

**ASSEMBLY BILL**

**No. 2583**

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**Introduced by Assembly Member Frazier**

February 19, 2016

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An act to amend Section 85057.5 of, to add Section 85053.5 to, and to repeal Section 85085 of, the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 2583, as introduced, Frazier. Sacramento-San Joaquin Delta Reform Act of 2009.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council and requires the council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, known as the Delta Plan.

This bill would add a definition of the California Water Fix to the act.

The act requires a state or local public agency that proposes to undertake a covered action that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. The act defines the term “covered action” to mean a plan, program, or project, as prescribed.

This bill would delete certain exclusions relating to the Bay Delta Conservation Plan from the definition of a covered action.

The act requires the Department of Water Resources to coordinate with the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and the State Lands Commission efforts to cooperate with the United

States Bureau of Reclamation to construct and implement the Two-Gates Fish Protection Demonstration Project by December 1, 2010, to evaluate the effectiveness of the Three Mile Slough Barrier project, to expeditiously move ahead with certain near term actions, and to assist in implementing early action ecosystem restoration projects.

This bill would eliminate these requirements.

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 85053.5 is added to the Water Code, to  
2 read:

3 85053.5. “California Water Fix” or “Water Fix” means a  
4 project, within the meaning of Section 21065 of the Public  
5 Resources Code and subdivision (a) of Section 85057.5, to  
6 construct new State Water Project conveyance facilities in the  
7 Delta.

8 SEC. 2. Section 85057.5 of the Water Code is amended to read:

9 85057.5. (a) “Covered action” means a plan, program, or  
10 project as defined pursuant to Section 21065 of the Public  
11 Resources Code that meets all of the following conditions:

12 (1) Will occur, in whole or in part, within the boundaries of the  
13 Delta or Suisun Marsh.

14 (2) Will be carried out, approved, or funded by the state or a  
15 local public agency.

16 (3) Is covered by one or more provisions of the Delta Plan.

17 (4) Will have a significant impact on achievement of one or  
18 both of the coequal goals or the implementation of  
19 government-sponsored flood control programs to reduce risks to  
20 people, property, and state interests in the Delta.

21 (b) “Covered action” does not include any of the following:

22 (1) A regulatory action of a state agency.

23 (2) Routine maintenance and operation of the State Water  
24 Project or the federal Central Valley Project.

25 (3) Regional transportation plans prepared pursuant to Section  
26 65080 of the Government Code.

27 (4) A plan, program, project, or activity within the secondary  
28 zone of the Delta that the applicable metropolitan planning  
29 organization pursuant to Section 65080 of the Government Code

1 has determined is consistent with either a sustainable communities  
2 strategy or an alternative planning strategy that the State Air  
3 Resources Board has determined would, if implemented, achieve  
4 the greenhouse gas emission reduction targets established by that  
5 board pursuant to subparagraph (A) of paragraph (2) of subdivision  
6 (b) of Section 65080 of the Government Code. For purposes of  
7 this paragraph, “consistent with” means consistent with the use  
8 designation, density, building intensity, transportation plan, and  
9 applicable policies specified for the area in the sustainable  
10 communities strategy or the alternative planning strategy, as  
11 applicable, and any infrastructure necessary to support the plan,  
12 program, project, or activity.

13 (5) Routine maintenance and operation of a facility located, in  
14 whole or in part, in the Delta, that is owned or operated by a local  
15 public agency.

16 (6) A plan, program, project, or activity that occurs, in whole  
17 or in part, in the Delta, if both of the following conditions are met:

18 (A) The plan, program, project, or activity is undertaken by a  
19 local public agency that is located, in whole or in part, in the Delta.

20 (B) Either a notice of determination is filed, pursuant to Section  
21 21152 of the Public Resources Code, for the plan, program, project,  
22 or activity by, or the plan, program, project, or activity is fully  
23 permitted by, September 30, 2009.

24 (7) ~~(A)~~—A project within the secondary zone, as defined pursuant  
25 to Section 29731 of the Public Resources Code as of January 1,  
26 2009, for which a notice of approval or determination pursuant to  
27 Section 21152 of the Public Resources Code has been filed before  
28 the date on which the Delta Plan becomes effective.

29 ~~(B)~~—A project for which a notice of approval or determination  
30 is filed on or after the date on which the final Bay Delta  
31 Conservation Plan becomes effective, and before the date on which  
32 the Delta Plan becomes effective, is not a covered action but shall  
33 be consistent with the Bay Delta Conservation Plan.

34 ~~(C)~~—Subparagraphs (A) and (B) do not apply to either of the  
35 following:

36 ~~(i)~~—A project that is within a Restoration Opportunity Area as  
37 shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy of  
38 the Bay Delta Conservation Plan, August 3, 2009, or as shown in  
39 a final Bay Delta Conservation Plan.

1     (ii) ~~A project that is within the alignment of a conveyance~~  
2     ~~facility as shown in Figures 1 to 5, inclusive, of the Final Draft~~  
3     ~~Initial Assessment of Dual Delta Water Conveyance Report, April~~  
4     ~~23, 2008, and in future revisions of this document by the~~  
5     ~~department.~~

6     (8) Leases approved by a special district if all of the following  
7     apply:

8     (A) The uses proposed by the lease are authorized by the  
9     applicable general plan and zoning ordinances of the city where  
10    the special district is located.

11    (B) The uses proposed by the lease are approved by the city  
12    where the special district is located and the city complies with  
13    Chapter 3 (commencing with Section 85225) of Part 3, if  
14    applicable, prior to approval of the lease by the special district.

15    (C) The special district complies with the California  
16    Environmental Quality Act (Division 13 (commencing with Section  
17    21000) of the Public Resources Code) prior to approving the lease.

18    (9) (A) Routine dredging activities that are necessary for  
19    maintenance of facilities operated by a special district.

20    (B) For purposes of this paragraph, “routine dredging activities”  
21    are limited to the following:

22    (i) Dredging to maintain the Stockton Deep Water Ship Channel  
23    at a depth of 40 feet in the sediment trap at the confluence of the  
24    San Joaquin River, between river mile 39.3 to river mile 40.2, and  
25    to maintain the remaining Stockton Deep Water Ship Channel at  
26    a depth of 35 feet plus two feet of overdredge from river mile 35  
27    to river mile 43.

28    (ii) Dredging designed to maintain the Sacramento Deep Water  
29    Ship Channel at a depth of 30 feet plus two feet of overdredge  
30    from river mile 0.0 to river mile 30, and at a depth of 35 feet from  
31    river mile 35 to river mile 43.

32    (C) Except as provided by this subdivision, it is the intent of  
33    the Legislature that this exemption shall not be interpreted or  
34    treated as changing or modifying current substantive and procedural  
35    regulations applicable to the decision to approve dredging  
36    operations.

37    (c) For purposes of this section, “special district” means the  
38    Port of Stockton or the Port of West Sacramento.

1 (d) This section shall not be interpreted to authorize the  
2 abrogation of a vested right whether created by statute or by  
3 common law.

4 SEC. 3. Section 85085 of the Water Code is repealed.

5 ~~85085. The department shall do all of the following:~~

6 ~~(a) Coordinate with the Department of Fish and Game, the board,~~  
7 ~~the California regional water quality control boards, and the State~~  
8 ~~Lands Commission efforts to cooperate with the United States~~  
9 ~~Bureau of Reclamation to construct and implement the Two-Gates~~  
10 ~~Fish Protection Demonstration Project by December 1, 2010.~~

11 ~~(b) Evaluate the effectiveness of the Three Mile Slough Barrier~~  
12 ~~project.~~

13 ~~(c) Expeditiously move ahead with other near term actions as~~  
14 ~~identified in the Strategic Plan.~~

15 ~~(d) Assist in implementing early action ecosystem restoration~~  
16 ~~projects, including, but not limited to, Dutch Slough tidal marsh~~  
17 ~~restoration and Meins Island tidal marsh restoration.~~