

ASSEMBLY BILL

No. 1259

Introduced by Assembly Member Olsen

February 22, 2013

An act to amend Section 85320 of the Water Code, relating to water resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1259, as introduced, Olsen. Sacramento-San Joaquin Delta: Delta Plan: Bay Delta Conservation Plan.

The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan) by January 1, 2012. The act requires the council to consider for inclusion in the Delta Plan a multispecies conservation plan called the Bay Delta Conservation Plan (BDCP), and requires the incorporation of the BDCP into the Delta Plan if the BDCP meets certain requirements.

This bill would make a technical, nonsubstantive change in this provision.

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

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

1 SECTION 1. Section 85320 of the Water Code is amended to
2 read:

1 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be
2 considered for inclusion in the Delta Plan in accordance with this
3 chapter.

4 (b) The BDCP shall not be incorporated into the Delta Plan and
5 the public benefits associated with the BDCP shall not be eligible
6 for state funding, unless the BDCP does all of the following:

7 (1) Complies with Chapter 10 (commencing with Section 2800)
8 of Division 3 of the Fish and Game Code.

9 (2) Complies with Division 13 (commencing with Section
10 21000) of the Public Resources Code, including a comprehensive
11 review and analysis of all of the following:

12 (A) A reasonable range of flow criteria, rates of diversion, and
13 other operational criteria required to satisfy the criteria for approval
14 of a natural community conservation plan as provided in
15 subdivision (a) of Section 2820 of the Fish and Game Code, and
16 other operational requirements and flows necessary for recovering
17 the Delta ecosystem and restoring fisheries under a reasonable
18 range of hydrologic conditions, which will identify the remaining
19 water available for export and other beneficial uses.

20 (B) A reasonable range of Delta conveyance alternatives,
21 including through-Delta, dual conveyance, and isolated conveyance
22 alternatives and including further capacity and design options of
23 a lined canal, an unlined canal, and pipelines.

24 (C) The potential effects of climate change, possible sea level
25 rise up to 55 inches, and possible changes in total precipitation
26 and runoff patterns on the conveyance alternatives and habitat
27 restoration activities considered in the environmental impact report.

28 (D) The potential effects on migratory fish and aquatic resources.

29 (E) The potential effects on Sacramento River and San Joaquin
30 River flood management.

31 (F) The resilience and recovery of Delta conveyance alternatives
32 in the event of catastrophic loss caused by earthquake or flood or
33 other natural disaster.

34 (G) The potential effects of each Delta conveyance alternative
35 on Delta water quality.

36 (c) The department shall consult with the council and the Delta
37 Independent Science Board during the development of the BDCP.
38 The council shall be a responsible agency in the development of
39 the environmental impact report. The Delta Independent Science
40 Board shall review the draft environmental impact report and *shall*

1 submit its comments to the council and the Department of Fish
2 and Game.

3 (d) If the Department of Fish and Game approves the BDCP as
4 a natural community conservation plan pursuant to Chapter 10
5 (commencing with Section 2800) of Division 3 of the Fish and
6 Game Code, the council shall have at least one public hearing
7 concerning the incorporation of the BDCP into the Delta Plan.

8 (e) If the Department of Fish and Game approves the BDCP as
9 a natural community conservation plan pursuant to Chapter 10
10 (commencing with Section 2800) of Division 3 of the Fish and
11 Game Code and determines that the BDCP meets the requirements
12 of this section, and the BDCP has been approved as a habitat
13 conservation plan pursuant to the federal Endangered Species Act
14 (16 U.S.C. Section 1531 et seq.), the council shall incorporate the
15 BDCP into the Delta Plan. The Department of Fish and Game's
16 determination that the BDCP has met the requirements of this
17 section may be appealed to the council.

18 (f) The department, in coordination with the Department of Fish
19 and Game, or any successor agencies charged with BDCP
20 implementation, shall report to the council on the implementation
21 of the BDCP at least once a year, including the status of monitoring
22 programs and adaptive management.

23 (g) The council may make recommendations to BDCP
24 implementing agencies regarding the implementation of the BDCP.
25 BDCP implementing agencies shall consult with the council on
26 these recommendations. These recommendations shall not change
27 the terms and conditions of the permits issued by state and federal
28 regulatory agencies.