Resources to adopt emergency regulations for the electronic filing of reports of water diversion or use that are required to be filed with those respective state agencies under specified statutory provisions.

The bill would establish a rebuttable presumption, in any proceeding before the board in which it is alleged that an appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.

The bill would require a person who files a statement of diversion and use, and certain petitions involving a change in a water right, to pay an annual fee, for deposit in the Water Rights Fund. The bill would include as recoverable costs, for which the board may be reimbursed from the fund upon appropriation therefor, costs incurred in connection with carrying out requirements relating to the statements of diversion and use and the performance of duties under the public trust doctrine and provisions that require the reasonable use of water.

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

This bill would increase, as specified, the civil penalties that apply to a person who violates a cease and desist order.

The bill would impose civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for a failure to comply with various reporting or monitoring requirements, including requirements imposed pursuant to the public trust doctrine. The bill would authorize

the board to impose additional civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for the violation of a permit, license, certificate, or registration, or an order or regulation involving the unreasonable use of water. Funds derived from the imposition of these civil penalties would be deposited in the Water Rights Fund.

The bill would require that, in a proceeding before the board in which it is alleged that an appropriative water right has ceased, or is subject to prescribed action, there would be a rebuttable presumption that no use occurred on or after January 1, 2009, unless that diversion or use was reported to the board within 6 months after it is required to be filed with the board.

(12) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision that establishes funding requirements for the construction of certain groundwater projects.

This bill would establish a groundwater monitoring program pursuant to which specified entities, in accordance with prescribed procedures, may propose to be designated by the Department of Water Resources as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a basin or subbasin, as defined. The bill would require the department to work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department. The bill would authorize the department to make recommendations for improving an existing monitoring program, and to require additional monitoring wells under certain circumstances. If the department makes a specified determination with regard to a basin or subbasin, the department would be required to notify the counties within which that basin or subbasin is located. Upon such notification, the counties would be required to take certain action related to groundwater monitoring, thereby imposing a state-mandated local program. Under certain circumstances, specified entities with authority to assume groundwater monitoring functions with regard to a basin or subbasin would not be eligible for a water

grant or loan awarded or administered by the state, unless certain actions occur.

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

This bill would repeal that provision. The department would be required to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 2012, and every 5 years thereafter.

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

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

(15) The Budget Act of 2009 made appropriations for the support of the State Water Resources Control Board for the 2009–10 fiscal year, with certain payments from the Water Rights Fund.

This bill would amend and supplement the Budget Act of 2009 by making an additional appropriation from the fund to support water rights enforcement. The bill would, commencing with the 2010–11 fiscal year, continuously appropriate \$3,750,000 on an annual basis only from fee revenue in the fund to the board for the purpose of funding permanent water rights enforcement positions.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(16) The bill would take effect only if _____ of the 2009–10 Seventh Extraordinary Session of the Legislature is enacted and becomes operative.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 6103.1 of the Government Code is
2 amended to read:

3 6103.1. Section 6103 does not apply to any fee or charge for
4 official services required by ~~Parts~~ *Part 1 (commencing with Section*
5 *1000), Part 2 (commencing with Section 1200), Part 3*
6 *(commencing with Section 2000), and Part 4 (commencing with*
7 *Section 4000), Part 5 (commencing with Section 4999), or Part*
8 *5.1 (commencing with Section 5100), of Division 2, Division 7*
9 *(commencing with Section 13000), or Division 35 (commencing*
10 *with Section 85000) of the Water Code.*

11 SEC. 2. Section 6103.4 of the Government Code is amended
12 to read:

13 6103.4. Section 6103 does not apply to any fee or charge for
14 official services required by Section 100860 of the Health and
15 Safety Code, ~~or Part 5 (commencing with Section 4999) of Division~~
16 ~~2, or Division 7 (commencing with Section 13000), of the Water~~
17 ~~Code.~~

18 SEC. 3. Section 29702 of the Public Resources Code is
19 amended to read:

20 29702. The Legislature further finds and declares that the basic
21 goals of the state for the ~~delta~~ *Delta* are the following:

22 (a) *Achieve the two coequal goals of providing a more reliable*
23 *water supply for California and protecting, restoring, and*

1 *enhancing the Delta ecosystem. The coequal goals shall be*
2 *achieved in a manner that protects and enhances the unique*
3 *cultural, recreational, natural resource, and agricultural values*
4 *of the Delta as an evolving place.*

5 (a)

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

10 (b) ~~Assure~~

11 (c) *Ensure* orderly, balanced conservation and development of
12 ~~delta~~ Delta land resources.

13 (e)

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

16 SEC. 4. Section 29703.5 is added to the Public Resources Code,
17 to read:

18 29703.5. The Legislature further finds and declares both of the
19 following:

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

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

33 SEC. 5. Section 29722.5 is added to the Public Resources Code,
34 to read:

35 29722.5. “Delta Plan” means the plan adopted by the Delta
36 Stewardship Council pursuant to Section 85300 of the Water Code.

37 SEC. 6. Section 29722.7 is added to the Public Resources Code,
38 to read:

39 29722.7. “Economic sustainability plan” means the plan
40 adopted by the commission pursuant to Section 29759.

1 SEC. 7. Section 29725 of the Public Resources Code is
2 amended to read:

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

9 SEC. 8. Section 29727 of the Public Resources Code is
10 amended to read:

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

15 SEC. 9. Section 29728.5 is added to the Public Resources Code,
16 to read:

17 29728.5. “Resources management plan” means the plan adopted
18 by the commission pursuant to Section 29760.

19 SEC. 10. Section 29733 of the Public Resources Code is
20 amended to read:

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

24 SEC. 11. Section 29735 of the Public Resources Code is
25 amended to read:

26 29735. There is hereby created the Delta Protection
27 Commission consisting of ~~23~~ 15 members as follows:

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

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

37 (A) One from the north ~~delta~~ *Delta*, ~~consisting of~~ *from either*
38 ~~the Counties~~ *County of Yolo and or the County of Sacramento.*

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

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

4 (2) A city council member *appointed pursuant to this*
 5 *subdivision* may select a designee for purposes of paragraph (1).

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

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

20 (A) ~~Two members~~

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

25 (B)

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

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

34 (D)

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

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

1 area. The member may select a designee for this purpose. For
 2 purposes of this section, each reclamation district shall have one
 3 vote. The north delta area shall conduct separate votes to select
 4 each of its two members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 SEC. 12. Section 29735.1 of the Public Resources Code is
 39 amended to read:

1 29735.1. (a) A member of the commission described in
2 subdivision (a), ~~(b)~~, ~~(c)~~, or ~~(j)~~ of Section 29735 may, subject to
3 the confirmation of his or her appointing power, appoint an
4 alternate to represent him or her at a commission meeting. An
5 alternate may serve prior to confirmation for a period not to exceed
6 90 days from the date of appointment, unless and until confirmation
7 is denied.

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

17 SEC. 13. Section 29736 of the Public Resources Code is
18 repealed.

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

22 SEC. 14. Section 29736 is added to the Public Resources Code,
23 to read:

24 29736. The appointed members of the commission shall serve
25 at the pleasure of their appointing entities.

26 SEC. 15. Section 29738 of the Public Resources Code is
27 amended to read:

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

36 SEC. 16. Section 29739 of the Public Resources Code is
37 repealed.

38 ~~29739. The commission shall elect from its own members a~~
39 ~~chairperson and vice chairperson whose terms of office shall be~~
40 ~~two years, and who may be reelected. If a vacaney occurs in either~~

1 office, the commission shall fill the vacancy for the unexpired
2 term.

3 SEC. 17. Section 29739 is added to the Public Resources Code,
4 to read:

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

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

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

14 SEC. 18. Section 29741 of the Public Resources Code is
15 amended to read:

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

21 SEC. 19. Section 29751 of the Public Resources Code is
22 amended to read:

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

29 SEC. 20. Section 29752 of the Public Resources Code is
30 amended to read:

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

37 SEC. 21. Section 29753 of the Public Resources Code is
38 repealed.

39 ~~29753. The commission shall appoint agricultural,~~
40 ~~environmental, and recreational advisory committees for the~~

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

9 SEC. 22. Section 29753 is added to the Public Resources Code,
10 to read:

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

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

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

29 SEC. 23. Section 29754 of the Public Resources Code is
30 amended to read:

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

1 SEC. 24. Section 29756.5 of the Public Resources Code is
2 amended to read:

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

8 SEC. 25. Section 29759 is added to the Public Resources Code,
9 to read:

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

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

18 (1) Public safety recommendations, such as flood protection
19 recommendations.

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

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

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

29 SEC. 26. Section 29761 of the Public Resources Code is
30 repealed.

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

35 SEC. 27. Section 29761 is added to the Public Resources Code,
36 to read:

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

1 in the north Delta, one hearing in the south Delta, and one hearing
2 in the west Delta.

3 SEC. 28. Section 29761.5 of the Public Resources Code is
4 repealed.

5 ~~29761.5. Not later than January 7, 1995, the commission shall~~
6 ~~transmit copies of the resource management plan to the Governor.~~
7 ~~Copies of the resource management plan shall be made available,~~
8 ~~upon request, to Members of the Legislature.~~

9 SEC. 29. Section 29761.5 is added to the Public Resources
10 Code, to read:

11 29761.5. (a) The commission shall review, and, as determined
12 to be necessary, amend the economic sustainability plan every five
13 years on or before December 31 in years ending in six or one.

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

22 SEC. 30. Section 29762 of the Public Resources Code is
23 repealed.

24 ~~29762. The commission shall adopt, by a majority vote of the~~
25 ~~membership of the commission, the resource management plan~~
26 ~~after at least three public hearings, with at least one hearing held~~
27 ~~in a city in the north delta, the south delta, and the west delta.~~

28 SEC. 31. Section 29763 of the Public Resources Code is
29 amended to read:

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

39 SEC. 32. Section 29764 of the Public Resources Code is
40 repealed.

1 ~~29764. This division does not confer any permitting authority~~
 2 ~~upon the commission or require any local government to conform~~
 3 ~~their general plan, or land use entitlement decisions, to the resource~~
 4 ~~management plan, except with regard to lands within the primary~~
 5 ~~zone. The resource management plan does not preempt local~~
 6 ~~government general plans for lands within the secondary zone.~~

7 SEC. 33. Section 29764 is added to the Public Resources Code,
 8 to read:

9 29764. Land use authority granted to the commission by this
 10 division is limited to the primary zone, and shall not preempt local
 11 government general plans for lands within the secondary zone.

12 SEC. 34. Section 29771 of the Public Resources Code is
 13 amended to read:

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

26 SEC. 35. Section 29773 is added to the Public Resources Code,
 27 to read:

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

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

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

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

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

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

13 SEC. 36. Section 29773.5 is added to the Public Resources
14 Code, to read:

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

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

26 SEC. 37. Section 29778.5 is added to the Public Resources
27 Code, to read:

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

36 SEC. 38. Section 29780 of the Public Resources Code is
37 amended to read:

38 29780. On January 1 of each year, the commission shall submit
39 to the Governor and the Legislature a report describing the progress
40 that has been made in achieving the objectives of this division.

1 The report shall include, but *need* not be limited to, ~~all both~~ of the
 2 following information:

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

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

11 *(1) Determining the consistency of local general plans with the*
 12 *Delta Plan.*

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

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

16 *(4) Facilitating regional economic sustainability.*

17 *(5) Supporting other regional activities for the enhancement of*
 18 *Delta communities.*

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

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

24

25 DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA
 26 CONSERVANCY

27

28 CHAPTER 1. GENERAL PROVISIONS

29

30 32300. This division shall be known, and may be cited, as the
 31 Sacramento-San Joaquin Delta Conservancy Act.

32 32301. The Legislature finds and declares all of the following:

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

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

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

1 (d) The Delta contains more than 500,000 acres of agricultural
2 land, with unique soils, and farmers who are creative and utilize
3 innovative agriculture, such as carbon sequestration crops,
4 subsidence reversal crops, wildlife-friendly crops, and crops direct
5 for marketing to the large urban populations nearby.

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

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

18 (g) The Delta is home to more than 500,000 people and 200,000
19 jobs, and contributes over thirty-five billion dollars
20 (\$35,000,000,000) to the state's economy.

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

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

- 30 (1) Protect and enhance habitat and habitat restoration.
- 31 (2) Protect and preserve Delta agriculture and working
32 landscapes.
- 33 (3) Provide increased opportunities for tourism and recreation.
- 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 under
11 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531
12 et seq.) and the California Endangered Species Act (Chapter 1.5
13 (commencing with Section 2050) of Division 3 of the Fish and
14 Game Code) for adjacent landowners and local public agencies.

15 (12) Promote environmental education.

16

17

CHAPTER 2. DEFINITIONS

18

19 32310. For the purposes of this division, the following terms
20 have the following meanings:

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

23 (b) “Conservancy” means the Sacramento-San Joaquin Delta
24 Conservancy.

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

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

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

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

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

1 CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

2
3 32320. There is in the Natural Resources Agency the
4 Sacramento-San Joaquin Delta Conservancy, which is created as
5 a state agency to work in collaboration and cooperation with local
6 governments and interested parties.

7 32322. (a) The conservancy shall act as a primary state agency
8 to implement ecosystem restoration in the Delta.

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

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

13 (2) Protect and preserve Delta agriculture and working
14 landscapes.

15 (3) Provide increased opportunities for tourism and recreation
16 in the Delta.

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

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

22 (6) Protect and improve water quality.

23 (7) Assist the Delta regional economy through the operation of
24 the conservancy's program.

25 (8) Identify priority projects and initiatives for which funding
26 is needed.

27 (9) Protect, conserve, and restore the region's physical,
28 agricultural, cultural, historical, and living resources.

29 (10) Assist local entities in the implementation of their habitat
30 conservation plans (HCPs) and natural community conservation
31 plans (NCCPs).

32 (11) Facilitate take protection and safe harbor agreements under
33 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531
34 et seq.), the California Endangered Species Act (Chapter 1.5
35 (commencing with Section 2050) of Division 3 of the Fish and
36 Game Code), and the Natural Community Conservation Planning
37 Act (Chapter 10 (commencing with Section 2800) of Division 3
38 of the Fish and Game Code) for adjacent landowners and local
39 public agencies.

40 (12) Promote environmental education through grant funding.

1 (c) When implementing subdivision (b), the conservancy shall
2 undertake efforts to enhance public use and enjoyment of lands
3 owned by the public.

4
5
6

CHAPTER 4. GOVERNING BOARD

7 32330. The board shall consist of 11 voting members and two
8 nonvoting members, appointed or designated as follows:

9 (a) The 11 voting members of the board shall consist of all of
10 the following:

11 (1) The Secretary of the Natural Resources Agency, or his or
12 her designee.

13 (2) The Director of Finance, or his or her designee.

14 (3) One member of the board or a designee who is appointed
15 by the Contra Costa County Board of Supervisors, who is a resident
16 of that county.

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

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

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

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

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

31 (9) One public member appointed by the Senate Committee on
32 Rules.

33 (10) One public member appointed by the Speaker of the
34 Assembly.

35 (b) The two nonvoting members shall consist of a Member of
36 the Senate, appointed by the Senate Committee on Rules, and a
37 Member of the Assembly, appointed by the Speaker of the
38 Assembly. The members appointed under this subdivision shall
39 meet with the conservancy and participate in its activities to the
40 extent that this participation is not incompatible with their positions

1 as Members of the Legislature. The appointed members shall
2 represent a district that encompasses a portion of the Delta.

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

5 (1) One representative of the United States Fish and Wildlife
6 Service, designated by the United States Secretary of the Interior.

7 (2) One representative of the United States National Marine
8 Fisheries Service, designated by the United States Secretary of the
9 Interior.

10 (3) One representative of the United States Bureau of
11 Reclamation, designated by the United States Secretary of the
12 Interior.

13 (4) One representative of the United States Army Corps of
14 Engineers, designated by the Commanding Officer, United States
15 Army Corps of Engineers, South Pacific Division.

16 (5) A designee of the San Francisco Bay Conservation and
17 Development Commission for coordination purposes.

18 (6) A designee of the State Coastal Conservancy for coordination
19 purposes.

20 (7) A designee of the Suisun Resource Conservation District
21 for coordination purposes.

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

23 (9) A designee of the Yolo Basin Foundation.

24 (10) A designee of the Delta Protection Commission.

25 (d) The public members appointed by the Governor shall serve
26 for a term of four years, with a two-term limit.

27 (e) The locally appointed members and alternates shall serve at
28 the pleasure of the appointing board of supervisors.

29 (f) The public members appointed by the Senate Committee on
30 Rules or the Speaker of the Assembly shall serve for a term of four
31 years, with a two-term limit.

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

34 (h) Alternates may be appointed by the county boards of
35 supervisors.

36 32332. Annually, the voting members of the board shall elect
37 from among the voting members a chairperson and vice
38 chairperson, and other officers as necessary. If the office of the
39 chairperson or vice chairperson becomes vacant, a new chairperson
40 or vice chairperson shall be elected by the voting members of the

1 board to serve for the remainder of the term. The chairperson shall
2 be selected from among the members specified in paragraphs (3)
3 to (7), inclusive, of subdivision (a) of Section 32330.

4 32334. A majority of the voting members shall constitute a
5 quorum for the transaction of the business of the conservancy. The
6 board shall not transact the business of the conservancy if a quorum
7 is not present at the time a vote is taken. A decision of the board
8 requires an affirmative vote of six of the voting members, and the
9 vote is binding with respect to all matters acted on by the
10 conservancy.

11 32336. The board shall adopt rules and procedures for the
12 conduct of business by the conservancy.

13 32338. The board may establish advisory boards or committees,
14 hold community meetings, and engage in public outreach.

15 32340. The board shall establish and maintain a headquarters
16 office within the Delta. The conservancy may rent or own real and
17 personal property and equipment pursuant to applicable statutes
18 and regulations.

19 32342. The board shall determine the qualifications of, and
20 shall appoint, an executive officer of the conservancy, who shall
21 be exempt from civil service. The board shall employ other staff
22 as necessary to execute the powers and functions provided for in
23 this division.

24 32344. The board may enter into contracts with private entities
25 and public agencies to procure consulting and other services
26 necessary to achieve the purposes of this division.

27 32346. The conservancy's expenses for support and
28 administration may be paid from the conservancy's operating
29 budget and any other funding sources available to the conservancy.

30 32348. The board shall conduct business in accordance with
31 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
33 the Government Code).

34 32350. The board shall hold its regular meetings within the
35 Delta or the City of Rio Vista.

CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS

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

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

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

(3) Funds may be allocated to a separate program for economic sustainability in the Delta. The conservancy shall develop this program, in conjunction with the Delta Protection Commission, the Delta counties, and other interested parties. Funds provided to the conservancy to implement ecosystem restoration projects pursuant to the Bay Delta Conservation Plan shall only be used for ecosystem restoration purposes.

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

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

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

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

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

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

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

32363. In implementing this division, the conservancy shall cooperate and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed

1 to be acquired, and shall, as necessary or appropriate, coordinate
2 its efforts with other state agencies, in cooperation with the
3 Secretary of the Natural Resources Agency. The conservancy shall,
4 as necessary or appropriate, cooperate and consult with a public
5 water system, levee, flood control, or drainage agency that owns
6 or operates facilities, including lands appurtenant thereto, where
7 a grant is proposed to be expended or an interest in land is proposed
8 to be acquired.

9 32364. (a) The conservancy may require a grantee to enter
10 into an agreement with the conservancy on terms and conditions
11 specified by the conservancy.

12 (b) The conservancy may require a cost-share or local funding
13 requirement for a grant. The conservancy may make that cost-share
14 or local funding requirement contingent upon the total amount of
15 funding available, the fiscal resources of the applicant, or urgency
16 of the project. The conservancy may waive cost-share requirements.

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

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

23 (e) The conservancy may require any funds that exceed the costs
24 of eligible or approved projects or of acquisition to be returned to
25 the conservancy, to be available for expenditure when appropriated
26 by the Legislature.

27 32364.5. (a) The conservancy may provide grants and loans
28 to state agencies, local public agencies, and nonprofit organizations
29 to further the goals of the conservancy.

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

33 (1) The intended use of the property.

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

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

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

4 32365. The conservancy may sue and be sued.

5 32366. (a) The conservancy may acquire from willing sellers
6 or transferors interests in real property and improve, lease, or
7 transfer interests in real property, in order to carry out the purposes
8 of this division.

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

11 32368. The conservancy may enter into an agreement with a
12 public agency, nonprofit organization, or private entity for the
13 construction, management, or maintenance of facilities authorized
14 by the conservancy.

15 32370. The conservancy shall not exercise the power of eminent
16 domain.

17 32372. (a) The conservancy may pursue and accept funds from
18 various sources, including, but not limited to, federal, state, and
19 local funds or grants, gifts, donations, bequests, devises,
20 subventions, grants, rents, royalties, or other assistance and funds
21 from public and private sources.

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

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

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

26 32376. Within two years of hiring an executive officer, the
27 board shall prepare and adopt a strategic plan to achieve the goals
28 of the conservancy. The plan shall describe its interaction with
29 local, regional, state, and federal land use, recreation, water and
30 flood management, and habitat conservation and protection efforts
31 within and adjacent to the Delta. The strategic plan shall establish
32 priorities and criteria for projects and programs, based upon an
33 assessment of program requirements, institutional capabilities, and
34 funding needs throughout the Delta. The strategic plan shall be
35 consistent with the Delta Plan, the Delta Protection Commission's
36 resources management plan, the Central Valley Flood Protection
37 Plan, the Suisun Marsh Preservation Act of 1977 (Division 19
38 (commencing with Section 29000)), and the Habitat Management,
39 Preservation and Restoration Plan for the Suisun Marsh.

1 32378. (a) The conservancy may expend funds and award
2 grants and loans to facilitate collaborative planning efforts and to
3 develop projects and programs that are designed to further the
4 purposes of this division.

5 (b) The conservancy may provide and make available technical
6 information, expertise, and other nonfinancial assistance to public
7 agencies, nonprofit organizations, and tribal organizations, to
8 support program and project development and implementation.

9 32380. The conservancy may acquire water or water rights to
10 support the goals of the conservancy.

11 32381. This division does not grant to the conservancy any of
12 the following:

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

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

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

19 SEC. 40. Chapter 2.7 (commencing with Section 348) is added
20 to Division 1 of the Water Code, to read:

21

22 CHAPTER 2.7. WATER DIVERSION AND USE REPORTS

23

24 348. (a) The department or the board may adopt emergency
25 regulations providing for the electronic filing of reports of water
26 diversion or use required to be filed with the department or board
27 under this code, including, but not limited to, any report required
28 to be filed under Part 5.1 (commencing with Section 5100) of
29 Division 2 and any report required to be filed by a water right
30 permittee or licensee.

31 (b) Emergency regulations adopted pursuant to this section, or
32 any amendments thereto, shall be adopted by the department or
33 the board in accordance with Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code. The adoption of these regulations is an emergency and shall
36 be considered by the Office of Administrative Law as necessary
37 for the immediate preservation of the public peace, health, safety,
38 and general welfare. Notwithstanding Chapter 3.5 (commencing
39 with Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code, any emergency regulations or amendments to

1 those regulations adopted under this section shall remain in effect
2 until revised by the department or the board that adopted the
3 regulations or amendments.

4 SEC. 40.5. Section 375 of the Water Code is amended to read:

5 375. (a) Notwithstanding any other provision of the law, any
6 public entity which supplies water at retail or wholesale for the
7 benefit of persons within the service area or area of jurisdiction of
8 the public entity may, by ordinance or resolution adopted by a
9 majority of the members of the governing body after holding a
10 public hearing upon notice and making appropriate findings of
11 necessity for the adoption of a water conservation program, adopt
12 and enforce a water conservation program to reduce the quantity
13 of water used by those persons for the purpose of conserving the
14 water supplies of the public entity.

15 (b) With regard to water delivered for other than agricultural
16 uses, the ordinance or resolution may specifically require the
17 installation of water-saving devices ~~which~~ that are designed to
18 reduce water consumption. The ordinance or resolution may also
19 encourage water conservation through rate structure design.

20 (c) *With regard to water delivered for “process water” users,*
21 *as that term is defined in subdivision (l) of Section 10608.12, an*
22 *ordinance or resolution adopted on or after January 1, 2010, shall*
23 *be consistent with the requirements of paragraph (1) of subdivision*
24 *(d) of Section 10608.26.*

25 (e)

26 (d) For the purposes of this section, “public entity” means a
27 city, whether general law or chartered, county, city and county,
28 special district, agency, authority, any other municipal public
29 corporation or district, or any other political subdivision of the
30 state.

31 SEC. 41. Section 1051.1 is added to the Water Code, to read:

32 1051.1. (a) In conducting any investigation or proceeding
33 specified in Section 275 or 1051, or Article 7 (commencing with
34 Section 13550) of Chapter 7 of Division 7, the board may order
35 any person or entity that diverts or uses water to prepare, under
36 penalty of perjury, and to submit to the board, any technical or
37 monitoring program reports related to that person’s or entity’s
38 diversion or use of water as the board may specify. The costs
39 incurred by the person or entity in the preparation of those reports
40 shall bear a reasonable relationship to the need for the report and

1 the benefit to be obtained from the report. If the preparation of
2 individual reports would result in a duplication of effort, or if the
3 reports are necessary to evaluate the cumulative effect of several
4 diversions or uses of water, the board may order any person or
5 entity subject to this subdivision to pay a reasonable share of the
6 cost of preparing reports.

7 (b) Any order issued under this section shall be served by
8 personal service or registered mail on the party required to submit
9 technical or monitoring program reports or to pay a share of the
10 costs of preparing reports. Unless the board issues the order after
11 a hearing, the order shall inform the party of the right to request a
12 hearing within 30 days after the party has been served. If the party
13 does not request a hearing within that 30-day period, the order
14 shall take effect as issued. If the party requests a hearing within
15 that 30-day period, the board may adopt a decision and order after
16 conducting a hearing.

17 (c) Upon application of any person or entity or upon its own
18 motion, the board may review and revise any order issued pursuant
19 to this section, in accordance with the procedures set forth in
20 subdivision (b).

21 (d) In conducting any investigation or proceeding specified in
22 Section 275 or 1051, or Article 7 (commencing with Section
23 13550) of Chapter 7 of Division 7, the board may inspect the
24 facilities of any person or entity to ascertain whether the purposes
25 of Section 100 and this division are being met and to ascertain
26 compliance with any permit, license, certification, registration,
27 decision, order, or regulation issued under Section 275, this
28 division, or Article 7 (commencing with Section 13550) of Chapter
29 7 of Division 7. Except in the event of an emergency affecting the
30 public health or safety, the inspection shall be made with the
31 consent of the owner or possessor of the facilities or, if the consent
32 is withheld, with a warrant duly issued pursuant to the procedure
33 set forth in Title 13 (commencing with Section 1822.50) of Part
34 3 of the Code of Civil Procedure.

35 SEC. 42. Section 1052 of the Water Code is amended to read:

36 1052. (a) The diversion or use of water subject to this division
37 other than as authorized in this division is a trespass.

38 ~~(b) Civil liability may be administratively imposed by the board~~
39 ~~pursuant to Section 1055 for a trespass as defined in this section~~

1 in an amount not to exceed five hundred dollars (\$500) for each
2 day in which the trespass occurs.

3 (e)

4 (b) The Attorney General, upon request of the board, shall
5 institute in the superior court in and for any county wherein in
6 which the diversion or use is threatened, is occurring, or has
7 occurred appropriate an action for the issuance of injunctive relief
8 as may be warranted by way of temporary restraining order,
9 preliminary injunction, or permanent injunction.

10 (d)

11 (c) (1) Any person or entity committing a trespass as defined
12 in this section may be liable for a sum in an amount not to exceed
13 five hundred dollars (\$500) for each day in which the trespass
14 occurs. The the greater of either of the following amounts:

15 (A) One thousand dollars (\$1,000) for each day in which the
16 trespass occurs for the first enforcement proceeding or five
17 thousand dollars (\$5,000) for each day in which the trespass occurs
18 for any subsequent enforcement proceeding.

19 (B) The highest market value of the water subject to the trespass.

20 (2) Civil liability may be imposed by the superior court for no
21 more than three years preceding the filing of the complaint.

22 (3) The Attorney General, upon request of the board, shall
23 petition the superior court to impose, assess, and recover any sums
24 pursuant to this subdivision. In determining the appropriate amount,
25 the court shall take into consideration all relevant circumstances,
26 including, but not limited to, the extent of harm caused by the
27 violation, the nature and persistence of the violation, the length of
28 time over which the violation occurs, and the corrective action, if
29 any, taken by the violator.

30 (4) Civil liability may be imposed by the board pursuant to
31 Section 1055.

32 (e)

33 (d) All funds recovered pursuant to this section shall be
34 deposited in the Water Rights Fund established pursuant to Section
35 1550.

36 (f)

37 (e) The remedies prescribed in this section are cumulative and
38 not alternative.

39 SEC. 43. Section 1055 of the Water Code is amended to read:

1 1055. (a) The executive director of the board may issue a
 2 complaint to any person or entity on which administrative civil
 3 liability may be imposed pursuant to Section 1052, ~~Section 1536,~~
 4 ~~Section 1845, Article 4 (commencing with Section 1845) of Chapter~~
 5 *12 of Part 2 of Division 2*, or Section 5107. The complaint shall
 6 allege the act or failure to act that constitutes a trespass or violation,
 7 the provision of law authorizing civil liability to be imposed, and
 8 the proposed civil liability.

9 (b) The complaint shall be served by personal notice or certified
 10 mail, and shall inform the party served that the party may request
 11 a hearing not later than 20 days from the date the party was served.
 12 The hearing shall be before *the board, or* a member of the board
 13 ~~as it may specify in accordance with Section 183.~~

14 ~~(c) After any hearing, the member shall report a proposed~~
 15 ~~decision and order to the board and shall supply a copy to the party~~
 16 ~~served with the complaint, the board's executive director, and any~~
 17 ~~other person requesting a copy. The member of the board acting~~
 18 ~~as hearing officer may sit as a member of the board in deciding~~
 19 ~~the matter. The board, after making an independent review of the~~
 20 ~~record and taking any additional evidence as may be necessary~~
 21 ~~that could not reasonably have been offered before the hearing~~
 22 ~~officer, may adopt, with or without revision, the proposed decision~~
 23 ~~and order.~~

24 *(c) The board may adopt an order setting administrative civil*
 25 *liability, or determining that no liability will be imposed, after any*
 26 *necessary hearing.*

27 (d) Orders setting administrative civil liability shall become
 28 effective and final upon issuance thereof and payment shall be
 29 made.

30 SEC. 44. Section 1055.2 of the Water Code is amended to read:

31 1055.2. No person or entity shall be subject to both civil
 32 liability imposed under Section 1055 and civil liability imposed
 33 by the superior court under ~~subdivision (d) of Section 1052, Section~~
 34 ~~1536, or Section 1845, or 1846~~ for the same act or failure to act.

35 SEC. 45. Section 1120 of the Water Code is amended to read:

36 1120. This chapter applies to any decision or order issued under
 37 this part or Section 275, Part 2 (commencing with Section 1200),
 38 Part 2 (commencing with Section 10500) of Division 6, Article 7
 39 (commencing with Section 13550) of Chapter 7 of Division 7,
 40 *Section 85230*, or the public trust doctrine.

1 SEC. 46. Section 1240.5 is added to the Water Code, to read:

2 1240.5. In any proceeding before the board in which it is
3 alleged that a right to appropriate water has ceased or is subject to
4 forfeiture or revocation for nonuse, there shall be a rebuttable
5 presumption that no use occurred unless that use is included in a
6 statement submitted pursuant to any reporting or monitoring
7 requirement established under any permit, license, certificate,
8 registration, decision or order, or regulation issued by the board
9 pursuant to this division, Section 275, Article 7 (commencing with
10 Section 13550) of Division 7, or the public trust doctrine under
11 this part, and the statement is submitted within six months after it
12 is required to be filed with the board. This section does not apply
13 to any diversion or use that occurred before January 1, 2009.

14 SEC. 47. Section 1525 of the Water Code is amended to read:

15 1525. (a) Each person or entity who holds a permit or license
16 to appropriate water, and each lessor of water leased under Chapter
17 1.5 (commencing with Section 1020) of Part 1, shall pay an annual
18 fee according to a fee schedule established by the board.

19 (b) Each person or entity who files any of the following shall
20 pay a fee according to a fee schedule established by the board:

21 (1) An application for a permit to appropriate water.

22 (2) A registration of appropriation for a small domestic use or
23 livestock stockpond *use*.

24 (3) A petition for an extension of time within which to begin
25 construction, to complete construction, or to apply the water to
26 full beneficial use under a permit.

27 (4) A petition to change the point of diversion, place of use, or
28 purpose of use, under a *registration for small domestic use or*
29 *livestock stockpond use, or under a permit or license*.

30 (5) A petition to change the conditions of a permit or license,
31 requested by the permittee or licensee, that is not otherwise subject
32 to paragraph (3) or (4).

33 (6) *A petition under Section 1707 or 1740 to change the point*
34 *of diversion, place of use, or purpose of use of a water right that*
35 *is not subject to a permit or license to appropriate water.*

36 ~~(6)~~

37 (7) A petition to change the point of discharge, place of use, or
38 purpose of use, of treated wastewater, requested pursuant to Section
39 1211.

40 ~~(7)~~

1 (8) An application for approval of a water lease agreement.

2 ~~(8)~~

3 (9) A request for release from priority pursuant to Section 10504.

4 ~~(9)~~

5 (10) An application for an assignment of a state-filed application
6 pursuant to Section 10504.

7 (11) *A statement of water diversion and use pursuant to Part*
8 *5.1 (commencing with Section 5100).*

9 (c) The board shall set the fee schedule authorized by this section
10 so that the total amount of fees collected pursuant to this section
11 equals that amount necessary to recover costs incurred in
12 connection with the issuance, administration, review, monitoring,
13 and enforcement of permits, licenses, certificates, and registrations
14 to appropriate water, water leases, *statements of diversion and use*,
15 and orders approving changes in point of discharge, place of use,
16 or purpose of use of treated wastewater. The board may include,
17 as recoverable costs, but is not limited to including, the costs
18 incurred in reviewing applications, registrations, *statements of*
19 *diversion and use*, petitions and requests, prescribing terms of
20 permits, licenses, registrations, and change orders, enforcing and
21 evaluating compliance with permits, licenses, certificates,
22 registrations, change orders, and water leases, inspection,
23 monitoring, planning, modeling, reviewing documents prepared
24 for the purpose of regulating the diversion and use of water,
25 applying and enforcing *the public trust doctrine, Section 275*, the
26 prohibition set forth in Section 1052 against the unauthorized
27 diversion or use of water subject to this division, *the requirements*
28 *under Part 5.1 (commencing with Section 5100) for filing*
29 *statements of diversion and use*, and the administrative costs
30 incurred in connection with carrying out these actions.

31 (d) (1) The board shall adopt the schedule of fees authorized
32 under this section as emergency regulations in accordance with
33 Section 1530.

34 (2) For filings subject to subdivision (b), the schedule may
35 provide for a single filing fee or for an initial filing fee followed
36 by an annual fee, as appropriate to the type of filing involved, and
37 may include supplemental fees for filings that have already been
38 made but have not yet been acted upon by the board at the time
39 the schedule of fees takes effect.

1 (3) The board shall set the amount of total revenue collected
2 each year through the fees authorized by this section at an amount
3 equal to the revenue levels set forth in the annual Budget Act for
4 this activity. The board shall review and revise the fees each fiscal
5 year as necessary to conform with the revenue levels set forth in
6 the annual Budget Act. If the board determines that the revenue
7 collected during the preceding year was greater than, or less than,
8 the revenue levels set forth in the annual Budget Act, the board
9 may further adjust the annual fees to compensate for the over or
10 under collection of revenue.

11 (e) Annual fees imposed pursuant to this section for the 2003–04
12 fiscal year shall be assessed for the entire 2003–04 fiscal year.

13 SEC. 48. Section 1535 of the Water Code is amended to read:

14 1535. (a) Any fee subject to this chapter that is required in
15 connection with the filing of an application, registration, request,
16 *statement*, or proof of claim, other than an annual fee required after
17 the period covered by the initial filing fee, shall be paid to the
18 board.

19 (b) If a fee established under subdivision (b) of Section 1525,
20 Section 1528, or Section 13160.1 is not paid when due, the board
21 may cancel the application, registration, petition, request, *statement*,
22 or claim, or may refer the matter to the State Board of Equalization
23 for collection of the unpaid fee.

24 SEC. 49. Section 1538 of the Water Code is amended to read:

25 1538. (a) In any proceeding pursuant to Section 1052 in which
26 it is determined that there has been a violation of the prohibition
27 against the unauthorized diversion or use of water subject to this
28 division, the board or court, as the case may be, may impose an
29 additional liability in the amount of *150 percent of any annual fees*
30 that would have been required under this division if the diversion
31 or use had been authorized by a permit or license to appropriate
32 water.

33 (b) *In any proceeding pursuant to Section 5107 in which the*
34 *board imposes liability for a failure to file a statement of diversion*
35 *and use or for a material misstatement in a statement of diversion*
36 *and use, the board may impose an additional liability in the amount*
37 *of 150 percent of any fees that have not been paid but would have*
38 *been required under this division if the statement of diversion and*
39 *use had been filed and did not make any material misstatement.*

1 (c) *The additional liability imposed under this section may*
 2 *include interest, at the rate provided under Section 685.010 of the*
 3 *Code of Civil Procedure, from the dates the annual fees would*
 4 *have been assessed.*

5 SEC. 50. Section 1551 of the Water Code is amended to read:

6 1551. All of the following shall be deposited in the Water
 7 Rights Fund:

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

11 (b) All funds collected under Section 1052, ~~1845~~ *or Article 4*
 12 *(commencing with Section 1845) of Chapter 12, and Section 5107.*

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

16 SEC. 51. Section 1825 of the Water Code is amended to read:

17 1825. It is the intent of the Legislature that the state should
 18 take vigorous action to enforce the terms and conditions of permits,
 19 licenses, certifications, and registrations to appropriate water, to
 20 enforce state board orders and decisions, ~~and~~ *to prevent the*
 21 *unlawful diversion of water, and to prevent the waste,*
 22 *unreasonable use, unreasonable method of use, or unreasonable*
 23 *method of diversion, of water, and to enforce reporting and*
 24 *monitoring requirements.*

25 SEC. 52. Section 1845 of the Water Code is amended to read:

26 1845. (a) Upon the failure of any person to comply with a
 27 cease and desist order issued by the board pursuant to this chapter,
 28 the Attorney General, upon the request of the board, shall petition
 29 the superior court for the issuance of prohibitory or mandatory
 30 injunctive relief as appropriate, including a temporary restraining
 31 order, preliminary injunction, or permanent injunction.

32 (b) (1) Any person or entity who violates a cease and desist
 33 order issued pursuant to this chapter may be liable ~~for a sum in an~~
 34 *amount* not to exceed ~~one thousand dollars (\$1,000) for each day~~
 35 *in which the violation occurs; the greater of either of the following*
 36 *amounts:*

37 (A) *One thousand dollars (\$1,000) for each day in which the*
 38 *violation occurs for the first enforcement proceeding or five*
 39 *thousand (\$5,000) for each day in which the violation occurs for*
 40 *any subsequent enforcement proceeding.*

1 (B) *The highest market value of the water.*

2 (2) Civil liability may be imposed by the superior court. The
3 Attorney General, upon the request of the board, shall petition the
4 superior court to impose, assess, and recover those sums. *Civil*
5 *liability may be imposed by the superior court for no more than*
6 *three years preceding the filing of the complaint.*

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

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

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

18 SEC. 53. Section 1846 is added to the Water Code, to read:

19 1846. (a) Any person or entity subject to a monitoring or
20 reporting requirement specified in subdivision (f) who violates
21 that reporting or monitoring requirement, makes a material
22 misstatement in any record or report submitted under that reporting
23 or monitoring requirement, or tampers with or renders inaccurate
24 any monitoring device required under that reporting or monitoring
25 requirement shall be liable for a sum not to exceed five hundred
26 dollars (\$500) for each day in which the violation occurs.

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

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

32 (d) In determining the appropriate amount, the court, or the
33 board, as the case may be, shall take into consideration all relevant
34 circumstances, including, but not limited to, the extent of harm
35 caused by the violation, the nature and persistence of the violation,
36 the length of time over which the violation occurs, and the
37 corrective action, if any, taken by the violator.

38 (e) All funds recovered pursuant to this section shall be
39 deposited in the Water Rights Fund established pursuant to Section
40 1550.

1 (f) (1) This section applies to any reporting or monitoring
2 requirement established under any permit, license, certificate,
3 registration, decision or order, or regulation issued by the board
4 pursuant to this division, Section 275, Article 7 (commencing with
5 Section 13550) of Division 7, or the public trust doctrine.

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

9 (3) This section does not provide a basis for imposing liability
10 on a watermaster who is subject to reporting or monitoring
11 requirements but does not divert or use the water subject to those
12 requirements.

13 SEC. 54. Section 1847 is added to the Water Code, to read:

14 1847. (a) Any person or entity who violates any term or
15 condition of a permit, license, certificate, or registration issued
16 under this division or any order or regulation adopted by the board
17 under Section 275 may be liable in an amount not to exceed five
18 hundred dollars (\$500) for each day in which the violation occurs.

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

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

24 (d) In determining the appropriate amount, the court, or the
25 board, as the case may be, shall take into consideration all relevant
26 circumstances, including, but not limited to, the extent of harm
27 caused by the violation, the nature and persistence of the violation,
28 the length of time over which the violation occurs, and the
29 corrective action, if any, taken by the violator.

30 (e) No liability shall be recoverable under this section for any
31 violation for which liability is recovered under Section 1052 or
32 1846.

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

35 SEC. 55. Section 2525 of the Water Code is amended to read:

36 2525. Upon petition signed by one or more claimants to water
37 of any stream system, requesting the determination of the rights
38 of the various claimants to the water of that stream system, the
39 board shall, if, upon investigation, it finds the facts and conditions
40 are such that the public interest and necessity will be served by a

1 determination of the water rights involved, enter an order granting
2 the petition and make proper arrangements to proceed with the
3 determination. *The board may initiate a determination of rights*
4 *under its own motion if after a hearing it finds that the public*
5 *interest and necessity will be served by a determination of the*
6 *rights involved.*

7 SEC. 56. Section 2526 of the Water Code is amended to read:
8 2526. As soon as practicable after granting the petition *or*
9 *motion* the board shall prepare and issue a notice setting forth the
10 following:

11 (a) The facts of the entry of the order and of the pendency of
12 ~~the proceedings;~~ *proceedings.*

13 (b) That all claimants to rights to the use of water of the stream
14 system are required to inform the board within 60 days from the
15 date of the notice, or such further time as the board may allow, of
16 their intention to file proof of ~~claim;~~ *claim.*

17 (c) The date prior to which all claimants to rights to the water
18 of the stream system shall notify the board in writing of their
19 intention to file proof of claim and the address to which all
20 subsequent notices to the claimant relating to the proceedings may
21 ~~be sent;~~ *sent.*

22 (d) A statement that all claimants will be required to make proof
23 of their claims at a time to be fixed by the board after the
24 conclusion of its investigation.

25 SEC. 57. Section 2550 of the Water Code is amended to read:
26 2550. As soon as practicable after granting the petition *or*
27 *motion*, the board shall begin an investigation of the stream system,
28 of the diversion of water, of all beneficial uses being made of the
29 water, and of the water supply available for those uses, and shall
30 gather such other data and information as may be essential to the
31 proper determination of the water rights in the stream system.

32 SEC. 58. Section 2763.5 of the Water Code is amended to read:
33 2763.5. (a) No exception to the order of determination shall
34 be considered, except in the court's discretion for good cause
35 shown, unless the matter of the exception was presented to the
36 board in the form of an objection. Good cause includes, but is not
37 limited to, the existence of newly discovered relevant evidence
38 which, in the exercise of reasonable diligence, could not have been
39 presented to the board during the board's proceedings.

1 (b) This section does not apply to persons to whom the board
 2 did not mail either (1) written notice of the board meeting at which
 3 the petition *or motion* pursuant to Section 2525 is to be considered
 4 as an item of business, or (2) written notice of the pendency of the
 5 proceedings pursuant to Section 2526.

6 SEC. 59. Section 5100 of the Water Code is amended to read:

7 5100. As used in this part:

8 (a) “Best available technologies” means technologies at the
 9 highest technically practical level, using flow totaling devices, and
 10 if necessary, data loggers and telemetry.

11 (b) “Best professional practices” means practices attaining and
 12 maintaining the accuracy of measurement and reporting devices
 13 and methods.

14 (c) “Diversion” means taking water by gravity or pumping from
 15 a surface stream or subterranean stream flowing through a known
 16 and definite channel, or other body of surface water, into a canal,
 17 pipeline, or other conduit, and includes impoundment of water in
 18 a reservoir.

19 (d) “Person” means all persons whether natural or artificial,
 20 including the United States of America, State of California, and
 21 all political subdivisions, districts, municipalities, and public
 22 agencies.

23 ~~(e) “Tidal zone” means those portions of the Sacramento-San~~
 24 ~~Joaquin Delta as described in Section 12220 that are ordinarily~~
 25 ~~subject to tidal action.~~

26 SEC. 60. Section 5101 of the Water Code is amended to read:

27 5101. Each person who, after December 31, 1965, diverts water
 28 shall file with the board, prior to July 1 of the succeeding year, a
 29 statement of his *or her* diversion and use; ~~provided, however, that~~
 30 ~~no statement need~~, *except that a statement is not required to be*
 31 *filed if the diversion is any of the following:*

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

35 (b) Covered by ~~an application~~, *a registration for small domestic*
 36 *or livestock stockpond uses, or permit or license to appropriate*
 37 *water on file with the board.*

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

1 (d) Regulated by a watermaster appointed by the department
2 *and included in annual reports filed with a court or the board by*
3 *the watermaster, which reports identify the persons who have*
4 *diverted water and describe the general purposes and the place,*
5 *the use, and the quantity of water that has been diverted from each*
6 *source.*

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

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

10 ~~(g)~~

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

17 ~~(h)~~

18 (f) For use in compliance with ~~the provisions of~~ Article 2.5
19 (commencing with Section 1226) *or Article 2.7 (commencing with*
20 *Section 1228) of Chapter 1 of Part 2 of this division.*

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

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

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

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

30 (4) *The diversion is included in the consumptive use data for*
31 *the Delta lowlands published by the department in its hydrologic*
32 *data bulletins.*

33 SEC. 61. Section 5103 of the Water Code is amended to read:
34 5103. Each statement shall be prepared on a form provided by
35 the board. The statement shall include all of the following
36 information:

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

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

4 (c) The place of diversion. ~~If a public land survey has been~~
5 ~~made, location of~~ *The location of the diversion works shall be*
6 ~~described~~ *depicted on a specific United States Geological Survey*
7 *topographic map, or shall be identified using the California*
8 *Coordinate System, or latitude and longitude measurements. If*
9 *assigned, the public land description to the nearest 40-acre*
10 *subdivision. If not, it shall be described by reference to nearest*
11 *local landmarks or other recorded surveys and the assessor's parcel*
12 *number shall also be provided.*

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

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

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

27 (3)

28 (2) (A) The terms of, and eligibility for, any grant or loan
29 awarded or administered by the department, the board, or the
30 California Bay-Delta Authority *or its successor* on behalf of a
31 person that is subject to paragraph (1) shall be conditioned on
32 compliance with that paragraph.

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

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

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

1 (C) It is the intent of the Legislature that the requirements of
2 this subdivision shall complement and not affect the scope of
3 authority granted to the board by provisions of law other than this
4 article.

5 ~~(f) For persons not subject to paragraph (1) of subdivision (e),~~
6 ~~a description of the acreage of each crop irrigated, the average~~
7 ~~number of people served with water, the average number of stock~~
8 ~~watered, and the nature and extent of any other use during the~~
9 ~~preceding calendar year, or other equivalent information that~~
10 ~~indicates the quantity of water used as may be prescribed by the~~
11 ~~board. Those who maintain water measuring devices and keep~~
12 ~~monthly records of water diversions shall state the quantity of~~
13 ~~water diverted by months during the preceding calendar year.~~

14 (g)

15 (f) The purpose of use.

16 (h)

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

26 (i)

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

29 SEC. 62. Section 5106 of the Water Code is amended to read:

30 5106. (a) Neither the statements submitted under this part nor
31 the determination of facts by the board pursuant to Section 5105
32 shall establish or constitute evidence of a right to divert or use
33 water.

34 (b) (1) The board may rely on the names and addresses included
35 in statements submitted under this part for the purpose of
36 determining the names and addresses of persons who are to receive
37 notices with regard to proceedings before the board.

38 (2) Notwithstanding paragraph (1), any person may submit, in
39 writing, a request to the board to provide notification to a different
40 address, and the board shall provide the notification to that address.

1 (3) If the board provides notice to persons who file statements
2 under this part, the notice shall not be determined to be inadequate
3 on the basis that notice was not received by a person, other than a
4 party to whom the board's action is directed, who fails to file a
5 statement required to be filed under this part.

6 (4) This subdivision does not affect the requirement in Section
7 2527 to provide notice to all persons who own land that appears
8 to be riparian to the stream system.

9 (c) In any proceeding before the board to determine whether an
10 application for a permit to appropriate water should be approved,
11 any statement submitted under this part or determination by the
12 board pursuant to Section 5105 is evidence of the facts stated
13 therein.

14 (d) (1) *In any proceeding before the board in which it is alleged*
15 *that an appropriative right has ceased or is subject to forfeiture*
16 *for nonuse because water has not been put to beneficial use, there*
17 *shall be a rebuttable presumption that no use required to be*
18 *included in a statement submitted under this part occurred unless*
19 *that use is included in a statement submitted under this part and*
20 *that the statement is submitted within six months after it is required*
21 *to be filed with the board.*

22 (2) *Paragraph (1) does not apply to any use that occurred before*
23 *January 1, 2009.*

24 SEC. 63. Section 5107 of the Water Code is amended to read:

25 5107. (a) The making of any willful misstatement pursuant to
26 this part is a misdemeanor punishable by a fine not exceeding one
27 thousand dollars (\$1,000) or by imprisonment in the county jail
28 for not to exceed six months, or both.

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

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

37 (1) *For failure to file a statement, one thousand dollars (\$1,000),*
38 *plus five hundred dollars (\$500) per day for each additional day*
39 *on which the violation continues if the person fails to file a*

1 *statement within 30 days after the board has called the violation*
2 *to the attention of that person.*

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

12 *(3) For knowingly tampering with any measuring device or*
13 *knowingly making a material misstatement in a statement filed*
14 *under this part, twenty-five thousand dollars (\$25,000), plus one*
15 *thousand dollars (\$1,000) for each day on which the violation*
16 *continues if the person fails to correct the violation within 30 days*
17 *after the board has called the violation to the attention of that*
18 *person.*

19 *(4) For any other violation, five hundred dollars (\$500), plus*
20 *two hundred fifty dollars (\$250) for each additional day on which*
21 *the violation continues if the person fails to correct the violation*
22 *within 30 days after the board has called the violation to the*
23 *attention of that person.*

24 *(d) When an additional penalty may be imposed under*
25 *subdivision (c) for failure to correct a violation or correct or repair*
26 *a malfunctioning measuring device within a specified period after*
27 *the violation has been called to a person's attention by the board,*
28 *the board, for good cause, may provide for a longer period for*
29 *correction of the problem, and the additional penalty shall not*
30 *apply if the violation is corrected within the period specified by*
31 *the board.*

32 ~~*(e) Civil liability may be administratively imposed by the board*~~
33 ~~*pursuant to Section 1055 in an amount not to exceed five hundred*~~
34 ~~*dollars (\$500) for each violation.*~~

35 *(e) In determining the appropriate amount, the board shall*
36 *consider all relevant circumstances, including, but not limited to,*
37 *all of the following factors:*

- 38 *(1) The extent of harm caused by the violation.*
- 39 *(2) The nature and persistence of the violation.*
- 40 *(3) The length of time over which the violation occurs.*

1 (4) Any corrective action undertaken by the violator.

2 ~~(d)~~

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

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

7 SEC. 64. Section 5108 of the Water Code is repealed.

8 ~~5108. Statements filed pursuant to this part shall be for~~
9 ~~informational purposes only, and neither the failure to file a~~
10 ~~statement nor any error in the information filed shall have any~~
11 ~~legal consequences whatsoever other than those specified in this~~
12 ~~part.~~

13 SEC. 65. Part 2.55 (commencing with Section 10608) is added
14 to Division 6 of the Water Code, to read:

15

16 PART 2.55. SUSTAINABLE WATER USE AND DEMAND
17 REDUCTION

18

19 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

20

21 10608. The Legislature finds and declares all of the following:

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

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

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

30 (d) Reduced water use through conservation provides significant
31 energy and environmental benefits, and can help protect water
32 quality, improve streamflows, and reduce greenhouse gas
33 emissions.

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

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

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

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

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

15 10608.4. It is the intent of the Legislature, by the enactment
16 of this part, to do all of the following:

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

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

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

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

28 (e) Establish consistent water use efficiency planning and
29 implementation standards for urban water suppliers and agricultural
30 water suppliers.

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

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

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

- 1 (i) Require implementation of specified efficient water
- 2 management practices for agricultural water suppliers.
- 3 (j) Support the economic productivity of California’s
- 4 agricultural, commercial, and industrial sectors.
- 5 (k) Advance regional water resources management.
- 6 10608.8. (a) (1) Water use efficiency measures adopted and
- 7 implemented pursuant to this part or Part 2.8 (commencing with
- 8 Section 10800) are water conservation measures subject to the
- 9 protections provided under Section 1011.
- 10 (2) An urban retail water supplier’s failure to meet the per capita
- 11 targets established in Section 10608.20 _____. This paragraph does
- 12 not limit the use of data reported to the department or the board
- 13 in litigation or an administrative proceeding.
- 14 (3) To the extent feasible, the department and the board shall
- 15 provide for the use of water conservation reports required under
- 16 this part to meet the requirements of Section 1011 for water
- 17 conservation reporting.
- 18 (b) This part does not limit or otherwise affect the application
- 19 of Chapter 3.5 (commencing with Section 11340), Chapter 4
- 20 (commencing with Section 11370), Chapter 4.5 (commencing with
- 21 Section 11400), and Chapter 5 (commencing with Section 11500)
- 22 of Part 1 of Division 3 of Title 2 of the Government Code.
- 23 (c) This part does not require a reduction in the total water used
- 24 in the agricultural or urban sectors, because other factors, including,
- 25 but not limited to, changes in agricultural economics or population
- 26 growth may have greater effects on water use. This part does not
- 27 limit the economic productivity of California’s agricultural,
- 28 commercial, or industrial sectors.
- 29 (d) The requirements of this part do not apply to an agricultural
- 30 water supplier that is a party to the Quantification Settlement
- 31 Agreement, as defined in subdivision (a) of Section 1 of Chapter
- 32 617 of the Statutes of 2002, during the period within which the
- 33 Quantification Settlement Agreement remains in effect. After the
- 34 expiration of the Quantification Settlement Agreement, to the
- 35 extent conservation water projects implemented as part of the
- 36 Quantification Settlement Agreement remain in effect, the
- 37 conserved water created as part of those projects shall be credited
- 38 against the obligations of the agricultural water supplier pursuant
- 39 to this part.

CHAPTER 2. DEFINITIONS

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

(a) “Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers.

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

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

(2) For an urban retail water supplier that meets at least 10 percent of its 2008 measured retail water demand through recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier, the urban retail water supplier may extend the calculation described in paragraph (1) up to an additional five years to a maximum of a continuous 15-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

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

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

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

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

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

- 1 (g) “Gross water use” means the total volume of water, whether
2 treated or untreated, entering the distribution system of an urban
3 retail water supplier, excluding all of the following:
- 4 (1) Recycled water that is delivered within the service area of
5 an urban retail water supplier or its urban wholesale water supplier.
6 (2) The net volume of water that the urban retail water supplier
7 places into long-term storage.
8 (3) The volume of water the urban retail water supplier conveys
9 for use by another urban water supplier.
10 (4) The volume of water delivered for agricultural use, except
11 as otherwise provided in subdivision (f) of Section 10608.24.
- 12 (h) “Industrial water user” means a water user that is primarily
13 a manufacturer or processor of materials as defined by the North
14 American Industry Classification System code sectors 31 to 33,
15 inclusive.
- 16 (i) “Institutional water user” means a water user dedicated to
17 public service. This type of user includes, among other users,
18 higher education institutions, schools, courts, churches, hospitals,
19 and government facilities.
- 20 (j) “Interim urban water use target” means the midpoint between
21 the urban retail water supplier’s base daily per capita water use
22 and the urban retail water supplier’s urban water use target for
23 2020.
- 24 (k) “Locally cost effective” means that the present value of the
25 local benefits of implementing an agricultural efficiency water
26 management practice is greater than or equal to the present value
27 of the local cost of implementing that measure.
- 28 (l) “Process water” means water used for producing a product
29 or product content, including, but not limited to, continuous
30 manufacturing processes. Process water uses include, but are not
31 limited to, water used for testing and maintaining equipment used
32 in producing a product or product content, and water used in
33 combined heat and power facilities used in producing a product
34 or product content. Process water does not mean incidental water
35 uses not related to the production of a product or product content,
36 including, but not limited to, water used for restrooms, landscaping,
37 air conditioning, heating, kitchens, and laundry.
- 38 (m) “Recycled water” means recycled water, as defined in
39 subdivision (n) of Section 13050, that is used to offset potable
40 demand, including recycled water supplied for direct use and

1 indirect potable reuse, that meets the following requirements, where
2 applicable:

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

5 (A) Metered.

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

8 (C) Treated to a minimum tertiary level.

9 (D) Delivered within the service area of an urban retail water
10 supplier or its urban wholesale water supplier that helps an urban
11 retail water supplier meet its urban water use target.

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

15 (n) “Regional water resources management” means sources of
16 supply resulting from watershed-based planning for sustainable
17 local water reliability or any of the following alternative sources
18 of water:

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

20 (2) The use of recycled water.

21 (3) The desalination of brackish groundwater.

22 (4) The conjunctive use of surface water and groundwater in a
23 manner that is consistent with the safe yield of the groundwater
24 basin.

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

27 (p) “Urban retail water supplier” means a water supplier, either
28 publicly or privately owned, that directly provides potable
29 municipal water to more than 3,000 end users or that supplies more
30 than 3,000 acre-feet of potable water annually at retail for
31 municipal purposes.

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

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

CHAPTER 3. URBAN RETAIL WATER SUPPLIERS

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

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

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

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

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

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

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

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

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

1 (C) For commercial, industrial, and institutional uses, a
2 10-percent reduction in water use from the baseline commercial,
3 industrial, and institutional water use by 2020.

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

10 (4) A method that shall be identified and developed by the
11 department, through a public process, and reported to the
12 Legislature no later than December 31, 2010. The method
13 developed by the department shall identify per capita targets that
14 cumulatively result in a statewide 20 percent reduction in urban
15 daily per capita water use by December 31, 2020. If the department
16 does not adopt a method pursuant to this paragraph, the urban retail
17 water supplier shall adopt a method described in paragraph (1),
18 (2), or (3). In developing urban daily per capita water use targets,
19 the department shall do all of the following:

20 (A) Consider climatic differences within the state.

21 (B) Consider population density differences within the state.

22 (C) Provide flexibility to communities and regions in meeting
23 the targets.

24 (D) Consider different levels of per capita water use according
25 to plant water needs in different regions.

26 (E) Consider different levels of commercial, industrial, and
27 institutional water use in different regions of the state.

28 (F) Avoid placing an undue hardship on communities that have
29 implemented conservation measures or taken actions to keep per
30 capita water use low.

31 (c) The department shall update the method described in
32 paragraph (4) of subdivision (b) and report to the Legislature by
33 December 31, 2014. An urban retail water supplier that adopted
34 the method described in paragraph (4) of subdivision (b) may adopt
35 a new urban daily per capita water use target pursuant to this
36 updated method.

37 (d) An urban retail water supplier shall include in its urban water
38 management plan required pursuant to Part 2.6 (commencing with
39 Section 10610) due in 2010 the baseline daily per capita water use,
40 urban water use target, interim urban water use target, and

1 compliance daily per capita water use, along with the bases for
2 determining those estimates, including references to supporting
3 data.

4 (e) When calculating per capita values for the purposes of this
5 chapter, an urban retail water supplier shall determine population
6 using federal, state, and local population reports and projections.

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

10 (g) (1) The department, through a public process and in
11 consultation with the California Urban Water Conservation
12 Council, shall develop technical methodologies and criteria for
13 the consistent implementation of this part, including, but not limited
14 to, both of the following:

15 (A) Methodologies for calculating base daily per capita water
16 use, baseline commercial, industrial, and institutional water use,
17 compliance daily per capita water use, gross water use, service
18 area population, indoor residential water use, and landscaped area
19 water use.

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

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

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

31 (2) The initial adoption of a regulation authorized by this
32 subdivision is deemed to address an emergency, for purposes of
33 Sections 11346.1 and 11349.6 of the Government Code, and the
34 department is hereby exempted for that purpose from the
35 requirements of subdivision (b) of Section 11346.1 of the
36 Government Code. After the initial adoption of an emergency
37 regulation pursuant to this subdivision, the department shall not
38 request approval from the Office of Administrative Law to readopt
39 the regulation as an emergency regulation pursuant to Section
40 11346.1 of the Government Code.

1 (i) An urban retail water supplier shall be granted an extension
2 to July 1, 2011, for adoption of an urban water management plan
3 pursuant to Part 2.6 (commencing with Section 10610) due in 2010
4 to allow use of technical methodologies developed by the
5 department pursuant to paragraph (4) of subdivision (b) and
6 subdivision (g). An urban retail water supplier that adopts an urban
7 water management plan due in 2010 that does not use the
8 methodologies developed by the department pursuant to
9 subdivision (g) shall amend the plan by July 1, 2011, to comply
10 with this part.

11 10608.22. Notwithstanding the method adopted by an urban
12 retail water supplier pursuant to Section 10608.20, an urban retail
13 water supplier's per capita daily water use reduction shall be no
14 less than 5 percent of base daily per capita water use as defined in
15 paragraph (3) of subdivision (b) of Section 10608.12. This section
16 does not apply to an urban retail water supplier with a base daily
17 per capita water use at or below 100 gallons per capita per day.

18 10608.24. (a) Each urban retail water supplier shall meet its
19 interim urban water use target by December 31, 2015.

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

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

25 (d) (1) When determining compliance daily per capita water
26 use, an urban retail water supplier may consider the following
27 factors:

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

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

33 (C) Substantial changes to institutional water use resulting from
34 fire suppression services or other extraordinary events, or from
35 new or expanded operations, that have occurred during the
36 reporting period.

37 (2) If the urban retail water supplier elects to adjust its estimate
38 of compliance daily per capita water use due to one or more of the
39 factors described in paragraph (1), it shall provide the basis for,

1 and data supporting, the adjustment in the report required by
2 Section 10608.40.

3 (e) When developing the urban water use target pursuant to
4 Section 10608.20, an urban retail water supplier that has a
5 substantial percentage of industrial water use in its service area,
6 may exclude process water from the calculation of gross water use
7 to avoid a disproportionate burden on another customer sector.

8 (f) (1) An urban retail water supplier that includes agricultural
9 water use in an urban water management plan pursuant to Part 2.6
10 (commencing with Section 10610) may include the agricultural
11 water use in determining gross water use. An urban retail water
12 supplier that includes agricultural water use in determining gross
13 water use and develops its urban water use target pursuant to
14 paragraph (2) of subdivision (b) of Section 10608.20 shall use a
15 water efficient standard for agricultural irrigation of 100 percent
16 of reference evapotranspiration multiplied by the crop coefficient
17 for irrigated acres.

18 (2) An urban retail water supplier, that is also an agricultural
19 water supplier, is not subject to the requirements of Chapter 4
20 (commencing with Section 10608.48), if the agricultural water use
21 is incorporated into its urban water use target pursuant to paragraph
22 (1).

23 10608.26. (a) In complying with this part, an urban retail water
24 supplier shall conduct at least one public hearing to accomplish
25 all of the following:

26 (1) Allow community input regarding the urban retail water
27 supplier's implementation plan for complying with this part.

28 (2) Consider the economic impacts of the urban retail water
29 supplier's implementation plan for complying with this part.

30 (3) Adopt a method, pursuant to subdivision (b) of Section
31 10608.20, for determining its urban water use target.

32 (b) In complying with this part, an urban retail water supplier
33 may meet its urban water use target through efficiency
34 improvements in any combination among its customer sectors. An
35 urban retail water supplier shall avoid placing a disproportionate
36 burden on any customer sector.

37 (c) For an urban retail water supplier that supplies water to a
38 United States Department of Defense military installation, the
39 urban retail water supplier's implementation plan for complying
40 with this part shall consider the United States Department of

1 Defense military installation’s requirements under federal
2 Executive Order 13423.

3 (d) (1) An urban retail water supplier shall not require customers
4 existing on January 1, 2010, to undertake changes in product
5 formulation, operations, or equipment that would reduce process
6 water use, but may provide technical assistance and financial
7 incentives to those customers to implement efficiency measures
8 for process water.

9 (2) This part shall not be construed or enforced so as to interfere
10 with the requirements of Chapter 4 (commencing with Section
11 113980) to Chapter 13 (commencing with Section 114380),
12 inclusive, of Part 7 of Division 104 of the Health and Safety Code,
13 or any requirement or standard for the protection of public health,
14 public safety, or worker safety established by federal, state, or
15 local government or recommended by recognized standard setting
16 organizations or trade associations.

17 10608.28. (a) An urban retail water supplier may meet its
18 urban water use target within its retail service area, or through
19 mutual agreement, by any of the following:

20 (1) Through an urban wholesale water supplier.

21 (2) Through a regional agency authorized to plan and implement
22 water conservation, including, but not limited to, an agency
23 established under the Bay Area Water Supply and Conservation
24 Agency Act (Division 31 (commencing with Section 81300)).

25 (3) Through a regional water management group as defined in
26 Section 10537.

27 (4) By an integrated regional water management funding area.

28 (5) By hydrologic region.

29 (6) Through other appropriate geographic scales for which
30 computation methods have been developed by the department.

31 (b) A regional water management group, with the written
32 consent of its member agencies, may undertake any or all planning,
33 reporting, and implementation functions under this chapter for the
34 member agencies that consent to those activities. Any data or
35 reports shall provide information both for the regional water
36 management group and separately for each consenting urban retail
37 water supplier and urban wholesale water supplier.

38 10608.32. All costs incurred pursuant to this part by a water
39 utility regulated by the Public Utilities Commission may be
40 recoverable in rates subject to review and approval by the Public

1 Utilities Commission, and may be recorded in a memorandum
2 account and reviewed for reasonableness by the Public Utilities
3 Commission.

4 10608.36. Urban wholesale water suppliers shall include in
5 the urban water management plans required pursuant to Part 2.6
6 (commencing with Section 10610) an assessment of their present
7 and proposed future measures, programs, and policies to help
8 achieve the water use reductions required by this part.

9 10608.40. Urban water retail suppliers shall report to the
10 department on their progress in meeting their urban water use
11 targets as part of their urban water management plans submitted
12 pursuant to Section 10631. The data shall be reported using a
13 standardized form developed pursuant to Section 10608.52.

14 10608.42. The department shall review the 2015 urban water
15 management plans and report to the Legislature by December 31,
16 2016, on progress towards achieving a 20-percent reduction in
17 urban water use by December 31, 2020. The report shall include
18 recommendations on changes to water efficiency standards or
19 urban water use targets in order to achieve the 20-percent reduction
20 and to reflect updated efficiency information and technology
21 changes.

22 10608.43. The department, in conjunction with the California
23 Urban Water Conservation Council, by April 1, 2010, shall convene
24 a representative task force consisting of academic experts, urban
25 retail water suppliers, environmental organizations, commercial
26 water users, industrial water users, and institutional water users to
27 develop alternative best management practices for commercial,
28 industrial, and institutional users and an assessment of the potential
29 statewide water use efficiency improvement in the commercial,
30 industrial, and institutional sectors that would result from
31 implementation of these best management practices. The taskforce,
32 in conjunction with the department, shall submit a report to the
33 Legislature by April 1, 2012, that shall include a review of multiple
34 sectors within commercial, industrial, and institutional users and
35 that shall recommend water use efficiency standards for
36 commercial, industrial, and institutional users among various
37 sectors of water use. The report shall include, but not be limited
38 to, the following:

39 (a) Appropriate metrics for evaluating commercial, industrial,
40 and institutional water use.

1 (b) Evaluation of water demands for manufacturing processes,
2 goods, and cooling.

3 (c) Evaluation of public infrastructure necessary for delivery of
4 recycled water to the commercial, industrial, and institutional
5 sectors.

6 (d) Evaluation of institutional and economic barriers to increased
7 recycled water use within the commercial, industrial, and
8 institutional sectors.

9 (e) Identification of technical feasibility and cost of the best
10 management practices to achieve more efficient water use statewide
11 in the commercial, industrial, and institutional sectors that is
12 consistent with the public interest and reflects past investments in
13 water use efficiency.

14 10608.44. Each state agency shall reduce water use on facilities
15 it operates to support urban retail water suppliers in meeting the
16 target identified in Section 10608.16.

17

18 CHAPTER 4. AGRICULTURAL WATER SUPPLIERS

19

20 10608.48. (a) On or before July 31, 2012, an agricultural water
21 supplier shall implement efficient water management practices
22 pursuant to subdivisions (b) and (c).

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

25 (1) Measure the volume of water delivered to customers with
26 sufficient accuracy to comply with subdivision (a) of Section
27 531.10.

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

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

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

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

- 1 (3) Facilitate the financing of capital improvements for on-farm
2 irrigation systems.
- 3 (4) Implement an incentive pricing structure that promotes one
4 or more of the following goals:
- 5 (A) More efficient water use at the farm level.
6 (B) Conjunctive use of groundwater.
7 (C) Appropriate increase of groundwater recharge.
8 (D) Reduction in problem drainage.
9 (E) Improved management of environmental resources.
10 (F) Effective management of all water sources throughout the
11 year by adjusting seasonal pricing structures based on current
12 conditions.
- 13 (5) Expand line or pipe distribution systems, and construct
14 regulatory reservoirs to increase distribution system flexibility and
15 capacity, decrease maintenance, and reduce seepage.
- 16 (6) Increase flexibility in water ordering by, and delivery to,
17 water customers within operational limits.
- 18 (7) Construct and operate supplier spill and tailwater recovery
19 systems.
- 20 (8) Increase planned conjunctive use of surface water and
21 groundwater within the supplier service area.
- 22 (9) Automate canal control structures.
- 23 (10) Facilitate or promote customer pump testing and evaluation.
- 24 (11) Designate a water conservation coordinator who will
25 develop and implement the water management plan and prepare
26 progress reports.
- 27 (12) Provide for the availability of water management services
28 to water users. These services may include, but are not limited to,
29 all of the following:
- 30 (A) On-farm irrigation and drainage system evaluations.
31 (B) Normal year and real-time irrigation scheduling and crop
32 evapotranspiration information.
33 (C) Surface water, groundwater, and drainage water quantity
34 and quality data.
35 (D) Agricultural water management educational programs and
36 materials for farmers, staff, and the public.
- 37 (13) Evaluate the policies of agencies that provide the supplier
38 with water to identify the potential for institutional changes to
39 allow more flexible water deliveries and storage.

1 (14) Evaluate and improve the efficiencies of the supplier's
2 pumps.

3 (d) Agricultural water suppliers shall include in the agricultural
4 water management plans required pursuant to Part 2.8
5 (commencing with Section 10800) a report on which efficient
6 water management practices have been implemented and are
7 planned to be implemented, an estimate of the water use efficiency
8 improvements that have occurred since the last report, and an
9 estimate of the water use efficiency improvements estimated to
10 occur five and 10 years in the future. If an agricultural water
11 supplier determines that an efficient water management practice
12 is not locally cost effective or technically feasible, the supplier
13 shall submit information documenting that determination.

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

16 (f) An agricultural water supplier may meet the requirements
17 of subdivisions (d) and (e) by submitting to the department a water
18 conservation plan submitted to the United States Bureau of
19 Reclamation that meets the requirements described in Section
20 10828.

21 (g) On or before December 31, 2013, December 31, 2016, and
22 December 31, 2021, the department, in consultation with the board,
23 shall submit to the Legislature a report on the agricultural efficient
24 water management practices that have been implemented and are
25 planned to be implemented and an assessment of the manner in
26 which the implementation of those efficient water management
27 practices has affected and will affect agricultural operations,
28 including estimated water use efficiency improvements, if any.

29 (h) The department may update the efficient water management
30 practices required pursuant to subdivision (c), in consultation with
31 the Agricultural Water Management Council, the United States
32 Bureau of Reclamation, and the board. All efficient water
33 management practices for agricultural water use pursuant to this
34 chapter shall be adopted or revised by the department only after
35 the department conducts public hearings to allow participation of
36 the diverse geographical areas and interests of the state.

37 (i) (1) The department shall adopt regulations that provide for
38 a range of options that agricultural water suppliers may use or
39 implement to comply with the measurement requirement in
40 paragraph (1) of subdivision (b).

1 (2) The initial adoption of a regulation authorized by this
2 subdivision is deemed to address an emergency, for purposes of
3 Sections 11346.1 and 11349.6 of the Government Code, and the
4 department is hereby exempted for that purpose from the
5 requirements of subdivision (b) of Section 11346.1 of the
6 Government Code. After the initial adoption of an emergency
7 regulation pursuant to this subdivision, the department shall not
8 request approval from the Office of Administrative Law to readopt
9 the regulation as an emergency regulation pursuant to Section
10 11346.1 of the Government Code.

11

12 CHAPTER 5. SUSTAINABLE WATER MANAGEMENT

13

14 10608.50. (a) The department, in consultation with the board,
15 shall promote implementation of regional water resources
16 management practices through increased incentives and removal
17 of barriers consistent with state and federal law. Potential changes
18 may include, but are not limited to, all of the following:

19 (1) Revisions to the requirements for urban and agricultural
20 water management plans.

21 (2) Revisions to the requirements for integrated regional water
22 management plans.

23 (3) Revisions to the eligibility for state water management grants
24 and loans.

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

28 (5) Increased funding for research, feasibility studies, and project
29 construction.

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

32 (b) No later than January 1, 2011, and updated as part of the
33 California Water Plan, the department, in consultation with the
34 board, and with public input, shall propose new statewide targets,
35 or review and update existing statewide targets, for regional water
36 resources management practices, including, but not limited to,
37 recycled water, brackish groundwater desalination, and infiltration
38 and direct use of urban stormwater runoff.

1 CHAPTER 6. STANDARDIZED DATA COLLECTION

2
3 10608.52. (a) The department, in consultation with the board,
4 the California Bay-Delta Authority or its successor agency, the
5 State Department of Public Health, and the Public Utilities
6 Commission, shall develop a single standardized water use
7 reporting form to meet the water use information needs of each
8 agency, including the needs of urban water suppliers that elect to
9 determine and report progress toward achieving targets on a
10 regional basis as provided in subdivision (a) of Section 10608.28.

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

20
21 CHAPTER 7. FUNDING PROVISIONS

22
23 10608.56. (a) On and after July 1, 2016, an urban retail water
24 supplier is not eligible for a water grant or loan awarded or
25 administered by the state unless the supplier complies with this
26 part.

27 (b) On and after July 1, 2013, an agricultural water supplier is
28 not eligible for a water grant or loan awarded or administered by
29 the state unless the supplier complies with this part.

30 (c) Notwithstanding subdivision (a), the department shall
31 determine that an urban retail water supplier is eligible for a water
32 grant or loan even though the supplier has not met the per capita
33 reductions required pursuant to Section 10608.24, if the urban
34 retail water supplier has submitted to the department for approval
35 a schedule, financing plan, and budget, to be included in the grant
36 or loan agreement, for achieving the per capita reductions. The
37 supplier may request grant or loan funds to achieve the per capita
38 reductions to the extent the request is consistent with the eligibility
39 requirements applicable to the water funds.

1 (d) Notwithstanding subdivision (b), the department shall
2 determine that an agricultural water supplier is eligible for a water
3 grant or loan even though the supplier is not implementing all of
4 the efficient water management practices described in Section
5 10608.48, if the agricultural water supplier has submitted to the
6 department for approval a schedule, financing plan, and budget,
7 to be included in the grant or loan agreement, for implementation
8 of the efficient water management practices. The supplier may
9 request grant or loan funds to implement the efficient water
10 management practices to the extent the request is consistent with
11 the eligibility requirements applicable to the water funds.

12 (e) Notwithstanding subdivision (a), the department shall
13 determine that an urban retail water supplier is eligible for a water
14 grant or loan even though the supplier has not met the per capita
15 reductions required pursuant to Section 10608.24, if the urban
16 retail water supplier has submitted to the department for approval
17 documentation demonstrating that its entire service area qualifies
18 as a disadvantaged community.

19 (f) The department shall not deny eligibility to an urban retail
20 water supplier or agricultural water supplier in compliance with
21 the requirements of this part and Part 2.8 (commencing with
22 Section 10800), that is participating in a multiagency water project,
23 or an integrated regional water management plan, developed
24 pursuant to Section 75026 of the Public Resources Code, solely
25 on the basis that one or more of the agencies participating in the
26 project or plan is not implementing all of the requirements of this
27 part or Part 2.8 (commencing with Section 10800).

28 10608.60. (a) It is the intent of the Legislature that funds made
29 available by Section 75026 of the Public Resources Code should
30 be expended, consistent with Division 43 (commencing with
31 Section 75001) of the Public Resources Code and upon
32 appropriation by the Legislature, for grants to implement this part.
33 In the allocation of funding, it is the intent of the Legislature that
34 the department give consideration to disadvantaged communities
35 to assist in implementing the requirements of this part.

36 (b) It is the intent of the Legislature that funds made available
37 by Section 75041 of the Public Resources Code, should be
38 expended, consistent with Division 43 (commencing with Section
39 75001) of the Public Resources Code and upon appropriation by
40 the Legislature, for direct expenditures to implement this part.

1 CHAPTER 8. QUANTIFYING AGRICULTURAL WATER USE
2 EFFICIENCY
3

4 10608.64. The department, in consultation with the Agricultural
5 Water Management Council, academic experts, and other
6 stakeholders, shall develop a methodology for quantifying the
7 efficiency of agricultural water use. Alternatives to be assessed
8 shall include, but not be limited to, determination of efficiency
9 levels based on crop type or irrigation system distribution
10 uniformity. On or before December 31, 2011, the department shall
11 report to the Legislature on a proposed methodology and a plan
12 for implementation. The plan shall include the estimated
13 implementation costs and the types of data needed to support the
14 methodology. Nothing in this section authorizes the department
15 to implement a methodology established pursuant to this section.

16 SEC. 66. Section 10631.5 of the Water Code is amended to
17 read:

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

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

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

1 water demand management measures to the extent the request is
2 consistent with the eligibility requirements applicable to the water
3 management funds.

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

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

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

29 (A) Consider the conservation measures described in the
30 Memorandum of Understanding Regarding Urban Water
31 Conservation in California, and alternative conservation approaches
32 that provide equal or greater water savings.

33 (B) Recognize the different legal, technical, fiscal, and practical
34 roles and responsibilities of wholesale water suppliers and retail
35 water suppliers.

36 (2) (A) For the purposes of this section, the department shall
37 determine whether an urban water supplier is implementing all of
38 the water demand management measures described in Section
39 10631 based on either, or a combination, of the following:

40 (i) Compliance on an individual basis.

1 (ii) Compliance on a regional basis. Regional compliance shall
2 require participation in a regional conservation program consisting
3 of two or more urban water suppliers that achieves the level of
4 conservation or water efficiency savings equivalent to the amount
5 of conservation or savings achieved if each of the participating
6 urban water suppliers implemented the water demand management
7 measures. The urban water supplier administering the regional
8 program shall provide participating urban water suppliers and the
9 department with data to demonstrate that the regional program is
10 consistent with this clause. The department shall review the data
11 to determine whether the urban water suppliers in the regional
12 program are meeting the eligibility requirements.

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

15 (3) The department shall not deny eligibility to an urban water
16 supplier in compliance with the requirements of this section that
17 is participating in a multiagency water project, or an integrated
18 regional water management plan, developed pursuant to Section
19 75026 of the Public Resources Code, solely on the basis that one
20 or more of the agencies participating in the project or plan is not
21 implementing all of the water demand management measures
22 described in Section 10631.

23 (c) In establishing guidelines pursuant to the specific funding
24 authorization for any water management grant or loan program
25 subject to this section, the agency administering the grant or loan
26 program shall include in the guidelines the eligibility requirements
27 developed by the department pursuant to subdivision (b).

28 (d) Upon receipt of a water management grant or loan
29 application by an agency administering a grant and loan program
30 subject to this section, the agency shall request an eligibility
31 determination from the department with respect to the requirements
32 of this section. The department shall respond to the request within
33 60 days of the request.

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

1 to the California Urban Water Conservation Council in accordance
 2 with the memorandum, the department may use these reports to
 3 assist in tracking the implementation of water demand management
 4 measures.

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

8 SEC. 67. Part 2.8 (commencing with Section 10800) of
 9 Division 6 of the Water Code is repealed.

10 SEC. 68. Part 2.8 (commencing with Section 10800) is added
 11 to Division 6 of the Water Code, to read:

12

13 PART 2.8. AGRICULTURAL WATER MANAGEMENT
 14 PLANNING

15

16 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

17

18 10800. This part shall be known and may be cited as the
 19 Agricultural Water Management Planning Act.

20 10801. The Legislature finds and declares all of the following:

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

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

24 (c) Urban water districts are required to adopt water management
 25 plans.

26 (d) The conservation of agricultural water supplies is of great
 27 statewide concern.

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

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

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

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

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

1 (j) Agricultural water users applying for a permit to appropriate
2 water from the board are required to prepare and implement water
3 conservation plans.

4 10802. The Legislature finds and declares that all of the
5 following are the policies of the state:

6 (a) The conservation of water shall be pursued actively to protect
7 both the people of the state and the state’s water resources.

8 (b) The conservation of agricultural water supplies shall be an
9 important criterion in public decisions with regard to water.

10 (c) Agricultural water suppliers shall be required to prepare
11 water management plans to achieve conservation of water.

12
13 CHAPTER 2. DEFINITIONS
14

15 10810. Unless the context otherwise requires, the definitions
16 set forth in this chapter govern the construction of this part.

17 10811. “Agricultural water management plan” or “plan” means
18 an agricultural water management plan prepared pursuant to this
19 part.

20 10812. “Agricultural water supplier” has the same meaning as
21 defined in Section 10608.12.

22 10813. “Customer” means a purchaser of water from a water
23 supplier who uses water for agricultural purposes.

24 10814. “Person” means any individual, firm, association,
25 organization, partnership, business, trust, corporation, company,
26 public agency, or any agency of that entity.

27 10815. “Public agency” means any city, county, city and
28 county, special district, or other public entity.

29 10816. “Urban water supplier” has the same meaning as set
30 forth in Section 10617.

31 10817. “Water conservation” means the efficient management
32 of water resources for beneficial uses, preventing waste, or
33 accomplishing additional benefits with the same amount of water.

34
35 CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS
36

37 Article 1. General Provisions
38

39 10820. (a) An agricultural water supplier shall prepare and
40 adopt an agricultural water management plan in the manner set

1 forth in this chapter on or before December 31, 2012, and shall
2 update that plan on December 31, 2015, and on or before December
3 31 every five years thereafter.

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

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

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

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

22
23 Article 2. Contents of Plans
24

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

29 (b) This part does not require the implementation of water
30 conservation programs or practices that are not locally cost
31 effective.

32 10826. An agricultural water management plan shall be adopted
33 in accordance with this chapter. The plan shall do all of the
34 following:

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

- 37 (1) Size of the service area.
- 38 (2) Location of the service area and its water management
39 facilities.
- 40 (3) Terrain and soils.

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

1 10828. (a) Agricultural water suppliers that are required to
2 submit water conservation plans to the United States Bureau of
3 Reclamation pursuant to either the Central Valley Project
4 Improvement Act (Public Law 102-575) or the Reclamation
5 Reform Act of 1982, or both, may submit those water conservation
6 plans to satisfy the requirements of Section 10826, if both of the
7 following apply:

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

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

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

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

26

27 Article 3. Adoption and Implementation of Plans

28

29 10840. Every agricultural water supplier shall prepare its plan
30 pursuant to Article 2 (commencing with Section 10825).

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

1 After the hearing, the plan shall be adopted as prepared or as
2 modified during or after the hearing.

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

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

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

16 (1) The department.

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

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

22 (4) Any urban water supplier within which jurisdiction the
23 agricultural water supplier provides water supplies.

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

26 (6) The California State Library.

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

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

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

39 10845. (a) The department shall prepare and submit to the
40 Legislature, on or before December 31, 2013, and thereafter in the

1 years ending in six and years ending in one, a report summarizing
2 the status of the plans adopted pursuant to this part.

3 (b) The report prepared by the department shall identify the
4 outstanding elements of any plan adopted pursuant to this part.
5 The report shall include an evaluation of the effectiveness of this
6 part in promoting efficient agricultural water management practices
7 and recommendations relating to proposed changes to this part, as
8 appropriate.

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

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

17
18 CHAPTER 4. MISCELLANEOUS PROVISIONS
19

20 10850. (a) Any action or proceeding to attack, review, set
21 aside, void, or annul the acts or decisions of an agricultural water
22 supplier on the grounds of noncompliance with this part shall be
23 commenced as follows:

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

27 (2) Any action or proceeding alleging that a plan, or action taken
28 pursuant to the plan, does not comply with this part shall be
29 commenced within 120 days after submitting the plan or
30 amendments to the plan to entities in accordance with Section
31 10844 or the taking of that action.

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

1 10851. The California Environmental Quality Act (Division
2 13 (commencing with Section 21000) of the Public Resources
3 Code) does not apply to the preparation and adoption of plans
4 pursuant to this part. This part does not exempt projects for
5 implementation of the plan or for expanded or additional water
6 supplies from the California Environmental Quality Act.

7 10852. An agricultural water supplier is not eligible for a water
8 grant or loan awarded or administered by the state unless the
9 supplier complies with this part.

10 10853. No agricultural water supplier that provides water to
11 less than 25,000 irrigated acres, excluding recycled water, shall
12 be required to implement the requirements of this part or Part 2.55
13 (commencing with Section 10608) unless sufficient funding has
14 specifically been provided to that water supplier for these purposes.

15 SEC. 69. Part 2.11 (commencing with Section 10920) is added
16 to Division 6 of the Water Code, to read:

17
18 PART 2.11. GROUNDWATER MONITORING

19
20 CHAPTER 1. GENERAL PROVISIONS

21
22 10920. (a) It is the intent of the Legislature that on or before
23 January 1, 2012, groundwater elevations in all groundwater basins
24 and subbasins be regularly and systematically monitored locally
25 and that the resulting groundwater information be made readily
26 and widely available.

27 (b) It is further the intent of the Legislature that the department
28 continue to maintain its current network of monitoring wells,
29 including groundwater elevation and groundwater quality
30 monitoring wells, and that the department continue to coordinate
31 monitoring with local entities.

32 10921. This part does not require the monitoring of
33 groundwater elevations in an area that is not within a basin or
34 subbasin.

35 10922. This part does not expand or otherwise affect the powers
36 or duties of the department relating to groundwater beyond those
37 expressly granted by this part.

CHAPTER 2. DEFINITIONS

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

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

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

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

(d) “Monitoring functions” and “groundwater monitoring functions” means the monitoring of groundwater elevations, the reporting of those elevations to the department, and other related actions required by this part.

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

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

CHAPTER 3. GROUNDWATER MONITORING PROGRAM

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10927. Any of the following entities may assume responsibility for monitoring and reporting groundwater elevations in all or a part of a basin or subbasin in accordance with this part:

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

(b) (1) A groundwater management agency with statutory authority to manage groundwater pursuant to its principal act that is monitoring groundwater elevations in all or a part of a groundwater basin or subbasin on or before January 1, 2010.

(2) A water replenishment district established pursuant to Division 18 (commencing with Section 60000). This part does not

1 expand or otherwise affect the authority of a water replenishment
2 district relating to monitoring groundwater elevations.

3 (c) A local agency that is managing all or part of a groundwater
4 basin or subbasin pursuant to Part 2.75 (commencing with Section
5 10750) and that was monitoring groundwater elevations in all or
6 a part of a groundwater basin or subbasin on or before January 1,
7 2010, or a local agency or county that is managing all or part of a
8 groundwater basin or subbasin pursuant to any other legally
9 enforceable groundwater management plan with provisions that
10 are substantively similar to those described in that part and that
11 was monitoring groundwater elevations in all or a part of a
12 groundwater basin or subbasin on or before January 1, 2010.

13 (d) A local agency that is managing all or part of a groundwater
14 basin or subbasin pursuant to an integrated regional water
15 management plan prepared pursuant to Part 2.2 (commencing with
16 Section 10530) that includes a groundwater management
17 component that complies with the requirements of Section 10753.7.

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

22 (f) A voluntary cooperative groundwater monitoring association
23 formed pursuant to Section 10935.

24 10928. (a) Any entity described in subdivision (a) or (b) of
25 Section 10927 that seeks to assume groundwater monitoring
26 functions in accordance with this part shall notify the department,
27 in writing, on or before January 1, 2011. The notification shall
28 include all of the following information:

29 (1) The entity's name, address, telephone number, and any other
30 relevant contact information.

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

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

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

38 (b) Any entity described in subdivision (c), (d), (e), or (f) of
39 Section 10927 that seeks to assume groundwater monitoring
40 functions in accordance with this part shall notify the department,

1 in writing, by January 1, 2011. The information provided in the
2 notification shall include all of the following:

3 (1) The entity's name, address, telephone number, and any other
4 relevant contact information.

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

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

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

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

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

20 (7) A statement describing the ability and qualifications of the
21 entity to conduct the groundwater monitoring functions required
22 by this part.

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

27 10929. (a) (1) The department shall review all notifications
28 received pursuant to Section 10928.

29 (2) Upon the receipt of a notification pursuant to subdivision
30 (a) of Section 10928, the department shall verify that the notifying
31 entity has the appropriate authority under subdivision (a) or (b) of
32 Section 10927.

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

35 (A) Verify that each notification is complete.

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

37 (b) If the department has questions about the completeness or
38 accuracy of a notification, or the qualifications of a party, the
39 department shall contact the party to resolve any deficiencies. If
40 the department is unable to resolve the deficiencies, the department

1 shall notify the party in writing that the notification will not be
2 considered further until the deficiencies are corrected.

3 (c) If the department determines that more than one party seeks
4 to become the monitoring entity for the same portion of a basin or
5 subbasin, the department shall consult with the interested parties
6 to determine which party will perform the monitoring functions.
7 In determining which party will perform the monitoring functions
8 under this part, the department shall follow the order in which
9 entities are identified in Section 10927.

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

12 10930. Upon completion of each review pursuant to Section
13 10929, the department shall do both of the following if it
14 determines that a party will perform monitoring functions under
15 this part:

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

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

22 10931. (a) The department shall work cooperatively with each
23 monitoring entity to determine the manner in which groundwater
24 elevation information should be reported to the department pursuant
25 to this part. In determining what information should be reported
26 to the department, the department shall defer to existing monitoring
27 programs if those programs result in information that demonstrates
28 seasonal and long-term trends in groundwater elevations. The
29 department shall collaborate with the State Department of Public
30 Health to ensure that the information reported to the department
31 will not result in the inappropriate disclosure of the physical
32 address or geographical location of drinking water sources, storage
33 facilities, pumping operational data, or treatment facilities.

34 (b) (1) For the purposes of this part, the department may
35 recommend improvements to an existing monitoring program,
36 including recommendations for additional monitoring wells.

37 (2) The department may not require additional monitoring wells
38 unless funds are provided for that purpose.

1 10932. Monitoring entities shall commence monitoring and
2 reporting groundwater elevations pursuant to this part on or before
3 January 1, 2012.

4 10933. (a) On or before January 1, 2012, the department shall
5 commence to identify the extent of monitoring of groundwater
6 elevations that is being undertaken within each basin and subbasin.

7 (b) The department shall prioritize groundwater basins and
8 subbasins for the purpose of implementing this section. In
9 prioritizing the basins and subbasins, the department shall, to the
10 extent data are available, consider all of the following:

11 (1) The population overlying the basin or subbasin.

12 (2) The rate of current and projected growth of the population
13 overlying the basin or subbasin.

14 (3) The number of public supply wells that draw from the basin
15 or subbasin.

16 (4) The total number of wells that draw from the basin or
17 subbasin.

18 (5) The irrigated acreage overlying the basin or subbasin.

19 (6) The degree to which persons overlying the basin or subbasin
20 rely on groundwater as their primary source of water.

21 (7) Any documented impacts on the groundwater within the
22 basin or subbasin, including overdraft, subsidence, saline intrusion,
23 and other water quality degradation.

24 (8) Any other information determined to be relevant by the
25 department.

26 (c) If the department determines that all or part of a basin or
27 subbasin is not being monitored pursuant to this part, the
28 department shall do all of the following:

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

31 (2) Determine if there is an interest in establishing any of the
32 following:

33 (A) A groundwater management plan pursuant to Part 2.75
34 (commencing with Section 10750).

35 (B) An integrated regional water management plan pursuant to
36 Part 2.2 (commencing with Section 10530) that includes a
37 groundwater management component that complies with the
38 requirements of Section 10753.7.

39 (C) A voluntary groundwater monitoring association pursuant
40 to Section 10935.

1 (d) If the department determines that there is sufficient interest
2 in establishing a plan or association described in paragraph (2) of
3 subdivision (c), or if the county agrees to perform the groundwater
4 monitoring functions in accordance with this part, the department
5 shall work cooperatively with the interested parties to comply with
6 the requirements of this part within two years.

7 (e) (1) If the department determines, with regard to a basin or
8 subbasin, that there is insufficient interest in establishing a plan
9 or association described in paragraph (2) of subdivision (c), the
10 department shall notify the county or counties within which the
11 basin or subbasin is located, in whole or in part, of that
12 determination.

13 (2) Any county notified by the department pursuant to paragraph
14 (1) that there is insufficient interest in establishing a plan or
15 association described in paragraph (2) of subdivision (c) shall,
16 within two years of notification by the department, do one of the
17 following:

18 (A) Form or facilitate the formation of a plan or association
19 described in paragraph (2) of subdivision (c) to perform the
20 groundwater monitoring functions in accordance with this part.

21 (B) Perform the groundwater monitoring functions in accordance
22 with this part.

23 10933.5. If a county is notified pursuant to subdivision (e) of
24 Section 10933 and fails to undertake one of the two actions
25 described in paragraph (2) of subdivision (e) of Section 10933,
26 the county and the entities described in subdivisions (a) to (d),
27 inclusive, of Section 10927 shall not be eligible for a water grant
28 or loan awarded or administered by the state until either of the
29 following occurs:

30 (a) The county complies with paragraph (2) of subdivision (e)
31 of Section 10933.

32 (b) One of the entities described in Section 10927, with regard
33 to that basin or subbasin, agrees to perform groundwater monitoring
34 functions in accordance with this part.

35 10934. Nothing in this part provides any new or additional
36 authority to any entity described in Section 10927 to do either of
37 the following:

38 (a) To enter private property without the consent of the property
39 owner.

1 (b) To require a private property owner to submit groundwater
2 monitoring information to the entity.

3 10935. (a) A voluntary cooperative groundwater monitoring
4 association may be formed for the purposes of monitoring
5 groundwater elevations in accordance with this part. The
6 association may be established by contract, a joint powers
7 agreement, a memorandum of agreement, or other form of
8 agreement deemed acceptable by the department.

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

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

14 (1) The names of the participants.

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

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

18 (4) The method of recovering the costs associated with meeting
19 the requirements of this part.

20 (5) Other provisions that may be required by the department.

21 10936. Costs incurred by the department pursuant to this
22 chapter may be funded from unallocated bond revenues pursuant
23 to paragraph (12) of subdivision (a) of Section 75027 of the Public
24 Resources Code, to the extent those funds are available for those
25 purposes.

26 SEC. 70. Section 12924 of the Water Code is repealed.

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

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

38 SEC. 71. Section 12924 is added to the Water Code, to read:

39 12924. (a) The department, in conjunction with other public
40 agencies, shall conduct an investigation of the state's groundwater

1 basins. The department shall identify the state’s groundwater basins
2 on the basis of geological and hydrological conditions and
3 consideration of political boundary lines whenever practical. The
4 department shall also investigate existing general patterns of
5 groundwater pumping and groundwater recharge within those
6 basins to the extent necessary to identify basins that are subject to
7 critical conditions of overdraft.

8 (b) The department shall report its findings to the Governor and
9 the Legislature not later than January 1, 2012, and thereafter in
10 years ending in 5 or 0.

11 SEC. 72. Division 26.4 (commencing with Section 79400) of
12 the Water Code is repealed.

13 SEC. 73. Division 35 (commencing with Section 85000) is
14 added to the Water Code, to read:

15
16 DIVISION 35. SACRAMENTO-SAN JOAQUIN DELTA
17 REFORM ACT OF 2009

18
19 PART 1. GENERAL PROVISIONS

20
21 CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

22
23 85000. This division shall be known, and may be cited, as the
24 Sacramento-San Joaquin Delta Reform Act of 2009.

25 85001. The Legislature finds and declares all of the following:

26 (a) The Sacramento-San Joaquin Delta watershed and
27 California’s water infrastructure are in crisis and existing Delta
28 policies are not sustainable. Resolving the crisis requires
29 fundamental reorganization of the state’s management of Delta
30 watershed resources.

31 (b) In response to the Delta crisis, the Legislature and the
32 Governor required development of a new long-term strategic vision
33 for managing the Delta. The Governor appointed a Blue Ribbon
34 Task Force to recommend a new “Delta Vision Strategic Plan” to
35 his cabinet committee, which, in turn, made recommendations for
36 a Delta Vision to the Governor and the Legislature on January 3,
37 2009.

38 (c) By enacting this division, it is the intent of the Legislature
39 to provide for the sustainable management of the Sacramento-San
40 Joaquin Delta ecosystem, to provide for a more reliable water

1 supply for the state, to protect and enhance the quality of water
2 supply from the Delta, and to establish a governance structure that
3 will direct efforts across state agencies to develop a legally
4 enforceable Delta Plan.

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

11 85003. The Legislature finds and declares all of the following:

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

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

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

36 85004. The Legislature finds and declares all of the following:

37 (a) The economies of major regions of the state depend on the
38 ability to use water within the Delta watershed or to import water
39 from the Delta watershed. More than two-thirds of the residents

1 of the state and more than two million acres of highly productive
2 farm land receive water exported from the Delta watershed.

3 (b) Providing a more reliable water supply for the state involves
4 implementation of water use efficiency and conservation projects,
5 wastewater reclamation projects, desalination, and new and
6 improved infrastructure, including water storage and Delta
7 conveyance facilities.

8
9 CHAPTER 2. DELTA POLICY

10
11 85020. The policy of the State of California is to achieve the
12 following objectives that the Legislature declares are inherent in
13 the coequal goals for management of the Delta:

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

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

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

20 (d) Promote statewide water conservation, water use efficiency,
21 and sustainable water use.

22 (e) Improve water quality to protect human health and the
23 environment consistent with achieving water quality objectives in
24 the Delta.

25 (f) Improve the water conveyance system and expand statewide
26 water storage.

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

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

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

1 and regional water supply projects, and improved regional
2 coordination of local and regional water supply efforts.

3 85022. (a) It is the intent of the Legislature that state and local
4 land use actions be consistent with the Delta Plan. This section’s
5 findings, policies, and goals apply to Delta land use planning and
6 development.

7 (b) The actions of the council shall be guided by the findings,
8 policies, and goals expressed in this section when reviewing
9 decisions of the commission pursuant to Division 19.5
10 (commencing with Section 29700) of the Public Resources Code.

11 (c) The Legislature finds and declares all of the following:

12 (1) The Delta is a distinct and valuable natural resource of vital
13 and enduring interest to all the people and exists as a delicately
14 balanced estuary and wetland ecosystem of hemispheric
15 importance.

16 (2) The permanent protection of the Delta’s natural and scenic
17 resources is the paramount concern to present and future residents
18 of the state and nation.

19 (3) To promote the public safety, health, and welfare, and to
20 protect public and private property, wildlife, fisheries, and the
21 natural environment, it is necessary to protect and enhance the
22 ecosystem of the Delta and prevent its further deterioration and
23 destruction.

24 (4) Existing developed uses, and future developments that are
25 carefully planned and developed consistent with the policies of
26 this division, are essential to the economic and social well-being
27 of the people of this state and especially to persons living and
28 working in the Delta.

29 (d) The fundamental goals for managing land use in the Delta
30 are to do all of the following:

31 (1) Protect, maintain, enhance, and, where feasible, restore the
32 overall quality of the Delta environment and its natural and
33 artificial resources.

34 (2) Ensure the utilization and conservation of Delta resources,
35 taking into account the social and economic needs of the people
36 of the state.

37 (3) Maximize public access to Delta resources and maximize
38 public recreational opportunities in the Delta consistent with sound
39 resources conservation principles and constitutionally protected
40 rights of private property owners.

1 (4) Encourage state and local initiatives and cooperation in
2 preparing procedures to implement coordinated planning and
3 development for mutually beneficial uses, including educational
4 uses, in the Delta.

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

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

11 85023. The longstanding constitutional principle of reasonable
12 use and the public trust doctrine shall be the foundation of state
13 water management policy and are particularly important and
14 applicable to the Delta.

15
16 CHAPTER 3. MISCELLANEOUS PROVISIONS
17

18 85031. (a) This division does not diminish, impair, or
19 otherwise affect in any manner whatsoever any area of origin,
20 watershed of origin, county of origin, or any other water rights
21 protections, including, but not limited to, rights to water
22 appropriated prior to December 19, 1914, provided under the law.
23 This division does not limit or otherwise affect the application of
24 Article 1.7 (commencing with Section 1215) of Chapter 1 of Part
25 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461,
26 11462, and 11463, and Sections 12200 to 12220, inclusive.

27 (b) Nothing in this division supersedes, limits, or otherwise
28 modifies the applicability of Chapter 10 (commencing with Section
29 1700) of Part 2 of Division 2, including petitions related to any
30 new conveyance constructed or operated in accordance with
31 Chapter 2 (commencing with Section 85320) of Part 4.

32 (c) Unless otherwise expressly provided, nothing in this division
33 supersedes, reduces, or otherwise affects existing legal protections,
34 both procedural and substantive, relating to the board's regulation
35 of diversion and use of water, including, but not limited to, the
36 protection provided to municipal interests by Sections 106 and
37 106.5, and changes in water rights. Nothing in this division expands
38 or otherwise alters the board's existing authority to regulate the
39 diversion and use of water or the courts' existing concurrent
40 jurisdiction over California water rights.

- 1 85032. This division does not affect any of the following:
- 2 (a) The Natural Community Conservation Planning Act (Chapter
 - 3 10 (commencing with Section 2800) of Division 3 of the Fish and
 - 4 Game Code).
 - 5 (b) The California Endangered Species Act (Chapter 1.5
 - 6 (commencing with Section 2050) of Division 3 of the Fish and
 - 7 Game Code).
 - 8 (c) The Fish and Game Code.
 - 9 (d) The Porter-Cologne Water Quality Control Act (Division 7
 - 10 (commencing with Section 13000).
 - 11 (e) Chapter 8 (commencing with Section 12930) of Part 6 of
 - 12 Division 6.
 - 13 (f) The California Environmental Quality Act (Division 13
 - 14 (commencing with Section 21000) of the Public Resources Code).
 - 15 (g) Section 1702.
 - 16 (h) The application of the public trust doctrine.
 - 17 (i) Any water right.
 - 18 (j) The liability of the state for flood protection in the Delta or
 - 19 its watershed.
- 20 85034. (a) (1) The council shall administer all contracts,
- 21 grants, easements, and agreements made or entered into by the
- 22 California Bay-Delta Authority under Division 26.4 (commencing
- 23 with Section 79400), as that division read on December 31, 2009.
- 24 (2) The exercise of the authority described in paragraph (1) is
- 25 not subject to review or approval by the Department of General
- 26 Services.
- 27 (3) A contract, lease, license, or any other agreement to which
- 28 the California Bay-Delta Authority is a party is not void or voidable
- 29 as a result of the implementation of this subdivision, but shall
- 30 continue in full force and effect until the end of its term.
- 31 (b) The council shall be the successor to and shall assume from
- 32 the California Bay-Delta Authority all of the administrative rights,
- 33 abilities, obligations, and duties of that authority.
- 34 (c) The council shall have possession and control of all records,
- 35 papers, equipment, supplies, contracts, leases, agreements, and
- 36 other property, real or personal, connected with the administration
- 37 of Division 26.4 (commencing with Section 79400), as that division
- 38 read on December 31, 2009, or held for the benefit or use of the
- 39 California Bay-Delta Authority.

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

6 (e) Consistent with the responsibilities and duties assumed by
7 the council pursuant to this section, all staff, resources, and funding
8 within the Natural Resources Agency and the Department of
9 Forestry and Fire Protection for the support of the CALFED
10 Bay-Delta Program are hereby transferred to, and may be expended
11 for the purposes of, the council. The executive officer of the council
12 shall confer with the Director of Fish and Game, the director of
13 the department, and the executive director of the board regarding
14 possible reallocation of the staff and resources. The status, position,
15 and rights of any officer or employee shall not be affected by this
16 transfer and all officers and employees shall be retained pursuant
17 to the State Civil Service Act (Part 2 (commencing with Section
18 18500) of Division 5 of Title 2 of the Government Code).

19
20 CHAPTER 4. DEFINITIONS
21

22 85050. Unless the context otherwise requires, the definitions
23 set forth in this chapter govern the construction of this division.

24 85051. "Acquisition" means the acquisition of a fee interest
25 or any other interest, including easements, leases, and development
26 rights.

27 85052. "Adaptive management" means a framework and
28 flexible decisionmaking process for ongoing knowledge
29 acquisition, monitoring, and evaluation leading to continuous
30 improvement in management planning and implementation of a
31 project to achieve specified objectives.

32 85053. "Bay Delta Conservation Plan" or "BDCP" means a
33 multispecies conservation plan.

34 85054. "Coequal goals" means the two goals of providing a
35 more reliable water supply for California and protecting, restoring,
36 and enhancing the Delta ecosystem. The coequal goals shall be
37 achieved in a manner that protects and enhances the unique cultural,
38 recreational, natural resource, and agricultural values of the Delta
39 as an evolving place.

1 85055. “Commission” means the Delta Protection Commission
2 established in Division 19.5 (commencing with Section 29700) of
3 the Public Resources Code.

4 85056. “Conservancy” means the Sacramento-San Joaquin
5 Delta Conservancy established in Section 32320 of the Public
6 Resources Code.

7 85057. “Council” means the Delta Stewardship Council
8 established in Section 85200.

9 85057.5. (a) “Covered action” means a plan, program, project,
10 or activity that meets all of the following conditions:

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

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

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

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

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

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

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

24 (3) Regional transportation plans prepared pursuant to Section
25 65080 of the Government Code.

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

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

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

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

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

8 (B) Either a notice of determination is filed, pursuant to Section
9 21152 of the Public Resources Code, for the plan, program, project,
10 or activity by, or the plan, program, project, or activity is fully
11 permitted by, September 30, 2009.

12 85058. “Delta” means the Sacramento-San Joaquin Delta as
13 defined in Section 12220 and the Suisun Marsh, as defined in
14 Section 29101 of the Public Resources Code.

15 85059. “Delta Plan” means the comprehensive, long-term
16 management plan for the Delta as adopted by the council in
17 accordance with this division.

18 85060. “Delta watershed” means the Sacramento River
19 Hydrologic Region and the San Joaquin River Hydrologic Region
20 as described in the department’s Bulletin No. 160-05.

21 85064. “Public water agency” means a public entity, as defined
22 in Section 514, that provides water service, as defined in Section
23 515.

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

30 85067. “Strategic Plan” means both the “Delta Vision Strategic
31 Plan” issued by the Delta Vision Blue Ribbon Task Force on
32 October 17, 2008, and the “Delta Vision Implementation Report”
33 adopted by the Delta Vision Committee and dated December 31,
34 2008.

35
36 PART 2. EARLY ACTIONS
37

38 85080. The council shall appoint a Delta Independent Science
39 Board in accordance with Section 85280.

1 85082. The council shall develop and implement a strategy to
2 appropriately engage participation of the federal agencies with
3 responsibilities in the Delta. This strategy shall include engaging
4 these federal agencies to develop the Delta Plan consistent with
5 the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.
6 1451 et seq.), the federal Clean Water Act (33 U.S.C. Sec. 1251
7 et seq.), and Section 8 of the federal Reclamation Act of 1902.

8 85084. The council shall develop an interim plan that includes
9 recommendations for early actions, projects, and programs.

10 85084.5. The Department of Fish and Game, in consultation
11 with the United States Fish and Wildlife Service and the National
12 Marine Fisheries Service and based on the best available science,
13 shall develop and recommend to the board Delta flow criteria and
14 quantifiable biological objectives for aquatic and terrestrial species
15 of concern dependent on the Delta. The recommendations shall
16 be developed no later than 12 months after the date of enactment
17 of this division.

18 85085. The department shall do all of the following:

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

24 (b) Evaluate the effectiveness of the Three Mile Slough Barrier
25 project.

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

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

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

34 (b) It is the intent of the Legislature to establish an accelerated
35 process to determine instream flow needs of the Delta for the
36 purposes of facilitating the planning decisions that are required to
37 achieve the objectives of the Delta Plan.

38 (c) (1) For the purpose of informing planning decisions for the
39 Delta Plan and the Bay Delta Conservation Plan, the board shall,
40 pursuant to its public trust obligations, develop new flow criteria

1 for the Delta ecosystem necessary to protect public trust resources.
2 In carrying out this section, the board shall review existing water
3 quality objectives and use the best available scientific information.
4 The flow criteria for the Delta ecosystem shall include the volume,
5 quality, and timing of water necessary for the Delta ecosystem
6 under different conditions. The flow criteria shall be developed in
7 a public process by the board within nine months of the enactment
8 of this division. The public process shall be in the form of an
9 informational proceeding conducted pursuant to Article 3
10 (commencing with Section 649) of Chapter 1.5 of Division 3 of
11 Title 23 of the California Code of Regulations, and shall provide
12 an opportunity for all interested persons to participate. The board
13 shall provide an opportunity for all interested persons to participate
14 in the informational proceeding. The flow criteria shall not be
15 considered predecisional with regard to any subsequent board
16 consideration of a permit, including any permit in connection with
17 a final BDCP.

18 (2) Any order approving a change in the point of diversion of
19 the State Water Project or the federal Central Valley Project from
20 the southern Delta to a point on the Sacramento River shall include
21 appropriate Delta flow criteria and shall be informed by the analysis
22 conducted pursuant to this section. The flow criteria shall be subject
23 to modification over time based on a science-based adaptive
24 management program that integrates scientific and monitoring
25 results, including the contribution of habitat and other conservation
26 measures, into ongoing Delta water management.

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

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

38 (e) The board shall submit its flow criteria determinations
39 pursuant to this section to the council for its information within
40 30 days of completing the determinations.

1 85087. The board, by December 31, 2010, shall submit to the
 2 Legislature a prioritized schedule and estimate of costs to complete
 3 instream flow studies for the Delta and for high priority rivers and
 4 streams in the Delta watershed, not otherwise covered by Section
 5 85086, by 2012, and for all major rivers and streams outside the
 6 Sacramento River watershed by 2018. In developing this schedule,
 7 the board shall consult with the Department of Fish and Game as
 8 to the timing of its submission of recommendations for instream
 9 flow needs.

10 85088. Until the board issues an order approving a change in
 11 the point of diversion of the State Water Project and the federal
 12 Central Valley Project from the southern Delta to a point on the
 13 Sacramento River as specified in subdivision (c) of Section 85086,
 14 the department shall not commence construction of any diversion,
 15 conveyance, or other facility necessary to divert and convey water
 16 pursuant to the change in point of diversion.

17 85089. Construction of a new Delta conveyance facility shall
 18 not be initiated until the persons or entities that contract to receive
 19 water from the State Water Project and the federal Central Valley
 20 Project or a joint powers authority representing those entities have
 21 made arrangements or entered into contracts to pay for both of the
 22 following:

23 (a) The costs of the environmental review, planning, design,
 24 construction, mitigation, and operation and maintenance of any
 25 new Delta water conveyance facility. The costs of mitigation
 26 include the costs of mitigation pursuant to Division 13
 27 (commencing with Section 21000) of the Public Resources Code
 28 in connection with the construction, operation, and maintenance
 29 of any new Delta water conveyance facility.

30 (b) Full mitigation of property tax or assessments levied by local
 31 governments or special districts for land used in the construction,
 32 location, mitigation, or operation of new Delta conveyance
 33 facilities.

34
 35 PART 3. DELTA GOVERNANCE

36
 37 CHAPTER 1. DELTA STEWARDSHIP COUNCIL

38
 39 85200. (a) The Delta Stewardship Council is hereby established
 40 as an independent agency of the state.

1 (b) (1) The council shall consist of seven members, of which
2 four members shall be appointed by the Governor and confirmed
3 by the Senate, one member shall be appointed by the Senate
4 Committee on Rules, one member shall be appointed by the
5 Speaker of the Assembly, and one member shall be the Chairperson
6 of the Delta Protection Commission. Initial appointments to the
7 council shall be made by July 1, 2010.

8 (2) No member of the council shall serve two consecutive terms,
9 but a member may be reappointed after a period of two years
10 following the end of his or her term, except that those members
11 of the council that serve an initial term of one or two years may
12 be immediately appointed to a subsequent full four-year term.

13 (c) (1) (A) The initial terms of two of the four members
14 appointed by the Governor shall be four years:

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

17 (C) The initial terms of the members appointed by the Senate
18 Committee on Rules and the Speaker of the Assembly shall be
19 four years.

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

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

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

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

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

36 85201. The chairperson shall serve full time. Other members
37 shall serve one-third time. The council may select a vice
38 chairperson and other officers determined to be necessary.

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

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

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

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

7 (e) The number of employees and qualifications of those
8 employees shall be determined by the council, subject to the
9 availability of funds.

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

13 (g) All persons employed by the council are state employees,
14 subject to the duties, responsibilities, limitations, and benefits of
15 the state.

16 85202. Council members shall possess diverse expertise and
17 reflect a statewide perspective.

18 85203. The headquarters of the council shall be located in
19 Sacramento.

20 85204. The council shall establish and oversee a committee of
21 agencies responsible for implementing the Delta Plan. Each agency
22 shall coordinate its actions pursuant to the Delta Plan with the
23 council and the other relevant agencies.

24

25 CHAPTER 2. MISSION, DUTIES, AND RESPONSIBILITIES OF THE
26 COUNCIL

27

28 85210. The council has all of the following powers:

29 (a) To sue or be sued.

30 (b) To enter into contracts.

31 (c) To employ the services of public, nonprofit, and private
32 entities.

33 (d) To delegate administrative functions to council staff.

34 (e) To employ its own legal staff or contract with other state or
35 federal agencies for legal services, or both. The council may
36 employ special legal counsel with the approval of the Attorney
37 General.

38 (f) To receive funds, including funds from private and local
39 governmental sources, contributions from public and private
40 sources, as well as state and federal appropriations.

1 (g) To disburse funds through grants, public assistance, loans,
2 and contracts.

3 (h) To request reports from state, federal, and local governmental
4 agencies on issues related to the implementation of the Delta Plan.

5 (i) To adopt regulations or guidelines as needed to carry out the
6 powers and duties identified in this division.

7 (j) To comment on state agency environmental impact reports
8 for projects outside the Delta that the council determines will have
9 a significant impact on the Delta.

10 (k) To hold hearings in all parts of the state necessary to carry
11 out the powers vested in it, and for those purposes has the powers
12 conferred upon the heads of state departments pursuant to Article
13 2 (commencing with Section 11180) of Chapter 2 of Part 1 of
14 Division 3 of Title 2 of the Government Code. Any hearing by the
15 council may be conducted by any member of the council, or other
16 designee, upon authorization of the council, and he or she shall
17 have the powers granted to the council by this section, provided
18 that any final action of the council shall be taken by a majority of
19 the members of the council at a meeting duly called and held.

20 85211. The Delta Plan shall include performance measurements
21 that will enable the council to track progress in meeting the
22 objectives of the Delta Plan. The performance measurements shall
23 include, but need not be limited to, quantitative or otherwise
24 measurable assessments of the status and trends in all of the
25 following:

26 (a) The health of the Delta’s estuary and wetland ecosystem for
27 supporting viable populations of aquatic and terrestrial species,
28 habitats, and processes, including viable populations of Delta
29 fisheries and other aquatic organisms.

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

32

33 CHAPTER 3. CONSISTENCY OF STATE AND LOCAL PUBLIC
34 AGENCY ACTIONS

35

36 85225. A state or local public agency that proposes to undertake
37 a covered action, prior to initiating the implementation of that
38 covered action, shall prepare a written certification of consistency
39 with detailed findings as to whether the covered action is consistent
40 with the Delta Plan and shall submit that certification to the council.

1 85225.5. To assist state and local public agencies in preparing
2 the required certification, the council shall develop procedures for
3 early consultation with the council on the proposed covered action.

4 85225.10. (a) Any person who claims that a proposed covered
5 action is inconsistent with the Delta Plan and, as a result of that
6 inconsistency, the action will have a significant adverse impact on
7 the achievement of one or both of the coequal goals or
8 implementation of government-sponsored flood control programs
9 to reduce risks to people and property in the Delta, may file an
10 appeal with regard to a certification of consistency submitted to
11 the council.

12 (b) The appeal shall clearly and specifically set forth the basis
13 for the claim, including specific factual allegations, that the covered
14 action is inconsistent with the Delta Plan. The council may request
15 from the appellant additional information necessary to clarify,
16 amplify, correct, or otherwise supplement the information
17 submitted with the appeal, within a reasonable period.

18 (c) The council, or by delegation the executive officer, may
19 dismiss the appeal for failure of the appellant to provide
20 information requested by the council within the period provided,
21 if the information requested is in the possession or under the control
22 of the appellant.

23 85225.15. The appeal shall be filed no later than 30 days after
24 the submission of the certification of consistency. If no person
25 appeals the certification of consistency, the state or local public
26 agency may proceed to implement the covered action.

27 85225.20. The appeal shall be heard by the council within 60
28 days of the date of the filing of the appeal, unless the council, or
29 by delegation the executive officer, determines that the issue raised
30 on appeal is not within the council's jurisdiction or does not raise
31 an appealable issue. The council shall make its decision on the
32 appeal within 60 days of hearing the appeal.

33 85225.25. After a hearing on an appealed action, the council
34 shall make specific written findings either denying the appeal or
35 remanding the matter to the state or local public agency for
36 reconsideration of the covered action based on the finding that the
37 certification of consistency is not supported by substantial evidence
38 in the record before the state or local public agency that filed the
39 certification. Upon remand, the state or local agency may determine
40 whether to proceed with the covered action. If the agency decides

1 to proceed with the action or with the action as modified to respond
2 to the findings of the council, the agency shall, prior to proceeding
3 with the action, file a revised certification of consistency that
4 addresses each of the findings made by the council and file that
5 revised certification with the council.

6 85225.30. The council shall adopt administrative procedures
7 governing appeals, which shall be exempt from Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code.

10
11 CHAPTER 4. DELTA WATERMASTER
12

13 85230. (a) The board, in consultation with the council, shall
14 appoint, for a term of four years, a special master for the Delta,
15 whose title shall be “the Delta Watermaster.”

16 (b) The board shall adopt internal procedures delegating
17 authority to the Delta Watermaster. The Delta Watermaster shall
18 exercise the board’s authority to provide timely monitoring and
19 enforcement of board orders and permit terms and conditions. The
20 Delta Watermaster’s delegated authority shall include authority
21 to require monitoring and reporting, authority for approvals
22 delegated to an officer or employee of the board by the terms of
23 a water right permit or license, authority to approve temporary
24 urgency changes pursuant to Chapter 6.6 (commencing with section
25 1435) of Part 2 of Division 2, and authority to issue a notice of
26 proposed cease and desist order or administrative civil liability
27 complaint. The Delta Watermaster’s authority shall be limited to
28 diversions in the Delta and the application and enforcement of the
29 board’s requirements that apply to conditions in the Delta.

30 (c) The internal procedures adopted by the board shall provide
31 for due process in adjudicative proceedings, and may establish
32 procedures for the issuance of a stay of any order or decision of
33 the Delta Watermaster for which a petition for reconsideration is
34 filed or reconsideration is ordered under Section 1122. The board
35 may provide any additional duties or needs of the Delta
36 Watermaster that the board deems necessary for effective
37 day-to-day enforcement of its decisions.

38 (d) The Delta Watermaster shall submit regular reports to the
39 board and the council including, but not limited to, reports on water

1 rights administration, water quality issues, and conveyance
2 operations.

3

4 CHAPTER 5. DELTA INDEPENDENT SCIENCE BOARD AND DELTA
5 SCIENCE PROGRAM

6

7 85280. (a) The Delta Independent Science Board is hereby
8 established in state government.

9 (1) The Delta Independent Science Board shall consist of no
10 more than 10 members appointed by the council. The term of office
11 for members of the Delta Independent Science Board shall be five
12 years. A member may serve no more than two terms.

13 (2) Members of the Delta Independent Science Board shall be
14 nationally or internationally prominent scientists with appropriate
15 expertise to evaluate the broad range of scientific programs that
16 support adaptive management of the Delta. The members shall not
17 be directly affiliated with a program or agency subject to the review
18 activities of the Delta Independent Science Board.

19 (3) The Delta Independent Science Board shall provide oversight
20 of the scientific research, monitoring, and assessment programs
21 that support adaptive management of the Delta through periodic
22 reviews of each of those programs that shall be scheduled to ensure
23 that all Delta scientific research, monitoring, and assessment
24 programs are reviewed at least once every four years.

25 (4) The Delta Independent Science Board shall submit to the
26 council a report on the results of each review, including
27 recommendations for any changes in the programs reviewed by
28 the board.

29 (b) After consultation with the Delta Independent Science Board,
30 the council shall appoint a lead scientist for the Delta Science
31 Program.

32 (1) The lead scientist shall meet all of the following
33 qualifications:

34 (A) Hold an advanced degree in a field related to water or
35 ecosystem management.

36 (B) Have a strong record of scientific research and publication
37 in peer-reviewed scientific journals in a field related to water or
38 ecosystem management.

1 (C) Have experience advising high-level managers in
2 science-based decisionmaking in the areas of water management
3 and ecosystem restoration.

4 (D) Have the capability to guide the application of an adaptive
5 management process to resource management policy decisions in
6 the Delta.

7 (2) The term of office for the lead scientist shall be no more
8 than three years. The lead scientist may serve no more than two
9 terms.

10 (3) The lead scientist shall oversee the implementation of the
11 Delta Science Program. In carrying out that responsibility, the lead
12 scientist shall regularly consult with the agencies participating in
13 the program.

14 (4) The mission of the Delta Science Program shall be to provide
15 the best possible unbiased scientific information to inform water
16 and environmental decisionmaking in the Delta. That mission shall
17 be carried out through funding research, synthesizing and
18 communicating scientific information to policymakers and
19 decisionmakers, promoting independent scientific peer review,
20 and coordinating with Delta agencies to promote science-based
21 adaptive management. The Delta Science Program shall assist with
22 development and periodic updates of the Delta Plan's adaptive
23 management program.

24 (c) The Delta Science Program shall function as a replacement
25 for, and successor to, the CALFED Science Program and the Delta
26 Independent Science Board shall replace the CALFED Independent
27 Science Board.

28
29 **PART 4. COMPREHENSIVE DELTA PLANNING**

30
31 **CHAPTER 1. THE DELTA PLAN**

32
33 85300. (a) On or before January 1, 2012, the council shall
34 develop, adopt, and commence implementation of the Delta Plan
35 pursuant to this part that furthers the coequal goals. The Delta Plan
36 shall include subgoals and strategies to assist in guiding state and
37 local agency actions related to the Delta. In developing the Delta
38 Plan, the council shall consider each of the strategies and actions
39 set forth in the Strategic Plan and may include any of those
40 strategies or actions in the Delta Plan. The Delta Plan may also

1 identify specific actions that state or local agencies may take to
2 implement the subgoals and strategies.

3 (b) In developing the Delta Plan, the council shall consult with
4 federal, state, and local agencies with responsibilities in the Delta.
5 All state agencies with responsibilities in the Delta shall cooperate
6 with the council in developing the Delta Plan, upon request of the
7 council.

8 (c) The council shall review the Delta Plan at least once every
9 five years and may revise it as the council deems appropriate. The
10 council may request any state agency with responsibilities in the
11 Delta to make recommendations with respect to revision of the
12 Delta Plan.

13 (d) (1) The council shall develop the Delta Plan consistent with
14 all of the following:

15 (A) The federal Coastal Zone Management Act of 1972 (16
16 U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism.

17 (B) Section 8 of the federal Reclamation Act of 1902.

18 (C) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

19 (2) If the council adopts a Delta Plan pursuant to the federal
20 Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et
21 seq.), the council shall submit the Delta Plan for approval to the
22 United States Secretary of Commerce pursuant to that act, or to
23 any other federal official assigned responsibility for the Delta
24 pursuant to a federal statute enacted after January 1, 2010.

25 (e) The council shall report to the Legislature no later than
26 March 31, 2012, as to its adoption of the Delta Plan.

27 85301. (a) The commission shall develop, for consideration
28 and incorporation into the Delta Plan by the council, a proposal to
29 protect, enhance, and sustain the unique cultural, historical,
30 recreational, agricultural, and economic values of the Delta as an
31 evolving place, in a manner consistent with the coequal goals. For
32 the purpose of carrying out this subdivision, the commission may
33 include in the proposal the relevant strategies described in the
34 Strategic Plan.

35 (b) (1) The commission shall include in the proposal a plan to
36 establish state and federal designation of the Delta as a place of
37 special significance, which may include application for a federal
38 designation of the Delta as a National Heritage Area.

39 (2) The commission shall include in the proposal a regional
40 economic plan to support increased investment in agriculture,

1 recreation, tourism, and other resilient land uses in the Delta. The
2 regional economic plan shall include detailed recommendations
3 for the administration of the Delta Investment Fund created by
4 Section 29778.5 of the Public Resources Code.

5 (c) For the purposes of assisting the commission in its
6 preparation of the proposal, both of the following actions shall be
7 undertaken:

8 (1) The Department of Parks and Recreation shall prepare a
9 proposal, for submission to the commission, to expand within the
10 Delta the network of state recreation areas, combining existing
11 and newly designated areas. The proposal may incorporate
12 appropriate aspects of any existing plans, including the Central
13 Valley Vision Implementation Plan adopted by the Department of
14 Parks and Recreation.

15 (2) The Department of Food and Agriculture shall prepare a
16 proposal, for submission to the commission, to establish market
17 incentives and infrastructure to protect and enhance the economic
18 and public values of Delta agriculture.

19 (d) The commission shall submit the proposal developed
20 pursuant to subdivision (a) to the council. The council shall
21 consider the proposal and may include any portion of the proposal
22 in the Delta Plan if the council, in its discretion, determines that
23 the portion of the proposal is feasible and consistent with the
24 objectives of the Delta Plan and the purposes of this division.

25 85302. (a) The implementation of the Delta Plan shall further
26 the restoration of the Delta ecosystem and a reliable water supply.

27 (b) The geographic scope of the ecosystem restoration projects
28 and programs identified in the Delta Plan shall be the Delta, except
29 that the Delta Plan may include recommended ecosystem projects
30 outside the Delta that will contribute to achievement of the coequal
31 goals.

32 (c) The Delta Plan shall include measures that promote all of
33 the following characteristics of a healthy Delta ecosystem:

34 (1) Viable populations of native resident and migratory species.

35 (2) Functional corridors for migratory species.

36 (3) Diverse and biologically appropriate habitats and ecosystem
37 processes.

38 (4) Reduced threats and stresses on the Delta ecosystem.

1 (5) Conditions conducive to meeting or exceeding the goals in
2 existing species recovery plans and state and federal goals with
3 respect to doubling salmon populations.

4 (d) The Delta Plan shall include measures to promote a more
5 reliable water supply that address all of the following:

6 (1) Meeting the needs for reasonable and beneficial uses of
7 water.

8 (2) Sustaining the economic vitality of the state.

9 (3) Improving water quality to protect human health and the
10 environment.

11 (e) The following subgoals and strategies for restoring a healthy
12 ecosystem shall be included in the Delta Plan:

13 (1) Restore large areas of interconnected habitats within the
14 Delta and its watershed by 2100.

15 (2) Establish migratory corridors for fish, birds, and other
16 animals along selected Delta river channels.

17 (3) Promote self-sustaining, diverse populations of native and
18 valued species by reducing the risk of take and harm from invasive
19 species.

20 (4) Restore Delta flows and channels to support a healthy estuary
21 and other ecosystems.

22 (5) Improve water quality to meet drinking water, agriculture,
23 and ecosystem long-term goals.

24 (6) Restore habitat necessary to avoid a net loss of migratory
25 bird habitat and, where feasible, increase migratory bird habitat
26 to promote viable populations of migratory birds.

27 (f) The council shall consider, for incorporation into the Delta
28 Plan, actions designed to implement the subgoals and strategies
29 described in subdivision (e).

30 (g) In carrying out this section, the council shall make use of
31 the best available science.

32 (h) The Delta Plan shall include recommendations regarding
33 state agency management of lands in the Delta.

34 85303. The Delta Plan shall promote statewide water
35 conservation, water use efficiency, and sustainable use of water.

36 85304. The Delta Plan shall promote options for new and
37 improved infrastructure relating to the water conveyance in the
38 Delta, storage systems, and for the operation of both to achieve
39 the coequal goals.

1 85305. (a) The Delta Plan shall attempt to reduce risks to
2 people, property, and state interests in the Delta by promoting
3 effective emergency preparedness, appropriate land uses, and
4 strategic levee investments.

5 (b) The council may incorporate into the Delta Plan the
6 emergency preparedness and response strategies for the Delta
7 developed by the California Emergency Management Agency
8 pursuant to Section 12994.5.

9 85306. The council, in consultation with the Central Valley
10 Flood Protection Board, shall recommend in the Delta Plan
11 priorities for state investments in levee operation, maintenance,
12 and improvements in the Delta, including both levees that are a
13 part of the State Plan of Flood Control and nonproject levees.

14 85307. (a) The Delta Plan may identify actions to be taken
15 outside of the Delta, if those actions are determined to significantly
16 reduce flood risks in the Delta.

17 (b) The Delta Plan may include local plans of flood protection.

18 (c) The council, in consultation with the Department of
19 Transportation, may address in the Delta Plan the effects of climate
20 change and sea level rise on the three state highways that cross the
21 Delta.

22 (d) The council, in consultation with the State Energy Resources
23 Conservation and Development Commission and the Public
24 Utilities Commission, may incorporate into the Delta Plan
25 additional actions to address the needs of Delta energy
26 development, energy storage, and energy distribution.

27 85308. The Delta Plan shall meet all of the following
28 requirements:

29 (a) Be based on the best available scientific information and the
30 independent science advice provided by the Delta Independent
31 Science Board.

32 (b) Include quantified or otherwise measurable targets associated
33 with achieving the objectives of the Delta Plan.

34 (c) Where appropriate, utilize monitoring, data collection, and
35 analysis of actions sufficient to determine progress toward meeting
36 the quantified targets.

37 (d) Describe the methods by which the council shall measure
38 progress toward achieving the coequal goals.

39 (e) Where appropriate, recommend integration of scientific and
40 monitoring results into ongoing Delta water management.

1 (f) Include a science-based, transparent, and formal adaptive
 2 management strategy for ongoing ecosystem restoration and water
 3 management decisions.
 4 85309. The department, in consultation with the United States
 5 Army Corps of Engineers and the Central Valley Flood Protection
 6 Board, shall prepare a proposal to coordinate flood and water
 7 supply operations of the State Water Project and the federal Central
 8 Valley Project, and submit the proposal to the council for
 9 consideration for incorporation into the Delta Plan. In drafting the
 10 proposal, the department shall consider all related actions set forth
 11 in the Strategic Plan.

12
 13 CHAPTER 2. BAY DELTA CONSERVATION PLAN
 14

15 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be
 16 considered for inclusion in the Delta Plan in accordance with this
 17 chapter.
 18 (b) The BDCP shall not be incorporated into the Delta Plan and
 19 the public benefits associated with the BDCP shall not be eligible
 20 for state funding, unless the BDCP does all of the following:
 21 (1) Complies with Chapter 10 (commencing with Section 2800)
 22 of Division 3 of the Fish and Game Code.
 23 (2) Complies with Division 13 (commencing with Section
 24 21000) of the Public Resources Code, including a comprehensive
 25 review and analysis of all of the following:
 26 (A) A reasonable range of flow criteria, rates of diversion, and
 27 other operational criteria required to satisfy the criteria for approval
 28 of a natural community conservation plan as provided in
 29 subdivision (a) of Section 2820 of the Fish and Game Code, and
 30 other operational requirements and flows necessary for recovering
 31 the Delta ecosystem and restoring fisheries under a reasonable
 32 range of hydrologic conditions, which will identify the remaining
 33 water available for export and other beneficial uses.
 34 (B) A reasonable range of Delta conveyance alternatives,
 35 including through-Delta, dual conveyance, and isolated conveyance
 36 alternatives and including further capacity and design options of
 37 a lined canal, an unlined canal, and pipelines.
 38 (C) The potential effects of climate change, possible sea level
 39 rise up to 55 inches, and possible changes in total precipitation

1 and runoff patterns on the conveyance alternatives and habitat
2 restoration activities considered in the environmental impact report.

3 (D) The potential effects on migratory fish and aquatic resources.

4 (E) The potential effects on Sacramento River and San Joaquin
5 River flood management.

6 (F) The resilience and recovery of Delta conveyance alternatives
7 in the event of catastrophic loss caused by earthquake or flood or
8 other natural disaster.

9 (G) The potential effects of each Delta conveyance alternative
10 on Delta water quality.

11 (c) The department shall consult with the council and the Delta
12 Independent Science Board during the development of the BDCP.
13 The council shall be a responsible agency in the development of
14 the environmental impact report. The Delta Independent Science
15 Board shall review the draft environmental impact report and
16 submit its comments to the council and the Department of Fish
17 and Game.

18 (d) If the Department of Fish and Game approves the BDCP as
19 a natural community conservation plan pursuant to Chapter 10
20 (commencing with Section 2800) of Division 3 of the Fish and
21 Game Code, the council shall have at least one public hearing
22 concerning the incorporation of the BDCP into the Delta Plan.

23 (e) If the Department of Fish and Game approves the BDCP as
24 a natural community conservation plan pursuant to Chapter 10
25 (commencing with Section 2800) of Division 3 of the Fish and
26 Game Code and determines that the BDCP meets the requirements
27 of this section, and the BDCP has been approved as a habitat
28 conservation plan pursuant to the federal Endangered Species Act
29 (16 U.S.C. Section 1531 et seq.), the council shall incorporate the
30 BDCP into the Delta Plan. The Department of Fish and Game's
31 determination that the BDCP has met the requirements of this
32 section may be appealed to the council.

33 (f) The department, in coordination with the Department of Fish
34 and Game, or any successor agencies charged with BDCP
35 implementation, shall report to the council on the implementation
36 of the BDCP at least once a year, including the status of monitoring
37 programs and adaptive management.

38 (g) The council may make recommendations to BDCP
39 implementing agencies regarding the implementation of the BDCP.
40 BDCP implementing agencies shall consult with the council on

1 these recommendations. These recommendations shall not change
2 the terms and conditions of the permits issued by state and federal
3 regulatory agencies.

4 85321. The BDCP shall include a transparent, real-time
5 operational decisionmaking process in which fishery agencies
6 ensure that applicable biological performance measures are
7 achieved in a timely manner with respect to water system
8 operations.

9 85322. This chapter does not amend, or create any additional
10 legal obligation or cause of action under, Chapter 10 (commencing
11 with Section 2800) of Division 3 of the Fish and Game Code or
12 Division 13 (commencing with Section 21000) of the Public
13 Resources Code.

14
15 CHAPTER 3. OTHER PLANS FOR THE DELTA
16

17 85350. The council may incorporate other completed plans
18 related to the Delta into the Delta Plan to the extent that the other
19 plans promote the coequal goals.

20 SEC. 74. (a) Pursuant to Section 75026 of the Public Resources
21 Code, the sum of twenty-eight million dollars (\$28,000,000) is
22 hereby appropriated to the Department of Water Resources for
23 expenditure by that department pursuant to paragraph (12) of
24 subdivision (a) of Section 75027 of the Public Resources Code for
25 the Two-Gates Fish Protection Demonstration Program managed
26 by the United States Bureau of Reclamation. The Department of
27 Water Resources shall expend such funds only consistent with the
28 requirements of Sections 75026 and 75027 of the Public Resources
29 Code.

30 (b) It is the intent of the Legislature to finance the activities of
31 the Delta Stewardship Council and the Sacramento-San Joaquin
32 Delta Conservancy from funds made available pursuant to the
33 Disaster Preparedness and Flood Prevention Bond Act of 2006
34 (Chapter 1.699 (commencing with Section 5096.800) of Division
35 5 of the Public Resources Code) and the Safe Drinking Water,
36 Water Quality and Supply, Flood Control, River and Coastal
37 Protection Bond Act of 2006 (Division 43 (commencing with
38 Section 75001) of the Public Resources Code).

39 SEC. 75. Item 3940-001-0439 of Section 2.00 of the Budget
40 Act of 2009 is amended to read:

1	3940-001-0439—For support of State Water Resources Control	
2	Board.....	238,113,000
3	Schedule:	
4	(1) 10-Water Quality.....	439,650,000
5	(2) 20-Water Rights.....	11,658,000
6		15,408,000
7	(3) 30.01-Administration.....	20,886,000
8		21,059,000
9	(4) 30.02-Distributed Administration.....	-20,886,000
10		-21,059,000
11	(5) Reimbursements.....	-8,932,000
12	(6) Amount payable from the General	
13	Fund (Item 3940-001-0001).....	-40,575,000
14	(7) Amount payable from the Unified Pro-	
15	gram Account (Item 3940-001-0028)....	-621,000
16	(8) Amount payable from the Waste Dis-	
17	charge Permit Fund (Item 3940-001-	
18	0193).....	-78,768,000
19	(9) Amount payable from the Marine Inva-	
20	sive Species Control Fund (Item 3940-	
21	001-0212).....	-103,000
22	(10) Amount payable from the Public Re-	
23	sources Account, Cigarette and Tobacco	
24	Products Surtax Fund (Item 3940-001-	
25	0235).....	-2,039,000
26	(11) Amount payable from the Integrated	
27	Waste Management Account, Integrated	
28	Waste Management Fund (Item 3940-	
29	001-0387).....	-6,757,000
30	(12) Amount payable from the Water Recy-	
31	cling Subaccount (Item 3940-001-	
32	0419).....	-1,150,000
33	(13) Amount payable from the Drainage	
34	Management Subaccount (Item 3940-	
35	001-0422).....	-515,000
36	(14) Amount payable from the Seawater In-	
37	trusion Control Subaccount (Item 3940-	
38	001-0424).....	-222,000

1	(15) Amount payable from the Underground	
2	Storage Tank Tester Account (Item	
3	3940-001-0436).....	-64,000
4	(16) Amount payable from the 1984 State	
5	Clean Water Bond Fund (Item 3940-	
6	001-0740).....	-322,000
7	(17) Amount payable from the Federal	
8	Trust Fund (Item 3940-001-0890)....	-51,353,000
9	(18) Amount payable from the Water	
10	Rights Fund (Item 3940-001-3058)....	-7,447,000
11		-11,197,000
12	(19) Amount payable from the Watershed	
13	Protection Subaccount (Item 3940-001-	
14	6013).....	-250,000
15	(20) Amount payable from the Santa Ana	
16	River Watershed Subaccount (Item	
17	3940-001-6016).....	-250,000
18	(21) Amount payable from the Lake Elsinore	
19	and San Jacinto Watershed Subaccount	
20	(Item 3940-001-6017).....	-150,000
21	(22) Amount payable from the Nonpoint	
22	Source Pollution Control Subaccount	
23	(Item 3940-001-6019).....	-200,000
24	(23) Amount payable from the State Revolv-	
25	ing Fund Loan Subaccount (Item 3940-	
26	001-6020).....	-81,000
27	(24) Amount payable from the Wastewater	
28	Construction Grant Subaccount (Item	
29	3940-001-6021).....	-23,000
30	(25) Amount payable from the Coastal	
31	Nonpoint Source Control Subaccount	
32	(Item 3940-001-6022).....	-150,000
33	(26) Amount payable from the Water Secu-	
34	rity, Clean Drinking Water, Coastal and	
35	Beach Protection Fund of 2002 (Item	
36	3940-001-6031).....	-3,000,000

1	(27) Amount payable from the Safe Drinking	
2	Water, Water Quality and Supply,	
3	Flood Control, River and Coastal Pro-	
4	tection Fund of 2006 (Item 3940-001-	
5	6051).....	-4,073,000
6	(28) Amount payable from the Petroleum	
7	Underground Storage Tank Financing	
8	Account (Item 3940-001-8026).....	-618,000
9	(29) Amount payable from the State Water	
10	Pollution Control Revolving Fund Ad-	
11	ministration Fund (Item 3940-001-	
12	9739).....	-5,532,000

- 13 Provisions:
- 14 1. Notwithstanding any other provision of law, upon ap-
 15 proval and order of the Director of Finance, the State
 16 Water Resources Control Board may borrow sufficient
 17 funds for cash purposes from special funds that other-
 18 wise provide support for the board. Any such loans
 19 are to be repaid with interest at the rate earned in the
 20 Pooled Money Investment Account.
 - 21 2. *Of the amount contained in Schedule (2), \$3,750,000*
 22 *shall be used to fund 25.0 permanent positions in*
 23 *support of water rights enforcement.*

24
 25 SEC. 76. Item 3940-001-3058 of Section 2.00 of the Budget
 26 Act of 2009 is amended to read:

27		
28	3940-001-3058—For support of State Water Resources Control	
29	Board, for payment to Item 3940-001-0439, payable from	
30	the Water Rights Fund.....	7,447,000
31		11,197,000

- 32 Provisions:
- 33 1. *The increase in appropriation in this item shall be*
 34 *paid only from the fee revenue in the Water Rights*
 35 *Fund.*

36
 37 SEC. 77. Commencing with the 2010–11 fiscal year, and
 38 notwithstanding Section 13340 of the Government Code, three
 39 million seven hundred fifty thousand dollars (\$3,750,000) is hereby
 40 continuously appropriated, without regard to fiscal years, on an

1 annual basis, only from the fee revenue in the Water Rights Fund
 2 to the State Water Resources Control Board for the purposes of
 3 funding 25.0 permanent water right enforcement positions, as
 4 provided in Schedule (2) of Item 3940-001-0439 of Section 2.00
 5 of the Budget Act of 2009, as amended by this act.

6 SEC. 78. No reimbursement is required by this act pursuant to
 7 Section 6 of Article XIII B of the California Constitution for certain
 8 costs that may be incurred by a local agency or school district
 9 because, in that regard, this act creates a new crime or infraction,
 10 eliminates a crime or infraction, or changes the penalty for a crime
 11 or infraction, within the meaning of Section 17556 of the
 12 Government Code, or changes the definition of a crime within the
 13 meaning of Section 6 of Article XIII B of the California
 14 Constitution.

15 However, if the Commission on State Mandates determines that
 16 this act contains other costs mandated by the state, reimbursement
 17 to local agencies and school districts for those costs shall be made
 18 pursuant to Part 7 (commencing with Section 17500) of Division
 19 4 of Title 2 of the Government Code.

20 SEC. 79. This act shall take effect only if ____ of the 2009–10
 21 Seventh Extraordinary Session of the Legislature is enacted and
 22 becomes operative.

O