**Assembly Bill No. 1102**

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Passed the Assembly September 15, 1995

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*Chief Clerk of the Assembly*

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Passed the Senate September 14, 1995

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*Secretary of the Senate*

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This bill was received by the Governor this ___ day

of _____, 1995, at ___ o'clock __M.

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*Private Secretary of the Governor*

CHAPTER ____

An act to amend Sections 66631, 66663.2, and 66667 of, and to add Section 11354.1 to, the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, Sher. San Francisco Bay Conservation and Development Commission.

(1) Under existing law, state agencies generally are required to adopt regulations in accordance with prescribed procedures and requirements, and the Office of Administrative Law is required to review adopted regulations and to make specified determinations.

This bill would exempt from the above requirements, any policy, plan, or guideline adopted by the San Francisco Bay Conservation and Development Commission prior to January 1, 1996, and would exempt from those requirements the issuance or denial by the commission of any permit. The bill would require any changes to specified plans by the commission on and after January 1, 1996, to be submitted to the office for approval in accordance with specified requirements.

(2) Under existing law, the commission is required to make a continuing review of specified matters relating to conservation and development in the San Francisco Bay, and, in making that review, to avoid duplication of work, to make maximum use of data and information available from the planning programs of the State Office of Planning and Research, the Association of Bay Area Governments, the cities and counties in the San Francisco Bay area, and other public and private planning agencies.

This bill would additionally require the commission, to avoid duplication of work, to make maximum use of data and information available from the planning programs of the San Francisco Bay Regional Water Quality Control Board.

(3) Under existing law, the commission is authorized, until January 1, 1998, to impose a user fee not to exceed 10¢ per cubic yard of material upon any public agency or person who proposes to dredge material from, or dispose of dredged material in, San Francisco Bay, as defined, subject to specified limitations and an attempt to obtain funding from alternative sources, for its costs of participating in the Long Term Management Strategy, as specified.

This bill would delete that authority to impose a user fee as of January 1, 1996, and would require the commission on and after January 1, 1996, to impose, until January 1, 1999, a user fee of 7¢ per cubic yard of material upon any public agency or person who proposes to dispose of dredged material in specified areas, not to exceed a total of $210,000, to be deposited in the Long Term Management Strategy Completion Fund which the bill would create in the State Treasury. The bill would make the money in the fund available to the commission, upon appropriation by the Legislature, for costs associated with implementing the program.

The bill would specify additional elements to be included in the Long Term Management Strategy.

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

SECTION 1. Section 11354.1 is added to the Government Code, to read:

11354.1. (a) For purposes of this section, ‘‘commission’’ means the San Francisco Bay Conservation and Development Commission.

(b) Except as provided in subdivision (d), this chapter does not apply to any policy, plan, or guideline adopted by the commission pursuant to Chapter 5 (commencing with Section 66650) of Title 7.2 of this code or Division 19 (commencing with Section 29000) of the Public Resources Code prior to January 1, 1996.

(c) The issuance or denial by the commission of any permit pursuant to subdivision (a) of Section 66632, and the issuance or denial by, or appeal to, the commission of

any permit pursuant to Chapter 6 (commencing with Section 29500) of Division 19 of the Public Resources Code, are not subject to this chapter.

(d) (1) Any amendments or other changes to the San Francisco Bay Plan or to a special area plan pursuant to Chapter 5 (commencing with Section 66650) of Title 7.2, and amendments or other changes to the Suisun Marsh Protection Plan, as defined in Section 29113 of the Public Resources Code, or in the Suisun Marsh local protection program, as defined in Section 29111 of the Public Resources Code, adopted by the commission on and after January 1, 1996, shall be submitted to the office.

(2) The commission shall include in its submittal to the office pursuant to paragraph (1) both all of the following documents:

(A) A clear and concise summary of any regulatory provision adopted or approved by the commission as part of the proposed change for publication in the California Code of Regulations.

(B) The administrative record for the proceeding, and a list of documents relied upon in making the change. Proposed additions to the plans shall be indicated by underlined text, and proposed deletions shall be indicated by strike through text in documents submitted as part of the administrative record for the proceeding.

(3) The office shall review the regulatory provisions to determine compliance with the standards of necessity, authority, clarity, consistency, reference, and nonduplication set forth in subdivision (a) of Section 11349.1. The office shall also review the responses to public comments prepared by the commission to determine compliance with the public participation requirements of Sections 11000 to 11007, inclusive, of Title 14 of the California Code of Regulations, and to ensure that the commission considers all relevant matters presented to it before adopting, amending, or repealing any regulatory provision, and that the commission explains the reasons for not modifying a proposed plan change to accommodate an objection or recommendation. The office shall restrict its review to

the regulatory provisions and the administrative record of the proceeding. Sections 11349.3, 11349.4, 11349.5, and 11350.3 shall apply to the review by the office to the extent that those sections are consistent with this section.

(4) In reviewing proposed changes to the commission's plans for the criteria specified in subdivision (a) of Section 11349.1, the office shall consider the clarity of the proposed plan change in the context of the commission's existing plans.

(5) The proposed plan or program change subject to this subdivision shall not become effective unless and until the regulatory provisions are approved by the office in accordance with subdivision (a) of Section 11349.3.

(6) Upon approval of the regulatory provisions, the office shall transmit to the Secretary of State for filing the clear and concise summary of the regulatory provisions submitted by the commission.

(e) Except as provided in subdivisions (b) and (c), the adoption of any regulation by the commission shall be fully subject to this chapter.

SEC. 2. Section 66631 of the Government Code is amended to read:

66631. In making the review, the commission shall cooperate to the fullest extent possible with the Association of Bay Area Governments; and shall, to the fullest extent possible, coordinate its planning with planning by local agencies, which shall retain the responsibility for local land use planning. To avoid duplication of work, the commission shall make maximum use of data and information available from the planning programs of the State Office of Planning and Research, the Association of Bay Area Governments, the San Francisco Bay Regional Water Quality Control Board, the cities and counties in the San Francisco Bay area, and other public and private planning agencies.

SEC. 3. Section 66663.2 of the Government Code is amended to read:

66663.2. The Legislature further finds and declares that the United States Army Corps of Engineers, the Environmental Protection Agency, the State Water

Resources Control Board and relevant California regional water quality control boards, and the San Francisco Bay Conservation and Development Commission have agreed to participate in a joint effort known as the Long Term Management Strategy (LTMS) to formulate a federal/state management strategy for bay dredging that concentrates federal efforts toward studying and possibly designating ocean disposal sites, and state efforts towards inbay and upland disposal options. This chapter is intended to reflect the commission's role in the Long Term Management Strategy, including all of the following:

(a) Evaluation of the use of upland, diked bayland, and delta areas for reuse of material dredged from the bay, regulatory constraints and opportunities involving upland disposal, and potential project sponsors and methods to implement those uses.

(b) Participation with the United States Geological Survey to make a detailed study of bay sediment processes affecting the need for bay dredging and the physical impacts of inbay disposal to augment the modeling work on bay sediment dynamics being performed by the State Water Resources Control Board and the United States Army Corps of Engineers.

(c) Participation in the studies of the economic and environmental impacts of the array of disposal options, and assistance in the identification of feasible and environmentally acceptable disposal sites for material dredged from the bay in the ocean, bay, upland, and delta areas, with particular attention given to identifying sites suitable for the reuse of dredged materials.

(d) Participation in the development of a joint agency comprehensive dredging management plan to implement the Long Term Management Strategy, which shall include all of the following:

(1) Prioritization of dredging needs, taking into account technical requirements, geographic factors, costs, and economic investments affecting, and environmental impacts resulting from, maritime, recreational boating, and other dredging projects, and

the monitoring and evaluation of regulatory compliance, the environmental effects of dredging and disposal, and the effectiveness of designated disposal sites.

(2) Guidelines for dredging and disposal.

(3) The establishment and implementation of an office of dredged material management, that includes at a minimum the agencies identified in Section 66663.2, and which will simplify and expedite the processing of permit applications for the dredging and disposal of dredged material using the Long Term Management Strategy goals and policies.

(4) The development of alternatives to open water disposal of dredged sediments.

SEC. 4. Section 66667 of the Government Code is amended to read:

66667. (a) Until January 1, 1996, the commission may impose a user fee not to exceed ten cents ($0.10) per cubic yard of material upon any public agency or person who proposes to dredge material from, or dispose of dredged material in, the area described in subdivisions (a) and (e) of Section 66610. As needed, the commission shall, after a public hearing, set the fee at an amount which it finds necessary to meet its cost for participating in the Long Term Management Strategy. Prior to setting the fee, the commission shall consult with affected public agencies or persons proposing to dredge in the area described in subdivisions (a) and (e) of Section 66610 in an attempt to obtain funding for these costs from alternative sources, including, but not limited to, the General Fund, federal agencies, and voluntary industry funding. To the extent alternative funding is accepted by the commission to carry out the purposes of this chapter, the commission shall reduce on a commensurate basis, or shall not impose, the user fee authorized by this subdivision. Funds annually appropriated to the commission for Long Term Management Strategy related expenses, equal to the level of funding for that purpose appropriated to the commission in the 1991–92 Budget, shall not be considered alternative funding. In no event shall the sum of all of the fees collected by the

commission pursuant to this subdivision and the funding obtained from alternative sources exceed the sum of six hundred fifty thousand dollars ($650,000). Funds from fees and alternative sources shall be deposited in the Long Term Management Strategy Study Fund, which is hereby created in the State Treasury. All moneys in the Long Term Management Strategy Study Fund shall be available to the commission, upon appropriation by the Legislature, only for costs associated with its participation in the Long Term Management Strategy. The commission shall include a detailed accounting of funds imposed, collected, and expended in the annual report required by Section 66661.

(b) On and after January 1, 1996, the commission shall impose a user fee of seven cents ($0.07) per cubic yard of material upon any public agency or person who proposes to dispose of dredged material in the areas described in subdivisions (a) and (e) of Section 66610. No such fee shall be imposed for dredged material disposed in areas outside of the commission's jurisdiction, or for beneficial use projects such as the Sonoma Baylands Project. In no event shall the sum of all of the fees collected by the commission pursuant to this subdivision exceed the sum of two hundred ten thousand dollars ($210,000). Funds from fees collected pursuant to this subdivision shall be deposited in the Long Term Management Strategy Completion Fund, which is hereby created in the State Treasury. If the total of fees paid exceeds two hundred ten thousand dollars ($210,000), fees shall be refunded in reverse chronological order of receipt until the total received equals two hundred ten thousand dollars ($210,000). The money in the Long Term Management Strategy Completion Fund shall be available to the commission, upon appropriation by the Legislature, only for costs associated with implementing Section 66663.2. The commission shall include a detailed accounting of fees imposed, collected, and expended in the annual report required by Section 66661.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a

later enacted statute which is enacted before January 1, 1999, deletes or extends that date.

Approved _____, 1995

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*Governor*