

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 147**

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**Introduced by Assembly Member V. Manuel Pérez**  
(Principal coauthor: Senator Hueso)

January 18, 2013

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*An act add to Article 3 (commencing with Section 2951) to Chapter 13 of Division 3 of the Fish and Game Code, relating to the environment. An act to amend Section 2932 of the Fish and Game Code, and to add Chapter 6 (commencing with Section 42750) to Part 4 of Division 26 of the Health and Safety Code, relating to the environment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as amended, V. Manuel Pérez. Environment: Salton Sea: dust mitigation.

Existing law establishes the Salton Sea Restoration Fund that is administered by the Director of Fish and Game and, upon appropriation by the Legislature, used for the restoration of the Salton Sea.

Existing law implements the Quantification Settlement Agreement (QSA), which was entered into by various parties to budget their portions of California's apportionment of Colorado River water and to provide a framework for conservation measures and water transfers for a period of up to 75 years. Existing law provides for a framework to mitigate the environmental impacts on the Salton Sea caused by the QSA water transfer. *Existing law authorizes the Department of Fish and Wildlife to enter into a joint powers agreement with specified local agencies to*

*establish a joint powers authority for the purposes of providing for the payment of costs for environmental mitigation requirements.*

~~This bill would require the Secretary of the Natural Resources Agency State Air Resources Board, upon the execution of an agreement with specified air quality management districts the joint powers authority, to develop, in consultation with the State Air Resources Board and the Salton Sea Authority, a strategic plan, containing specified elements, to guide the implementation of a project to monitor and mitigate dust pollution created at the Salton Sea as a result of the implementation of the QSA evaluate and determine with the air quality planning completed by the authority is sufficient to mitigate the air quality impacts of the QSA. In the event that the state board concludes that additional mitigation measures are needed, the bill would require the state board to submit recommendation to the authority. The bill would authorize moneys in the fund, upon appropriation by the Legislature, to be expended by the state board for the above purposes.~~

~~This bill would establish the Salton Sea Dust Mitigation Project Account in the Salton Sea Restoration Fund for the purposes of receiving moneys to fund the implementation of the project, and, upon appropriation by the Legislature, moneys in the account would be used to mitigate dust pollution arising from the implementation of the QSA.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The Salton Sea is California’s largest lake, covering 365
- 4 square miles, and it serves as an important stop on the annual
- 5 Pacific Flyway migratory route, supporting over 400 species of
- 6 birds and representing over two-thirds of all birds in the continental
- 7 United States.
- 8 (2) The Salton Sea is located in the Imperial Valley and
- 9 Coachella Valley of southern California and rests in close
- 10 proximity to thousands of residents.
- 11 (3) In 2003, the Legislature enacted statutes (Chapters 611, 612,
- 12 and 613 of the Statutes of 2003) to facilitate the execution and
- 13 implementation of the Quantification Settlement Agreement (QSA)
- 14 and related agreements, including a transfer of conserved water

1 from the Imperial Irrigation District to the San Diego Water  
2 Authority. As part of those statutes, the Legislature declared its  
3 intent that the State of California undertake the restoration of the  
4 Salton Sea ecosystem and the permanent protection of wildlife  
5 dependent on the ecosystem.

6 (4) Implementation of the water transfer from the Imperial  
7 Irrigation District to the San Diego Water Authority will reduce  
8 agricultural drainage inflow to the Salton Sea, reducing the sea's  
9 depth and result in the exposure of currently submerged sea  
10 lakebed.

11 (5) The exposure of previously submerged sea lakebed has the  
12 potential to significantly increase fugitive dust emissions for  
13 particulate matter of 10 or less microns in diameter (PM10) as  
14 winds blow across exposed lakebed eroded fine-grained sediments  
15 and salts, lofting them into the air.

16 (6) At Owens Lake, a lake drained by the Los Angeles  
17 Department of Water and Power, the cost of mitigation fugitive  
18 dust emissions arising from the exposed lakebed has reached  
19 \$1,200,000,000.

20 (7) *As part of the Quantification Settlement Agreement, the state*  
21 *entered into a Joint Powers Agreement (QSA-JPA) for purposes*  
22 *of financing the mitigation of the environmental impacts resulting*  
23 *from the QSA. The parties of the QSA-JPA include the State of*  
24 *California acting by and through the Department of Fish and*  
25 *Wildlife, the Coachella Valley Water District, the Imperial*  
26 *Irrigation District, and the San Diego County Water Authority.*

27 (8) *Under the QSA-JPA, the nonstate member agencies are*  
28 *liable for the cost of mitigating the environmental impacts of the*  
29 *QSA up to the first \$133 million. The QSA-JPA nonstate member*  
30 *agencies have spent a considerable amount of time and resources*  
31 *developing plans to meet this obligation.*

32 (9) *Under Section 9.2 of the QSA-JPA, the state agreed to "an*  
33 *unconditional contractual obligation" to pay for the cost of*  
34 *mitigating the environmental impact of the QSA above the first*  
35 *\$133 million in costs.*

36 (b) ~~It is the intent of the Legislature to develop a strategic plan~~  
37 ~~for dealing with air pollution resulting from the QSA, including~~  
38 ~~quantifying the extent of dust pollution, cataloging the chemicals~~  
39 ~~likely to be present in the dust pollution, including~~  
40 ~~dichlorodiphenyltrichloroethan from decades of agricultural runoff~~

1 ~~draining into the Salton Sea, and identifying additional funding~~  
 2 ~~mechanisms to pay for mitigation costs, including, but not limited~~  
 3 ~~to, harvesting the renewable energy generating potential of the~~  
 4 ~~Salton Sea., in enacting this measure, to have the State Air~~  
 5 ~~Resources Board evaluate the air quality planning completed by~~  
 6 ~~the Joint Powers Authority established by QSA-JPA to determine~~  
 7 ~~if it is sufficient to mitigate the air quality impacts of the QSA and~~  
 8 ~~ensure that when the state assumes liability over mitigating the~~  
 9 ~~environmental impacts of the QSA that the air quality mitigation~~  
 10 ~~work completed by the authority continue uninterrupted.~~

11 SEC. 2. Section 2932 of the Fish and Game Code is amended  
 12 to read:

13 2932. There is hereby established the Salton Sea Restoration  
 14 Fund which shall be administered by the director. Money deposited  
 15 in the fund shall be expended, upon appropriation by the  
 16 Legislature, for the following purposes:

17 (a) Environmental and engineering studies related to the  
 18 restoration of the Salton Sea and the protection of fish and wildlife  
 19 dependent on the sea.

20 (b) (1) Air quality evaluations conducted by the State Air  
 21 Resources Board for purposes of providing the joint powers  
 22 authority established pursuant to Chapter 613 of the Statutes of  
 23 2003 with guidance on how to appropriately mitigate the air quality  
 24 impacts resulting from the Quantification Settlement Agreement.

25 (2) For the purposes of this subdivision, "Quantification  
 26 Settlement Agreement" has the same meaning as defined in  
 27 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

28 (b)

29 (c) Implementation of conservation measures necessary to  
 30 protect the fish and wildlife species dependent on the Salton Sea,  
 31 including adaptive management measurements pursuant to Section  
 32 2081.7. These conservation measures shall be limited to the Salton  
 33 Sea and lower Colorado River ecosystems, including the Colorado  
 34 River Delta.

35 (e)

36 (d) Implementation of the preferred Salton Sea restoration  
 37 alternative.

38 (d)

1 (e) Administrative, technical, and public outreach costs related  
2 to the development and selection of the preferred Salton Sea  
3 restoration alternative.

4 SEC. 3. Chapter 6 (commencing with Section 42750) is added  
5 to Part 4 of Division 26 of the Health and Safety Code, to read:

6  
7 CHAPTER 6. SALTON SEA DUST MITIGATION

8  
9 42750. Unless the context requires otherwise, as used in this  
10 chapter, the following terms mean the following:

11 (a) "Air districts" means the Imperial County Air Pollution  
12 Control District and South Coast Air Quality Management District.

13 (b) "Authority" means the joint powers authority established  
14 pursuant to an agreement entered into pursuant to Chapter 613  
15 of the Statutes of 2003.

16 (c) "County" means either of the following:

17 (1) The County of Riverside.

18 (2) The County of Imperial.

19 (d) "Quantification Settlement Agreement" has the same  
20 meaning as defined in subdivision (a) of Section 1 of Chapter 617  
21 of the Statutes of 2002.

22 (e) "Valley" means either of the following:

23 (1) The Imperial Valley.

24 (2) The Coachella Valley.

25 42751. (a) Upon the execution of an agreement between the  
26 state board and the authority for purposes of compiling the air  
27 quality mitigation planning completed by the authority, the state  
28 board shall evaluate and determine if the air quality planning  
29 completed by the authority is sufficient to mitigate the air quality  
30 impacts of the Quantification Settlement Agreement.

31 (b) In determining if the authority's air quality planning is  
32 adequate to mitigate the air quality impacts of the Quantification  
33 Settlement Agreement, the state board shall evaluate all of the  
34 following:

35 (1) The quantified current and projected exposed sea lake bed  
36 arising from the Quantification Settlement Agreement.

37 (2) The quantified current and projected exposed sea lake bed  
38 arising from factors other than the Quantification Settlement  
39 Agreement.

1 (3) *The profiled Salton Sea lake bed aerosols, given chemicals*  
2 *that have historically drained into the sea from both agricultural*  
3 *runoff and water coming from Mexico over the New River,*  
4 *including Dichlorodiphenyltrichloroethane or “DDT.”*

5 (4) *The prioritization of mitigation measures that can be*  
6 *instituted at the sea to enable both valleys to meet National*  
7 *Ambient Air Quality Standards for particulate matter, including*  
8 *the applicability of measures used to mitigate ambient dust*  
9 *pollution at Owens Lake.*

10 (c) (1) *To the extent the state board concludes additional*  
11 *mitigation planning needs to take place to mitigate the air quality*  
12 *impacts of the Quantification Settlement Agreement, the state board*  
13 *shall submit recommendations to the authority.*

14 (2) *To the extent the state board recommends to the authority*  
15 *additional planning work that needs to be completed pursuant to*  
16 *paragraph (1), the state board shall make recommendations in a*  
17 *manner to minimize costs on the authority, including both of the*  
18 *following:*

19 (A) *The appropriate agencies or departments with whom the*  
20 *authority may work, including the air districts for purposes of*  
21 *accessing work the air districts have already completed as part of*  
22 *their state implementation plan planning activities.*

23 (B) *The appropriate number, model, and placement of air quality*  
24 *monitors in the Salton Sea basin to ensure aerosols arising from*  
25 *the sea are properly monitored.*

26 (d) *This section does not modify existing roles, responsibilities,*  
27 *or liabilities of the State of California, the County of Imperial, the*  
28 *County of Riverside, or any other governmental agency, under the*  
29 *Quantification Settlement Agreement.*

30 (e) *Moneys in the Salton Sea Restoration Fund shall, upon*  
31 *appropriation by the Legislature, be expended by the state board*  
32 *for purposes of this chapter.*

33 ~~SEC. 2. Article 3 (commencing with Section 2951) is added~~  
34 ~~to Chapter 13 of Division 3 of the Fish and Game Code, to read:~~

35

~~Article 3. Dust Mitigation~~

36

37  
38 ~~2951. Unless the context requires otherwise, as used in this~~  
39 ~~part, the following terms mean the following:~~

- 1 (a) ~~“Authority” means the Salton Sea Authority, a joint powers~~  
2 ~~authority comprised of the County of Imperial, the County of~~  
3 ~~Riverside, the Imperial Irrigation District, the Coachella Valley~~  
4 ~~Water District, and the Torres Martinez Desert Cahuilla Indian~~  
5 ~~Tribe.~~  
6 (b) ~~“County” means either of the following:~~  
7 ~~(1) The County of Riverside.~~  
8 ~~(2) The County of Imperial.~~  
9 (c) ~~“Quantification Settlement Agreement” has the same~~  
10 ~~meaning as defined in subdivision (a) of Section 1 of Chapter 617~~  
11 ~~of the Statutes of 2002.~~  
12 (d) ~~“Salton Sea Dust Mitigation Project” or “project” means a~~  
13 ~~project to monitor and mitigate dust pollution created at the Salton~~  
14 ~~Sea as a result of the Quantification Settlement Agreement.~~  
15 (e) ~~“Secretary” means the Secretary of Natural Resources~~  
16 ~~Agency.~~  
17 (f) ~~“State board” means the State Air Resources Board.~~  
18 (g) ~~“Valley” means either of the following:~~  
19 ~~(1) The Imperial Valley.~~  
20 ~~(2) The Coachella Valley.~~  
21 2952. (a) ~~Upon the execution of an agreement with the Imperial~~  
22 ~~Air Quality Management District and the South Coast Air Quality~~  
23 ~~Management District, and for purposes of providing the necessary~~  
24 ~~funding, the secretary, in consultation and coordination with the~~  
25 ~~state board and the authority, shall develop a strategic plan to guide~~  
26 ~~the implementation of the Salton Sea Dust Mitigation Project. The~~  
27 ~~strategic plan shall include, but is not limited to, all of the following~~  
28 ~~elements:~~  
29 ~~(1) Quantification of current and projected exposed sea lake~~  
30 ~~bed arising from the Quantification Settlement Agreement.~~  
31 ~~(2) Quantification of current and projected exposed sea lake~~  
32 ~~bed arising from factors other than the Quantification Settlement~~  
33 ~~Agreement.~~  
34 ~~(3) Profile of Salton Sea lake bed aerosols, given chemicals that~~  
35 ~~have historically drained into the sea from both agricultural runoff~~  
36 ~~and water coming from Mexico over the New River, including~~  
37 ~~Dichlorodiphenyltrichloroethan or “DDT.”~~  
38 ~~(4) Prioritization of mitigation measures that can be instituted~~  
39 ~~at the sea to enable both valleys to meet National Ambient Air~~  
40 ~~Quality Standards for particulate matter.~~

1     ~~(5) Identification and prioritization of funding streams that can~~  
2     ~~be accessed or developed for purposes of paying for dust mitigation~~  
3     ~~measures at the sea, including an analysis of how to best monetize~~  
4     ~~the renewable energy generating potential of the Salton Sea.~~

5     ~~(b) To the extent permitted by law, the secretary, in consultation~~  
6     ~~and coordination with the state board and the authority, may work~~  
7     ~~with appropriate binational, federal, state, local, and~~  
8     ~~nongovernmental organizations on both sides of the~~  
9     ~~California-Mexico border to develop the strategic plan.~~

10    ~~(c) (1) To further the objectives of this part, the secretary, in~~  
11    ~~consultation and coordination with the state board and the authority,~~  
12    ~~may convene and oversee a technical advisory committee. The~~  
13    ~~advisory committee shall advise the council regarding the necessary~~  
14    ~~studies and activities to carry out the project, and shall serve at the~~  
15    ~~pleasure of the council. The advisory committee shall include~~  
16    ~~representatives from the following:~~

17    ~~(A) Impacted cities and counties.~~

18    ~~(B) Relevant local, regional, and state agencies and departments.~~

19    ~~(C) Nongovernmental organizations.~~

20    ~~(D) Other stakeholders deemed necessary by the secretary, in~~  
21    ~~consultation and coordination with the state board and the authority.~~

22    ~~(2) The secretary, in consultation and coordination with the state~~  
23    ~~board and the authority, shall appoint the chair of the committee~~  
24    ~~and may expand the membership and expertise of the committee~~  
25    ~~as it deems necessary.~~

26    ~~(d) The secretary, in consultation and coordination with the state~~  
27    ~~board and the authority, may enter into an agreement, including~~  
28    ~~an interagency agreement and memorandum of understanding,~~  
29    ~~with public agencies, including the county, to accept, manage, and~~  
30    ~~expend funds for the implementation of this section.~~

31    ~~(e) This section does not modify existing roles, responsibilities,~~  
32    ~~or liabilities of the State of California, the County of Imperial, the~~  
33    ~~County of Riverside, or any other governmental agency, under the~~  
34    ~~Quantification Settlement Agreement.~~

35    ~~(f) The Salton Sea Dust Mitigation Project Account is hereby~~  
36    ~~created in the Salton Sea Restoration Fund to receive moneys for~~  
37    ~~activities related to the Salton Sea Dust Mitigation Project from~~  
38    ~~sources identified in paragraph (5) of subdivision (a) and other~~  
39    ~~sources. Upon appropriation by the Legislature, moneys in the~~

- 1 ~~account shall be expended to mitigate dust pollution arising from~~
- 2 ~~the implementation of the Quantification Settlement Agreement.~~

O