

Senate Bill No. 51

Passed the Senate August 31, 2010

Secretary of the Senate

Passed the Assembly August 31, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add the heading to Article 1 (commencing with Section 2930) of, and to add Article 2 (commencing with Section 2940) to, Chapter 13 of Division 3 of, the Fish and Game Code, relating to the Salton Sea Restoration Council.

LEGISLATIVE COUNSEL'S DIGEST

SB 51, Ducheny. Salton Sea Restoration Council.

Existing law requires the Secretary of the Natural Resources Agency, in consultation with the Department of Fish and Game, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and a specified advisory committee, to undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. Existing law establishes the Salton Sea Restoration Fund, which is administered by the Director of Fish and Game, and requires the moneys in that fund to be expended, upon appropriation by the Legislature, for various actions on behalf of the Salton Sea, including the implementation of the preferred Salton Sea restoration alternative.

This bill would establish the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea. For the purpose of developing a restoration plan, the bill would require the council to evaluate Salton Sea restoration plans and, by June 30, 2013, report to the Governor and the Legislature with a recommended Salton Sea restoration plan. The bill would require the council to comply with specified requirements in conducting its duties.

The bill would prescribe requirements relating to the composition and administration of the council. The council would be required to include an executive committee, a science committee, a local government forum, and a stakeholder forum, as specified. The executive committee would be required to serve as the governing body of the council and provide guidance and oversight on behalf of the restoration program.

The bill would require the Department of Fish and Game and the Department of Water Resources to implement specified

activities relating to the restoration of the Salton Sea. The bill would require the Department of Fish and Game and the Department of Water Resources to provide staff services that the council requires to carry out its activities and would require the directors of these departments to enter into interagency agreements with other state agencies to provide staff services.

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

SECTION 1. The heading of Article 1 (commencing with Section 2930) is added to Chapter 13 of Division 3 of the Fish and Game Code, to read:

Article 1. General Provisions

SEC. 2. Article 2 (commencing with Section 2940) is added to Chapter 13 of Division 3 of the Fish and Game Code, to read:

Article 2. Salton Sea Restoration Council

2940. The Legislature finds and declares all of the following:

(a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.

(b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.

(c) The Salton Sea is threatened by increasing salinity and reduced inflows. These changes increasingly threaten unparalleled wildlife resources at the sea, as well as air quality in the region.

(d) In cooperation with local governments, nonprofit organizations, private business, and the public, the Salton Sea Restoration Council can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.

(e) In restoring the Salton Sea, it is the intent of the Legislature to do all of the following:

(1) Permanently protect fish and wildlife that are dependent on the Salton Sea ecosystem.

(2) Restore the long-term stable aquatic and shoreline habitat for fish and wildlife that depend on the Salton Sea.

(3) Eliminate air quality impacts from restoration projects using the best available technology, as determined by the South Coast Air Quality Management District and the Imperial County Air Pollution Control District.

(4) Protect water quality.

(5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

(6) Preserve local tribal heritage and cultural values associated with the Salton Sea.

(7) Minimize noxious odors and other water and air quality problems.

2941. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this article.

(a) “Agency” means the Natural Resources Agency.

(b) “Council” means the Salton Sea Restoration Council.

(c) “Habitat mosaics” means two or more proximate habitat types, such as saltwater shoreline abutting riverine deltas and irrigated farmland.

(d) “Salton Sea watershed” means the geographic boundaries of the Salton Sea basin, defined as the United States Geologic Survey Hydrologic Unit 18100200 (“Salton Sea”).

(e) “Sea” means the Salton Sea.

(f) “Secretary” means the Secretary of the Natural Resources Agency.

(g) “Vector management” means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

2942. (a) There is in the Natural Resources Agency the Salton Sea Restoration Council, which is established as a state agency to oversee the restoration of the Salton Sea, including all of the following:

(1) Early start habitat demonstration projects.

(2) Biological investigations relating to the restoration of the Salton Sea.

(3) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(4) Air quality investigations relating to the restoration of the Salton Sea.

(5) Geotechnical investigations relating to the restoration of the Salton Sea.

(6) Coordination with the Imperial Irrigation District, the Coachella Valley Water District, the Torres Martinez Tribe, and other landowners in the vicinity of the Salton Sea.

(7) Investigations of access and utility agreements relating to the restoration of the Salton Sea.

(b) For the purpose of developing a restoration plan pursuant to this section, the council shall evaluate Salton Sea restoration plans, including, but not limited to, the alternatives described in Chapter 3 of Volume I of the Salton Sea Restoration Program Draft Programmatic Environmental Impact Report, dated October 2006, and the program components of those alternatives.

(c) The council shall report to the Governor and the Legislature by June 30, 2013, with a recommended Salton Sea restoration plan. In recommending a restoration plan, the council shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan.

(d) In conducting its duties pursuant to this section, the council shall comply with both of the following requirements:

(1) The council shall act consistent with the purposes of the Salton Sea Restoration Fund specified in Section 2932.

(2) The council shall work collaboratively with local governments and interested parties.

2944. (a) The council shall consist of the following groups:

- (1) An executive committee.
- (2) A science committee.
- (3) A local government forum.
- (4) A stakeholder forum.

(b) The executive committee shall consist of 16 voting members and 8 nonvoting members, appointed or designated as follows:

(1) The 16 voting members of the executive committee shall consist of all of the following:

- (A) The Director of Fish and Game.
- (B) The Director of Water Resources.
- (C) The Director of Parks and Recreation.
- (D) The Chairperson of the State Water Resources Control Board.

(E) The Chairperson of the State Air Resources Board.

(F) The Treasurer.

(G) The Director of Finance.

(H) One public member appointed by the Governor, who is not an elected official and who represents a statewide public health organization.

(I) One public member appointed by the Speaker of the Assembly, who is not an elected official and who represents a statewide hunting or fishing organization.

(J) One public member appointed by the Senate Committee on Rules, who is not an elected official and who represents a statewide environmental organization.

(K) One member from, and selected by, the Imperial County Board of Supervisors, if that board agrees to do so.

(L) One member from, and selected by, the Riverside County Board of Supervisors, if that board agrees to do so.

(M) One member from, and selected by, the Board of Directors of the Coachella Valley Water District, if that board agrees to do so.

(N) One member from, and selected by, the Board of Directors of the Imperial Irrigation District, if that board agrees to do so.

(O) One member selected by the Tribal Council of the Torres Martinez Band of Desert Cahuilla Indians, if that council agrees to do so.

(P) One member selected by the Tribal Council of the Cabazon Band of Mission Indians, if that council agrees to do so.

(2) The members appointed pursuant to subparagraphs (H) to (J), inclusive, of paragraph (1) shall serve one term of four years, and may be reappointed to one additional term.

(3) A state, local, or tribal official who is a member of the executive committee may designate a member of his or her executive staff, or, in the case of the Chairperson of the State Water Resources Control Board, the board's executive director or another member of the board, to vote on his or her behalf and otherwise discharge the duties of the member when the member is not in attendance. Notice of this designation shall be promptly communicated in writing to the chairperson of the executive committee.

(4) The nonvoting members of the executive committee shall consist of all of the following, as they may be available:

(A) The lead scientist.

(B) One representative of the United States Environmental Protection Agency.

(C) One representative of the United States Bureau of Reclamation.

(D) One representative of the United States Fish and Wildlife Service.

(E) One representative of the United States Army Corps of Engineers.

(F) One representative of the United States Geological Survey.

(G) One representative of the federal Bureau of Land Management.

(H) One representative of the United States Department of Defense.

(c) (1) The science committee shall consist of the lead scientist and national and locally recognized experts familiar with large-scale wetlands and marine restoration efforts and knowledgeable about the application of adaptive management protocols and long-term monitoring. The science committee shall also include experts in dike design and dredging, water treatment, and hydraulics.

(2) (A) The lead scientist shall be appointed by the executive committee from candidates recommended by the United States Geological Survey Salton Sea Science Office or another scientific agency.

(B) If no candidate or candidates are recommended by the United States Geological Survey Salton Sea Science Office, or another scientific agency, the lead scientist shall be appointed by the executive committee.

(C) The lead scientist shall nominate other experts for membership on the science committee, subject to confirmation by the executive committee.

(3) The lead scientist and the other members of the science committee shall serve without compensation, but may be reimbursed for their actual and necessary expenses, including travel expenses, incurred in attending meetings of the committee and carrying out the duties of their office.

(d) The local government forum shall include elected representatives from within the Salton Sea watershed, if the governing body of the respective local government agrees to appoint a designee to the forum, and may include local air pollution

control officials. The council shall request the Salton Sea Authority to assist the council by doing all of the following:

- (1) Inviting local elected representatives to join the forum.
- (2) Convening and organizing regular meetings of the forum.
- (3) Transmitting information from the executive committee to the forum.
- (4) Transmitting recommendations and suggestions from the forum to the executive committee.

(e) The stakeholder forum shall consist of interested parties, as determined by the executive committee, with demonstrated long-term, ongoing interest in the restoration plan and shoreline, representing the following categories:

- (1) Persons associated with local businesses and community service districts.
- (2) Farmers.
- (3) Persons associated with environmental organizations.
- (4) Persons associated with public access and recreational interests.
- (5) Persons associated with public infrastructure.
- (6) Community advocates.
- (7) Persons associated with geothermal companies.
- (8) Persons associated with public works.
- (9) Public health officials.
- (10) Tribal and elected local and state officials.

2945. (a) (1) The executive committee shall serve as the governing body of the council, and shall provide overall guidance and oversight on behalf of the restoration program. The members of the executive committee shall serve without compensation.

(2) The executive committee shall make decisions by a majority of the total number of voting members. If a conflict exists, a voting member shall recuse himself or herself from voting on an item.

(3) (A) The voting members of the executive committee shall elect, annually from among the voting members, a chairperson, a vice chairperson, and other officers as necessary. The officers may be reelected.

(B) The offices of chairperson and vice chairperson shall not be held concurrently by any of the persons in the following categories:

(i) Persons identified in subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (b) of Section 2944.

(ii) Persons identified in subparagraphs (H) to (J), inclusive, of paragraph (1) of subdivision (b) of Section 2944.

(iii) Persons identified in subparagraphs (K) to (P), inclusive, of paragraph (1) of subdivision (b) of Section 2944.

(C) If the office of chairperson or vice chairperson becomes vacant, a new chairperson or vice chairperson shall be elected by the voting members of the executive committee to serve for the remainder of the term.

(D) Twelve of the voting members shall constitute a quorum for the transaction of the business of the executive committee. The executive committee shall adopt rules, regulations, and procedures for the conduct of business by the executive committee.

(4) The executive committee shall hold the majority of its regularly scheduled meetings within the Salton Sea watershed.

(b) The Department of Fish and Game shall be responsible for the implementation of restoration activities described in paragraphs (1) and (2) of subdivision (a) and subdivision (b) of Section 2942.

(c) The Department of Water Resources shall be responsible for the implementation of restoration activities described in paragraphs (3), (4), (5), and (7) of subdivision (a) and subdivision (b) of Section 2942.

(d) The science committee shall do all of the following:

(1) Provide best available science and engineering oversight to the overall planning and implementation processes.

(2) Provide periodic review of local technical investigations pertaining to the restoration plan design and implementation.

(3) Consult with and advise the stakeholder forum, under the direction of the lead scientist.

(4) Provide guidance on ongoing short-term planning activities.

(e) The local government forum shall facilitate communication between local governments and landowners, the executive committee, and the stakeholder forum on the progress of plan development and implementation.

(f) (1) The stakeholder forum shall provide ongoing, publicly derived input to the executive committee relating to habitat objectives and actions, types and levels of public access, and integration of air quality management and habitat restoration.

(2) The stakeholder forum shall assist the executive committee and other council members to gain a broader understanding of public and interest group perspectives.

(3) The stakeholder forum shall provide focused review and discussion, and shall seek to achieve consensus on significant matters, including the following:

(A) Discussion and general agreement on design opportunities and constraints, and integration of the habitat, public access, and air quality management objectives.

(B) Public access and recreational components.

(C) Opportunities for economic development.

(D) Habitat mosaics and location.

(E) Vector management and predator control.

(g) All members of the executive committee may be reimbursed for their actual and necessary expenses, including travel expenses, incurred in attending meetings of the council and the respective committee and carrying out the duties of their office.

(h) The Salton Sea Restoration Council may do the following:

(1) Sue and be sued.

(2) Enter into contracts pursuant to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, for services requiring knowledge, experience, and ability not possessed by the council's staff.

(3) Enter into other agreements with public agencies, private entities, and persons necessary for the proper discharge of its duties.

(i) (1) Only funds deposited in the Salton Sea Restoration Fund or nonstate funds may be expended to carry out this article.

(2) The status of the Salton Sea Restoration Fund shall be included in the Governor's proposed annual budget document.

(3) The council shall advise the Director of Fish and Game with regard to the expenditure of funds from the Salton Sea Restoration Fund.

2946. (a) (1) The secretary shall select, in consultation with the executive committee, the executive director of the council.

(2) The executive director shall be exempt from civil service and shall serve at the pleasure of the executive committee.

(3) For purposes of this article, the executive director shall be an employee of the Natural Resources Agency.

(b) The Department of Fish and Game and the Department of Water Resources shall provide the staff services, using staff currently dedicated to Salton Sea activities or other staff provided by legislative action, that the council requires to carry out its functions, including, but not limited to, all of the following:

(1) Administering grants and expenditures made available to the council from the Salton Sea Restoration Fund or other sources, including, but not limited to, block grants from other state boards, commissions, or departments.

(2) Administering contracts.

(3) Arranging meetings, agendas, and other administrative functions.

(4) Communication and public outreach, including all of the following:

(A) Public meetings with interested parties, presentations, and workshops.

(B) A regularly updated project-specific Internet Web site.

(C) Electronic mail and paper newsletters in English and Spanish.

(5) Evaluation and implementation of restoration alternatives necessary for the council to fulfill its duties pursuant to Section 2942.

(c) The Director of Fish and Game and the Director of Water Resources shall enter into interagency agreements with other state agencies to provide the staff services, using staff dedicated to Salton Sea activities or other staff provided by legislative action, to carry out the functions of the council.

2947. (a) The council's jurisdiction is limited to the Salton Sea watershed within the State of California.

(b) This article does not grant to the council any regulatory authority, including any of the following authority:

(1) The authority to regulate land use.

(2) Any authority to regulate activities on land, unless the regulation is carried out pursuant to an agreement with an owner of an interest in the land.

(3) Authority over water rights held by others.

(4) Any air quality regulatory authority.

(c) (1) Nothing in this article interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(2) Nothing in this article affects requirements imposed under any other provision of law.

Approved _____, 2010

Governor