

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 148**

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**Introduced by Assembly Member V. Manuel Pérez**

January 18, 2013

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An act to ~~add Chapter 8.65 (commencing with Section 25752) to Division 15~~ amend Sections 2940 and 2942 of the ~~Public Resources Fish and Game Code~~, relating to ~~renewable energy~~ *the Salton Sea*.

LEGISLATIVE COUNSEL'S DIGEST

AB 148, as amended, V. Manuel Pérez. ~~Renewable energy—Salton Sea. Sea Restoration.~~

*(1) Existing law requires the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. Existing law requires the secretary and the Legislature to maintain full authority and responsibility for any state obligation under a specified Quantification Settlement Agreement. Existing law requires the secretary and the Legislature to have final approval for any proposed restoration plan.*

*This bill would revise language stating legislative intent regarding restoring the Salton Sea. This bill would eliminate the requirement that the secretary and the Legislature have final approval for any proposed restoration plan. This bill would recast the requirement that the secretary and the Legislature maintain full authority and responsibility for any state obligation under the Quantification Settlement Agreement to instead provide that specified provisions of law do not alter any state responsibility under the Quantification Settlement Agreement or the state's authority to carry out that responsibility.*

(2) Existing law authorizes the Salton Sea Authority to lead a restoration funding and feasibility study, in consultation with the Natural Resources Agency, as prescribed.

*This bill would instead authorize the authority to undertake a feasibility study, in consultation with the Secretary of the Natural Resources Agency, as prescribed.*

(3) Existing law prohibits an evaluation, study, review, or other activity undertaken pursuant to specified provisions of law from delaying the planning and implementation of ongoing and planned mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other mitigation measures pursuant to existing state and federal programs and agreements.

*This bill would also prohibit an evaluation, study, review, or other activity undertaken pursuant to those provisions of law from delaying the planning and implementation of ongoing and planned restoration projects.*

~~Existing law requires the State Energy Resources Conservation and Development Commission to administer the Renewable Energy Resources Program to increase the amount of electricity generated by renewable electricity generation resources per year so that the amount equals at least 33% of total retail sales of electricity in California by December 31, 2020.~~

~~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.~~

~~This bill would require the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to establish a Salton Sea Renewable Energy and Biofuel Research and Development Program in the Salton Sea basin to meet high-priority economic and environmental goals by providing grants to facilitate research and the commercial development of renewable energy and biofuel resources. The bill would further authorize the secretary, in consultation and coordination with the authority, to provide grants to eligible research institutions and commercial enterprises for research and demonstration projects leading to the commercial development of the Salton Sea's vast renewable energy and biofuel resources. To be eligible for a grant, the bill would require a commercial enterprise for a demonstration project to agree to a royalty or other revenue arrangement. The bill would require royalties and revenues received to be deposited into the Salton Sea Restoration Fund. The bill would~~

require the secretary by July 1, 2014, to initiate the rulemaking process for the program and a process for the application, review, and issuance of grants.

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. Section 2940 of the Fish and Game Code is  
2 amended to read:

3 2940. The Legislature finds and declares all of the following:

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

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

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

15 (d) In cooperation with local governments, nonprofit  
16 organizations, private businesses, and the public, the Salton Sea  
17 Authority can help protect wildlife habitats and endangered species,  
18 improve water and air quality, and enhance recreational  
19 opportunities in the region.

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

22 (1) ~~Permanently protect~~ *Protect* fish and wildlife that are  
23 dependent on the Salton Sea ecosystem.

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

26 (3) Mitigate air quality impacts from restoration projects using  
27 the best available technology or best available control measures,  
28 as determined by the South Coast Air Quality Management District  
29 and the Imperial County Air Pollution Control District.

30 (4) Protect water quality.

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

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

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

5 (8) Coordinate with local, state, and federal agencies that are  
6 responsible for air quality, endangered species, and other  
7 environmental mitigation implementation requirements of the  
8 Quantification Settlement Agreement.

9 (9) Enhance economic development opportunities that will  
10 provide sustainable financial improvements benefiting the local  
11 environment and the economic quality of life for communities  
12 around the Salton Sea.

13 *SEC. 2. Section 2942 of the Fish and Game Code is amended*  
14 *to read:*

15 2942. (a) (1) The secretary, in consultation and coordination  
16 with the authority, shall lead the Salton Sea restoration efforts that  
17 shall include all of the following:

- 18 (A) Early start habitat demonstration projects.
- 19 (B) Biological investigations relating to the restoration of the  
20 Salton Sea.
- 21 (C) Investigations of water quality, sedimentation, and inflows  
22 relating to the restoration of the Salton Sea.
- 23 (D) Air quality investigations, in consultation and coordination  
24 with local and regional air quality agencies, relating to the  
25 restoration of the Salton Sea.
- 26 (E) Geotechnical investigations relating to the restoration of the  
27 Salton Sea.
- 28 (F) Financial assistance grant programs to support restoration  
29 activities of local stakeholders.

30 ~~(2) The secretary and the Legislature shall maintain full authority~~  
31 ~~and responsibility for any state obligation. Nothing in this article~~  
32 ~~shall alter any state responsibility under the Quantification~~  
33 ~~Settlement Agreement or the state's authority to carry out any~~  
34 ~~responsibility under the Quantification Settlement Agreement. The~~  
35 ~~secretary and the Legislature shall have final approval for any~~  
36 ~~proposed restoration plan.~~

37 (3) (A) To the extent that funding is appropriated to the  
38 department for Salton Sea restoration activities, the Department  
39 of Water Resources, in coordination and under agreement with the

1 department, may undertake restoration efforts identified in this  
2 subdivision.

3 (B) The department and the Department of Water Resources  
4 shall do all of the following for the Salton Sea Species  
5 Conservation Habitat Project:

6 (i) Immediately make available relevant information relating to  
7 the factors that influence the cost and size of the alternatives  
8 discussed in the environmental impact report or environmental  
9 impact statement for the species habitat conservation program.

10 (ii) Release all available detail on a final project design  
11 immediately, or upon final determination of a least environmentally  
12 damaging preferred alternative by the United States Army Corps  
13 of Engineers. Details of a final project design shall include location,  
14 configuration, size, and cost.

15 (iii) Immediately make available project evaluation protocols  
16 that include the following principles of adaptive management:

17 (I) Goals and objectives of the project.

18 (II) The project design and an operations plan.

19 (III) A monitoring plan that will include metrics that identify  
20 benefits to the species.

21 (IV) A performance evaluation based on species population  
22 identified through monitoring.

23 (V) A decisionmaking framework to evaluate project  
24 performance and guide operations and management changes.

25 (b) (1) The authority may ~~lead a restoration funding and~~  
26 ~~undertake a~~ feasibility study, in consultation with the ~~agency,~~  
27 ~~secretary,~~ to do the following:

28 (A) Investigate access and utility agreements that may contribute  
29 to the future funding of restoration activities at the Salton Sea.

30 (B) Analyze all feasible funding sources for restoration program  
31 components and activities.

32 (C) Analyze economic development opportunities, including,  
33 but not limited to, renewable energy, biofuels, mineral  
34 development, and algae production for the purposes of identifying  
35 new revenue sources for the Salton Sea restoration efforts.

36 (D) Identify state procurement and royalty sharing opportunities.

37 (E) Review existing long-term plans for restoration of the Salton  
38 Sea and recommend to the secretary changes to existing restoration  
39 plans. In any review pursuant to this subparagraph, the authority  
40 shall consider the impacts of the restoration plan on air quality,

1 fish and wildlife habitat, water quality, and the technical and  
 2 financial feasibility of the restoration plan and shall consider the  
 3 impacts on other agencies responsible for air quality, endangered  
 4 species, and other environmental mitigation requirements for  
 5 implementation of the Quantification Settlement Agreement.

6 (2) No evaluation, study, review, or other activity pursuant to  
 7 this article shall delay the planning and implementation of ongoing  
 8 and planned *restoration or* mitigation projects, including, but not  
 9 limited to, the Salton Sea Species Conservation Habitat Project or  
 10 other ~~mitigation~~ measures pursuant to existing state and federal  
 11 programs and ~~agreements, including, but not limited to, those~~  
 12 ~~programs and agreements undertaken pursuant to the Quantification~~  
 13 ~~Settlement Agreement.~~ *agreements.*

14 SECTION 1. Chapter 8.65 (commencing with Section 25752)  
 15 is added to Division 15 of the Public Resources Code, to read:

16  
 17 CHAPTER 8.65. SALTON SEA RENEWABLE ENERGY AND BIOFUEL  
 18 RESEARCH AND DEVELOPMENT PROGRAM

19  
 20 25752. This act shall be known, and may be cited, as the Salton  
 21 Sea Renewable Energy and Biofuel Research and Development  
 22 Program.

23 25752.1. The Legislature finds and declares all of the following:  
 24 (a) ~~The Salton Sea is California's largest lake, covering 365~~  
 25 ~~square miles, and it serves as an important stop on the annual~~  
 26 ~~Pacific Flyway migratory route, supporting over 400 species of~~  
 27 ~~birds and representing over two-thirds of all birds in the continental~~  
 28 ~~United States.~~

29 (b) ~~Until recently, the amount of water entering the Salton Sea~~  
 30 ~~was roughly balanced by the amount of water evaporating from~~  
 31 ~~its broad surface.~~

32 (c) ~~In 2003, the Legislature enacted legislation implementing~~  
 33 ~~the Quantification Settlement Agreement (QSA), a water transfer~~  
 34 ~~agreement between the Imperial Irrigation District and the San~~  
 35 ~~Diego Metropolitan Water District, that represented the largest~~  
 36 ~~agriculture-to-urban water transfer in the history of the United~~  
 37 ~~States.~~

38 (d) ~~Under the QSA, the state agreed to cover the cost of~~  
 39 ~~mitigating the effects of the water transfer on the Salton Sea beyond~~

1 the first one hundred thirty-three million dollars (\$133,000,000)  
2 in costs:

3 (e) According to an analysis by the Pacific Institute, by 2018,  
4 reduced water inflows to the sea will reduce the sea's depth by  
5 five feet, resulting in the exposure of 26.5 square miles of currently  
6 submerged lake bed. By 2037, the sea's depth will drop by up to  
7 27 feet, resulting in the exposure of 134 square miles of lake bed.

8 (f) From 1913 to 1924, inclusive, a similar rural-to-urban water  
9 transfer occurred when the Los Angeles Department of Water and  
10 Power (LADWP) began exporting water from Owens Lake to Los  
11 Angeles. After only 11 years, LADWP had successfully drained  
12 all but a fraction of Owens Lake, exposing over 100 square miles  
13 of lake bed.

14 (g) For decades, the winds blowing across the exposed lake bed  
15 of Owens Lake eroded fine-grained sediments and salts, lofting  
16 them into the air, creating the single largest source of fugitive dust  
17 in the United States.

18 (h) Since 1998, LADWP has spent one billion two hundred  
19 million dollars (\$1,200,000,000) to stem dust pollution in Owens  
20 Valley mainly by flooding a 40-square-mile area of exposed lake  
21 bed at a cost of 30 billion gallons of water a year.

22 (i) In 2012, the State Air Resources Board upheld an additional  
23 order by the Great Basin Air District that required LADWP to  
24 flood an additional three square miles of exposed lake bed at an  
25 estimated cost of four hundred million dollars (\$400,000,000).  
26 LADWP has appealed the state's order in federal court.

27 (j) Considering that LADWP will likely spend up to one billion  
28 six hundred million dollars (\$1,600,000,000) to mitigate dust  
29 pollution resulting from its draining of Owens Lake, and the  
30 likelihood that mitigating dust pollution created by the Salton Sea  
31 will be substantially more expensive because up to 135 square  
32 miles of lake bed will be exposed as compared to only 100 square  
33 miles at Owens Lake. The creation of the Salton Sea Renewable  
34 Energy and Biofuel Research and Development Program will  
35 enable the creation of a dedicated and continuous funding stream  
36 to mitigate dust pollution resulting from the QSA.

37 (k) The creation of the Salton Sea Renewable Energy and  
38 Biofuel Research and Development Program will also encourage  
39 the development of one of the state's largest sources of renewable  
40 energy and provide a significant source of future revenue for the

1 restoration of the Salton Sea in the form of royalties or other  
2 revenue sharing funds.

3 ~~25752.2. (a) For the purposes of this section, “Salton Sea~~  
4 ~~Authority” means the joint powers authority comprised of the~~  
5 ~~County of Imperial, the County of Riverside, the Imperial Irrigation~~  
6 ~~District, the Coachella Valley Water District, and the Torres~~  
7 ~~Martinez Desert Cahuilla Indian Tribe.~~

8 ~~(b) The Secretary of the Natural Resources Agency, in~~  
9 ~~consultation and coordination with the Salton Sea Authority, shall~~  
10 ~~establish a Salton Sea Renewable Energy and Biofuel Research~~  
11 ~~and Development Program to meet high-priority economic and~~  
12 ~~environmental goals by providing grants to facilitate research and~~  
13 ~~the commercial development of renewable energy and biofuel~~  
14 ~~resources in the Salton Sea basin.~~

15 ~~(c) The secretary, in consultation and coordination with the~~  
16 ~~Salton Sea Authority, may provide grants to eligible research~~  
17 ~~institutions and commercial enterprises for research and~~  
18 ~~development projects and demonstration projects intended to lead~~  
19 ~~to the commercial development of the Salton Sea’s renewable~~  
20 ~~energy and biofuel resources pursuant to this section. The projects~~  
21 ~~shall be sited within the Salton Sea basin, as designated by the~~  
22 ~~secretary. Demonstration projects by commercial enterprises and~~  
23 ~~research institutions shall do all of the following:~~

24 ~~(1) Improve air quality by reducing criteria and toxic air~~  
25 ~~pollutants, including fine particulates originating from the dry sea~~  
26 ~~bed.~~

27 ~~(2) Improve water quality in the Salton Sea that will stabilize~~  
28 ~~marine habitats for fish and migratory birds.~~

29 ~~(3) Present new options for the state’s restoration plan of the~~  
30 ~~Salton Sea.~~

31 ~~(4) Demonstrate the scalability of renewable energy and biofuel~~  
32 ~~resources at the Salton Sea, including the following:~~

33 ~~(A) Agricultural algae cultivation and production.~~

34 ~~(B) Geothermal resource extraction and associated byproducts.~~

35 ~~(C) Desalination technologies.~~

36 ~~(D) Solar and wind development.~~

37 ~~(5) Demonstrate the proposed project will have economic and~~  
38 ~~job creating benefits for the Salton Sea basin.~~

39 ~~(d) The secretary shall initiate the rulemaking process for the~~  
40 ~~Salton Sea Renewable Energy and Biofuel Research and~~

1 ~~Development Program and a process for the application, review,~~  
2 ~~and issuance of grants under subdivision (c) no later than July 1,~~  
3 ~~2014.~~

4 ~~(e) A commercial enterprise, to be eligible for a grant under~~  
5 ~~subdivision (c) for a demonstration project, shall meet all of the~~  
6 ~~following requirements:~~

7 ~~(1) Be incorporated as a business authorized to do business in~~  
8 ~~the state.~~

9 ~~(2) Provide matching funds for the proposed project.~~

10 ~~(3) Certify use of state funds solely for the proposed project~~  
11 ~~sited within the state.~~

12 ~~(4) Demonstrate the proposed project will have substantial~~  
13 ~~environmental and economic benefits to the Salton Sea basin~~  
14 ~~region.~~

15 ~~(5) Identify a customer or customers for the product to be~~  
16 ~~developed.~~

17 ~~(6) Agree to a royalty or other revenue sharing arrangement~~  
18 ~~ensuring the state's ongoing financial participation in commercially~~  
19 ~~viable operations authorized under the Salton Sea Renewable~~  
20 ~~Energy and Biofuel Research and Development Program.~~

21 ~~(f) A research institution, to be eligible for a grant under~~  
22 ~~subdivision (c) for a research and development project, shall meet~~  
23 ~~all of the following requirements:~~

24 ~~(1) Be a nonprofit or educational research institution or~~  
25 ~~consortium.~~

26 ~~(2) Provide matching funds for the proposed project.~~

27 ~~(3) Certify use of state funds solely for the proposed project~~  
28 ~~sited within the state.~~

29 ~~(4) Demonstrate how the proposed project will help lead to the~~  
30 ~~commercial development of the Salton Sea's vast renewable energy~~  
31 ~~and biofuel resources.~~

32 ~~(5) Demonstrate the proposed project will have substantial~~  
33 ~~environmental and economic benefits to the Salton Sea basin~~  
34 ~~region.~~

35 ~~(g) Royalties and revenues collected by the state pursuant to~~  
36 ~~paragraph (6) of subdivision (c) shall be deposited in the Salton~~  
37 ~~Sea Restoration Fund.~~

O