

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2463

Introduced by Assembly Member Dickinson

February 21, 2014

An act to ~~amend Section 85320 of~~ *add Section 12659.1* to the Water Code, relating to ~~the Sacramento-San Joaquin Delta.~~ *water.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2463, as amended, Dickinson. ~~Delta plan: Bay Delta Conservation Plan: hearings.~~ *Water: plans.*

Existing law requires the Department of Water Resources to update, every 5 years, the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as The California Water Plan. Existing law requires the department to include a discussion of various strategies in the plan, including, but not limited to, strategies relating to the development of new water storage facilities, water conservation, water recycling, desalination, conjunctive use, water transfers, and alternative pricing policies that may be pursued in order to meet the future needs of the state.

This bill would require the department to partner with the Regional Water Authority, water suppliers in El Dorado, Placer, Sacramento, and Placer counties, and other interested agencies to develop a plan for investing in water supplies and other facilities in order to contribute to the reliability of water supplies for the Sacramento region's communities and environmental resources while also generating statewide benefits. The bill would require the plan to address certain matters, and would require the department to submit the plan to the

Legislature on or before January 1, 2017. To the extent this bill would impose new duties on local officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law, 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, known as the Delta Plan, by January 1, 2012. Existing law requires the council to consider for inclusion in the Delta Plan the Bay Delta Conservation Plan, a multispecies conservation plan, and requires the incorporation of the Bay Delta Conservation Plan into the Delta Plan if the Bay Delta Conservation Plan meets certain requirements. Under existing law, if the Department of Fish and Wildlife approves the Bay Delta Conservation Plan as a natural community conservation plan, the council is required to have at least one public hearing concerning the incorporation of the Bay Delta Conservation Plan into the Delta Plan.~~

~~This bill would require the council to have at least 5 public hearings concerning the incorporation of the Bay Delta Conservation Plan into the Delta Plan if the Department of Fish and Wildlife approves the Bay Delta Conservation Plan as a natural community conservation plan.~~

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

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) The region surrounding the state capital of Sacramento*
- 4 *naturally depends on the American and Sacramento Rivers as*
- 5 *local sources of water supplies.*

1 (b) *The region depends on the Folsom Reservoir to provide the*
2 *storage necessary to support the region’s water supply during dry*
3 *seasons and dry years.*

4 (c) *The historically severe drought conditions in 2013 and 2014*
5 *have demonstrated that the Sacramento region is uniquely*
6 *vulnerable to severe dry conditions. In January 2014, the water*
7 *levels in Folsom Reservoir dropped so low that the municipal*
8 *water supply intake in the reservoir that over 500,000 people*
9 *depend on was dangerously close to going dry, and low water*
10 *levels downstream on the American River compelled emergency*
11 *measures to allow for continued diversions by the City of*
12 *Sacramento.*

13 (d) *In 1972, under the California Wild & Scenic Rivers Act, the*
14 *Legislature designated the lower American River as a recreational*
15 *river, and in 1981, at the request of Governor Edmund G. Brown,*
16 *Jr., the river was also designated as a recreational river under*
17 *the federal Wild & Scenic Rivers Act. The extraordinary value of*
18 *the American River, which supported the river’s designation as a*
19 *federal and state wild and scenic river, depends on water being*
20 *stored in, and released from, the Folsom Reservoir.*

21 (e) *The lower American River supports a large part of the*
22 *Central Valley’s iconic Chinook salmon and steelhead populations,*
23 *which depend on management of cold water stored in, and released*
24 *from, the Folsom Reservoir.*

25 (f) *While the Sacramento region has faced uniquely pressing*
26 *water issues in 2013 and 2014, in other dry years, the region’s*
27 *water suppliers have been able to conjunctively manage their*
28 *surface and groundwater resources to make water available for*
29 *transfer to other water-short regions of the state, and produced*
30 *statewide benefits in doing so.*

31 (g) *The Sacramento region has been one of California’s leaders*
32 *in developing integrated regional water management plans through*
33 *the Regional Water Authority, a joint powers authority, and the*
34 *American River Basin plan was recognized as one of the state’s*
35 *Regional Success Stories in the Delta Plan adopted by the Delta*
36 *Stewardship Council.*

37 (h) *Under the federal Water Resources Development Act of*
38 *1999, the United States Army Corps of Engineers and the United*
39 *States Bureau of Reclamation are preparing an update to Folsom*
40 *Reservoir’s water control manual that could improve both flood*

1 control and water supply reliability by enabling the reservoir to
2 be operated with the latest real-time weather prediction technology.

3 (i) It is possible for the Department of Water Resources to
4 simultaneously improve the reliability of the Sacramento region's
5 water supply to meet the current and future needs of its
6 communities and support environmental resources while generating
7 statewide water supply benefits by assisting the Regional Water
8 Authority and the region's water suppliers in developing
9 multibenefit projects and programs, and helping to identify
10 available funding for those projects and programs.

11 SEC. 2. Section 12659.1 is added to the Water Code, to read:

12 12659.1. (a) The department shall partner with the Regional
13 Water Authority, a specific joint powers authority in the
14 Sacramento area; the water suppliers in El Dorado, Placer,
15 Sacramento, and Yolo counties; and other interested agencies to
16 develop a plan for investing in water supplies and other facilities
17 in order to contribute to the reliability of water supplies for the
18 Sacramento region's communities and environmental resources
19 while also generating statewide benefits. The matters that the plan
20 shall address shall include, but are not limited to, conjunctive use
21 measures and facilities, water efficiency and reuse, measures to
22 integrate surface water supplies, drought response measures, and
23 potential funding sources.

24 (b) The department shall submit the plan to the Legislature on
25 or before January 1, 2017.

26 (c) A plan to be submitted pursuant to subdivision (b) shall be
27 submitted in compliance with Section 9795 of the Government
28 Code.

29 (d) This section shall be repealed on January 1, 2021, unless a
30 later enacted statute that is enacted before January 1, 2021, deletes
31 or extends that date.

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

37 SECTION 1. ~~Section 85320 of the Water Code is amended to~~
38 ~~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 ~~(e) 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~~

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

3 ~~(d) If the Department of Fish and Wildlife approves the BDCP~~
4 ~~as 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 five public hearings~~
7 ~~concerning the incorporation of the BDCP into the Delta Plan.~~

8 ~~(e) If the Department of Fish and Wildlife approves the BDCP~~
9 ~~as 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 Wildlife'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 Wildlife, 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.~~