

Introduced by Senator WolkFebruary 27, 2009

An act to add Chapter 4 (commencing with Section 12228) to Part 4.5 of Division 6 of the Water Code, relating to the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 808, as introduced, Wolk. San Francisco Bay/Sacramento-San Joaquin Delta Estuary: strategic work plan.

Under existing law, various state agencies administer programs relating to water supply, water quality, and flood management in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

This bill would require the State Water Resources Control Board to implement its resolution entitled the Strategic Workplan for Actions to Protect Beneficial Uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary by commencing an investigation of the reasonableness of the methods of diversions from the Sacramento-San Joaquin Delta used by the State Water Project and the federal Central Valley Project, ensuring that the implementation is consistent with its duties to protect the public trust and prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, and taking other action. The state board would be required to prepare related quarterly reports, which the state board would be required to make available to the public and to post on the state board's Internet Web site.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Pursuant to its statutory authority, the State Water Resources
- 4 Control Board has issued numerous orders and decisions regarding
- 5 water quality and water right requirements affecting the
- 6 Sacramento-San Joaquin Delta.
- 7 (b) Under Section 275 of the Water Code, the state board is
- 8 charged with the duty to take all appropriate proceedings before
- 9 executive, legislative, or judicial agencies to prevent wast,
- 10 unreasonable use, unreasonable method of use, or unreasonable
- 11 method of diversion of water in this state.
- 12 (c) The Legislature has found the water problems of the
- 13 Sacramento-San Joaquin Delta to be unique within the state,
- 14 recognizing the special role this estuary plays in the provision of
- 15 water to serve numerous purposes, and the problem of salinity
- 16 intrusion into the vast network of channels and sloughs of the
- 17 Delta.
- 18 (d) In Resolution No. 20008-0056, enacted on July 16, 2008,
- 19 the state board adopted its Strategic Workplan for Actions to
- 20 Protect Beneficial Uses of the San Francisco Bay/Sacramento-San
- 21 Joaquin Delta Estuary (strategic workplan). The strategic workplan
- 22 describes the actions that the state and the California regional water
- 23 quality control boards will complete to protect beneficial uses of
- 24 water in the Sacramento-San Joaquin Delta, and provides timelines
- 25 and resource needs for implementing the actions.
- 26 (e) In enacting the strategic workplan, the state board represented
- 27 that it will consider later modifications as necessary to protect
- 28 beneficial uses in the estuary. The strategic workplan also
- 29 recognizes that the state board has a responsibility pursuant to the
- 30 California Constitution and the Water Code to take action to
- 31 prevent the waste, unreasonable use, unreasonable method of use,
- 32 or unreasonable method of diversion of water in California.
- 33 (f) The strategic workplan’s timeline of activities anticipates
- 34 the performance of its principal tasks between 2008 and 2013.

1 (g) Among the concerns referenced in the strategic workplan is
2 that the State Water Project's and federal Central Valley Project's
3 methods of diversion in the southern Delta may not be secure and
4 sustainable and may be having adverse impacts on fish and wildlife
5 and other beneficial uses of water in the Delta.

6 (h) Notwithstanding this concern, the strategic workplan does
7 not require the state board to promptly investigate the
8 reasonableness of the methods of diversion by the projects in
9 accordance with the California Constitution and Section 275 of
10 the Water Code. Instead, the strategic workplan anticipates
11 deferring action until the fourth quarter of 2010, and taking action
12 only if a voluntary collaboration of state, federal, and local water
13 agencies does not deliver a plan satisfactory to the board. The
14 strategic workplan estimates that it would take the state board a
15 minimum of two personnel years to conduct this investigation.

16 (i) Several factors make it necessary for the state board to
17 promptly implement the strategic workplan within the identified
18 timetable, and to commence appropriate investigations on or before
19 July 1, 2009, and conclude the investigations within two years.

20 (j) The Sacramento-San Joaquin Delta Estuary remains in a
21 state of precarious decline, threatening its beneficial use in the
22 protection of fish and wildlife. As a consequence of recent litigation
23 addressing endangered species requirements, the United States
24 Fish and Wildlife Service has released a new biological opinion
25 of Delta smelt in late 2008, and the National Marine Fisheries
26 Service anticipates releasing a new biological opinion for salmon
27 and steelhead in early 2009. Due to these decisions, substantial
28 new reductions in project water deliveries from the Delta are likely
29 to occur.

30 (k) As the Department of Water Resources has recognized in
31 its own reports, climate change is likely to have significant and
32 adverse effects on California's water supply projects and the
33 Sacramento-San Joaquin Delta.

34 (l) The drought conditions presently facing California are
35 creating further strains in the ability of the Sacramento-San Joaquin
36 Delta to serve beneficial uses.

37 SEC. 2. Chapter 4 (commencing with Section 12228) is added
38 to Part 4.5 of Division 6 of the Water Code, to read:

CHAPTER 4. STRATEGIC WORKPLAN

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12228. This part shall be known and may be cited as the Sacramento-San Joaquin Delta Protection Act of 2009.

12228.4. As part of its implementation of its Strategic Workplan for Actions to Protect Beneficial Uses of the San Francisco/Sacramento-San Joaquin Delta Estuary, the state board shall do all of the following:

(a) Commence an investigation of the reasonableness of the methods of diversion from the Sacramento-San Joaquin Delta used by the State Water Project and the federal Central Valley Project, in accordance with its authority under Section 2 of Article X of the California Constitution and Section 275, to commence no later than July 1, 2009, and to conclude within two years.

(b) In all other respects, implement the strategic workplan in accordance with the timetable referenced in its timeline of activities.

(c) Ensure that its implementation of the strategic workplan is consistent with its duties to protect the public trust, and to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in California.

(d) Ensure that its implementation of the strategic workplan fully considers all of the following:

(1) The instream flow and other biological requirements necessary to ensure the long-term health of fish and wildlife resources served by the Sacramento-San Joaquin Delta.

(2) The anticipated effects of climate change on the water resources of the two water projects, and the condition of the Sacramento-San Joaquin Delta.

(3) The effect of drought conditions upon the ability of the Sacramento-San Joaquin Delta to serve beneficial uses.

12228.8. The state board shall prepare quarterly reports which shall be available to the public and posted on its Internet Web site, describing its implementation of the strategic workplan. These reports shall disclose whether the state board anticipates any revisions in the schedules referenced in Section 12228.4, and demonstrate good cause for any further delays in the schedule.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order to facilitate the implementation of the Strategic
4 Workplan for Actions to Protect Beneficial Uses of the San
5 Francisco/Sacramento-San Joaquin Delta Estuary by the State
6 Water Resources Control Board, as soon as possible, it is necessary
7 for this act to take effect immediately.

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