

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 457

Introduced by Senator Wolk

February 26, 2009

An act to add Sections 29735.5 and 29759 to, and to add Division 17.5 (commencing with Section 27000) to, the Public Resources Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Wolk. Sacramento-San Joaquin Delta.

Existing law requires various state agencies to carry out programs, projects, and activities on behalf of the Sacramento-San Joaquin Delta.

The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 creates the 23-member Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta. That act establishes a primary zone where further development is barred and a secondary zone surrounding the Delta where development may proceed under certain conditions.

The California Bay-Delta Authority Act establishes in the Natural Resources Agency the California Bay-Delta Authority. The act requires the authority and the implementing agencies to carry out programs, projects, and activities necessary to implement the Bay-Delta Program, defined to mean those projects, programs, commitments, and other actions that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision, dated August 28, 2000, or as it may be amended.

This bill would create a ~~7-member~~ *9-member* Delta Stewardship Council in the Natural Resources Agency with specified powers and

responsibilities relating to the Delta, including approving the Delta Stewardship Plan to guide and shape management of the Delta. The bill would require the commission to present the council with a draft plan on or before October 1, 2010. The bill would require the council to adopt the plan on or before January 1, 2011. The bill would require the council to review, and if necessary, amend the plan at least every 5 years.

~~The bill would establish the Sacramento-San Joaquin Delta Conservancy to undertake various activities related to the Delta and would prescribe the management, powers, and duties of the conservancy. The bill would create the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, for the purposes of the conservancy.~~

The bill would require the council by March 1, 2010, to appoint a Delta Science and Engineering Board and create a Delta Science and Engineering Program. The bill would state the intent of the Legislature that the Delta Science and Engineering Program be a replacement for, and a successor to, the CALFED Science Program, with specified responsibilities, and that the Delta Science and Engineering Board be a replacement for the CALFED Independent Science Board.

The bill would require the commission to require all general plans of cities and counties within the Delta, and the resource management plan, to be consistent with the Delta Stewardship Plan, thereby imposing a state-mandated local program on cities and counties. The bill would require the commission to revise all of its plans and policies to be consistent with the Delta Stewardship Plan, to review and certify all city and county general plans for consistency with the resource management plan and the Delta Stewardship Plan, to exercise direct consistency determination authority over development proposals in the primary zone, to review, hold public hearings and receive testimony, and provide recommendations to the council on all proposed projects subject to approval by the council, and develop a regional economic development plan. *The bill would require the council to determine appeals from the commission on water conveyance and storage project decisions.*

The bill would create the Delta Stewardship Fund and would require the commission to deposit in the fund any moneys received from federal, state, local, and private sources for Delta stewardship. Moneys in the fund would be available, upon appropriation, for regional economic development consistent with the Delta Stewardship Plan.

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.

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

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

SECTION 1. Division 17.5 (commencing with Section 27000) is added to the Public Resources Code, to read:

DIVISION 17.5. DELTA GOVERNANCE

CHAPTER 1. GENERAL PROVISIONS

27000. The Legislature finds and declares that the Sacramento-San Joaquin Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and it is the policy of the state to recognize, preserve, and protect those resources of the Delta for the use and enjoyment of current and future generations. In implementing that policy, the state shall act pursuant to all of the following principles:

~~(a) A revitalized Delta ecosystem and a reliable water supply for California are the primary, coequal goals for sustainable management of the Delta.~~

~~(b) The Delta is a unique and valued area, warranting recognition and special legal status from the state.~~

(a) The revitalization of the Delta ecosystem and a reliable water supply for California are the primary goals for sustainable management of the Delta, which is a unique and valued area, warranting recognition and special legal status from the state.

~~(c)~~

(b) The Delta ecosystem must function as an integral part of a healthy estuary.

~~(d)~~

1 (c) California's water supply is limited and must be managed
2 with significantly higher efficiency to be adequate for the state's
3 future population, growing economy, and vital environment.

4 ~~(e)~~

5 (d) The foundation for policymaking regarding California water
6 resources must be the longstanding principles of "reasonable use"
7 and "public trust"; these principles are particularly important and
8 applicable to the Delta. The goals of conservation, efficiency, and
9 sustainable use must drive state water policies.

10 ~~(f)~~

11 (e) A revitalized Delta ecosystem will require reduced diversions
12 of water, or changes in patterns and timing of those diversions
13 upstream of the Delta, within the Delta, and exported from the
14 Delta, at critical times.

15 ~~(g) New facilities for conveyance and storage, and better linkage~~
16 ~~between the two, are needed to better manage California's water~~
17 ~~resources for both the health of the estuary and the quality and~~
18 ~~reliability of exported water.~~

19 ~~(h)~~

20 (f) Major investments in the Delta and the statewide water
21 management system must integrate and be consistent with specific
22 policies in the Delta Vision. In particular, these strategic
23 investments must strengthen selected levees, improve floodplain
24 management, and improve water circulation and quality.

25 ~~(i)~~

26 (g) The current boundaries and governance system of the Delta
27 must be changed. It is essential to have an independent body with
28 authority to achieve the ~~coequal~~ goals of ecosystem revitalization
29 and adequate water supply for California, while also recognizing
30 the importance of the Delta as a unique and valued area. This body
31 must have secure funding and the ability to approve spending,
32 planning, and water export levels.

33 ~~(j)~~

34 (h) Discouraging inappropriate urbanization of the Delta is
35 critical both to preserve the Delta's unique character and to ensure
36 adequate public safety.

37 ~~(k)~~

38 (i) Institutions and policies for the Delta should be designed for
39 resiliency and adaptation.

27001. The Legislature finds and declares that the Delta is in crisis and existing Delta policies are not sustainable in the long term, particularly in light of the threat of climate change and sea level rise to state water supplies and water availability. Protecting the public trust and improving the stewardship of the precious resources of the Delta require fundamental reorganization of the state's management of those resources.

27002. The Legislature finds and declares all of the following:

(a) Before California's statehood, the Delta had developed over millions of years of sedimentary deposits from California's two great rivers. When European settlers arrived, the Delta was a shallow wetland with water covering the area for many months of the year. Natural levees, created by deposits of sediment, allowed some islands to emerge during the dry summer months. As with other river estuaries, salinity would fluctuate, depending on the season and the amount of precipitation in any one year.

(b) Not long after statehood, settlers began building larger levees to keep water off certain islands for the entire year. In this way, they gained a property interest in the created island. Into the 20th century, numerous islands and a maze of Delta channels emerged, along with a robust agricultural economy relying on the fertile peat soils that had been deposited over millions of years. Cultivation of these peat soils, however, caused oxidation and subsidence, leading to some areas of the Delta lying as deep as 30 feet below the adjacent water level.

(c) In 1933, the Legislature adopted the California Water Plan, which envisioned a set of northern California reservoirs to hold water in the Sacramento River watershed for subsequent transfer across the Delta into the San Joaquin Valley. The 1933 plan also envisioned a reservoir on the main stem of the San Joaquin River, which would hold back water that otherwise flowed to the Delta and transfer that water south into the Tulare Lake and Kern River basins. Because California did not have the resources to finance the plan at that time, the federal government agreed to implement the plan through the United States Bureau of Reclamation, which constructed the Central Valley Project.

(d) In 1959, the Legislature approved construction of a State Water Project, again drawing water from a northern California reservoir across the Delta to serve agricultural uses in the Tulare Lake and Kern River basins as well as urban uses in southern

1 California and the San Francisco Bay area. In 1960, California
2 voters approved the issuance of one billion seven hundred fifty
3 million dollars (\$1,750,000,000) in bonds to pay for the State
4 Water Project, which began exporting water from the Delta in
5 1968.

6 27003. The Legislature finds and declares all of the following:

7 (a) As demands on the Delta's resources have expanded, the
8 Delta has suffered conflict and deterioration. As water quality and
9 the fishery have declined, litigation over water quality standards
10 and fishery protection has raged for several decades, ultimately
11 leading to a 1994 agreement between the state and the federal
12 government on Delta water quality standards. Thereafter, the two
13 governments developed the CALFED Bay-Delta Program to
14 improve conditions for four critical issues: water supply, ecosystem
15 restoration, water quality, and levee system integrity. The two
16 governments signed a Record of Decision to establish a 30-year
17 Delta improvement program on August 28, 2000.

18 (b) Since the 2000 CALFED Record of Decision, water project
19 pumping has increased to record high levels and certain fish
20 populations have declined to record low levels, with the Delta
21 smelt approaching extinction. Studies of the Delta's ecosystem
22 crisis have indicated that the recent decline has been caused by
23 three categories of problems for the Delta: water project operations,
24 toxic contaminants, and invasive species. All three of these
25 categories of problems have worsened in recent years, arising out
26 of the growth and development of the Central Valley economy.

27 (c) Recent years also have demonstrated the fragility of the
28 Delta levee system. After a 2004 levee failure on a clear summer
29 day, not during a flood event, the state has focused increased
30 attention on the conditions of the Delta's levees, which are mostly
31 owned by private parties or local reclamation districts. Continued
32 farming on peat soils has led to greater subsidence to levels far
33 below adjacent water levels in some parts of the Delta. These
34 conditions put greater hydraulic pressure on Delta levees and
35 increase the risk of levee failure. The Department of Water
36 Resources has identified a possible risk scenario where an
37 earthquake could lead to mass levee failure and the creation of a
38 deep, saline water body where deeply subsided islands formerly
39 stood. This type of mass levee failure would interrupt water exports

from the Delta, as saline water approached the water project pumping facilities in the south Delta.

(d) Finally, increasing urbanization on the fringes of the Delta has led to greater stress on the Delta's resources. In 1992, the Legislature passed the Delta Protection Act of 1992 (Division 19.5 (commencing with Section 29700)), which established a primary zone where further development is barred and a secondary zone surrounding the Delta where development may proceed under certain conditions. The Delta Protection Commission, created by the Delta Protection Act of 1992, has succeeded in large part due to the leadership of local officials who represent those who live and work in the Delta.

CHAPTER 2. DEFINITIONS

27050. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division.

27052. "Commission" means the Delta Protection Commission established in the Delta Protection Act of 1992 (Division 19.5 (commencing with Section 29700)).

~~27054. "Conservancy" means the Sacramento-San Joaquin Delta Conservancy established in Chapter 4 (commencing with Section 27200).~~

~~27056.~~

27054. "Council" means the Delta Stewardship Council established in Chapter 3 (commencing with Section 27100).

~~27058.~~

27056. "Delta" means the Sacramento-San Joaquin Delta estuary, as defined in Section 12220 of the Water Code.

~~27060.~~

27058. "Delta Vision" means the report titled "Delta Vision: Our Vision for the California Delta" as adopted by the Blue Ribbon Task Force on November 30, 2007.

~~27062.~~

27060. "Plan" means the Delta Stewardship Plan adopted pursuant to Chapter 6 5 (commencing with Section ~~27400~~ 27300).

~~27064.~~

27062. "State Water Project" means the State Water Resources Development System.

CHAPTER 3. DELTA STEWARDSHIP COUNCIL

27100. (a) There is hereby created the Delta Stewardship Council in the Natural Resources Agency, consisting of ~~seven~~ *nine members. Eight members shall be appointed by the Governor, subject to Senate confirmation, and shall have the responsibility for the stewardship of the Sacramento-San Joaquin Delta and all its natural resources. It is the intent of the Legislature that the membership include diverse expertise and perspectives, policy and resource experts, strategic problem solvers, and individuals having successfully resolved multi-interest conflicts. One member shall be the chairperson of the Delta Protection Commission.*

(b) The council shall do all of the following:

(1) Approve the Delta Stewardship Plan.

(2) *Determine appeals from Delta Protection Commission water supply decisions of whether a project proposed by or approved by a state agency or local government that may impact the Delta is consistent with the plan.*

(3) Assume responsibility for any conservation or habitat management plan developed for the Delta by the state or federal government.

(4) ~~Ensure~~ *Establish a process to ensure federal and state consistency with the plan.*

(5) *Review, and determine consistency with this division of, the Bay Delta Conservation Plan or an environmental impact report for any significant Delta conveyance facility.*

~~(5)~~

(6) Be designated a trustee agency pursuant to the California Environmental Quality Act (Division 13 (commencing with Section ~~21000~~; 21000)).

~~(6)~~

(7) Determine the consistency of major water, road, railroad, utility, and levee infrastructure projects in the Delta with the plan and communicate that determination to the responsible agencies.

~~(7)~~

(8) Assess policies applied outside the Delta that are critical to meeting Delta Vision goals and convey the results of that assessment to the responsible agency.

~~(8)~~

(9) Work with the Delta Science and Engineering Program and the Delta Science and Engineering Board on adopting sound principles of adaptive management.

~~(9)~~

(10) Receive and allocate funds to advance policies and programs related to the Delta.

~~(10)~~

(11) Include issues of environmental justice in the plan and in future Delta decisionmaking.

~~(11)~~

(12) Adopt procedures for use of alternative approaches to dispute resolution, such as joint fact finding and arbitration to reduce reliance on litigation and the courts.

~~(12)~~

(13) Have the power to sue to ensure compliance with the plan.

~~(13)~~

(14) Establish policies and procedures that ensure that day-to-day operation of water export systems is consistent with the plan.

27101. Each member shall serve for five years. The length of the initial terms of office shall be staggered.

~~CHAPTER 4. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY~~

~~Article 1. General Provisions and Definitions~~

~~27200. For the purposes of this chapter, the following terms have the following meanings:~~

~~(a) "Board" means the governing board of the Sacramento-San Joaquin Delta Conservancy.~~

~~(b) "Fund" means the Sacramento-San Joaquin Delta Conservancy Fund created pursuant to Section 27223.~~

~~(c) "Local public agency" means a city, county, district, or joint powers authority.~~

~~(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of Title 26 of the United States Code, and that has among its principal charitable purposes preservation of land for scientific, recreational, scenic, or open-space opportunities; protection of the~~

1 natural environment, or preservation or enhancement of wildlife;
2 preservation of cultural and historical resources; or, efforts to
3 provide for the enjoyment of public lands.

4 (e) “Tribal organization” means an Indian tribe, band, nation,
5 or other organized group or community, or a tribal agency
6 authorized by a tribe, which is recognized as eligible for special
7 programs and services provided by the United States to Indians
8 because of their status as Indians and is identified on pages 52829
9 to 52835, inclusive, of Number 250 of Volume 53 (December 29,
10 1988) of the Federal Register, as that list may be updated or
11 amended from time to time.

12
13 Article 2. ~~Sacramento-San Joaquin Delta Conservancy~~

14
15 27210. ~~There is in the Natural Resources Agency the~~
16 ~~Sacramento-San Joaquin Delta Conservancy, which is created as~~
17 ~~a state agency to do all of the following, working in collaboration~~
18 ~~and cooperation with local governments and interested parties:~~

19 (a) ~~Monitor projects within the watershed of the Delta that~~
20 ~~provide substantial benefits to the ecosystem or recreation capacity~~
21 ~~of the Delta.~~

22 (b) ~~Provide stewardship of the Delta by establishing and meeting~~
23 ~~natural resource goals through both terrestrial and aquatic~~
24 ~~ecosystem protection and restoration efforts.~~

25 (c) ~~Coordinate with other Delta governance entities.~~

26 27212. ~~The board shall consist of nine voting members and~~
27 ~~seven nonvoting members, appointed or designated as follows:~~

28 (a) ~~The nine voting members of the board shall consist of all of~~
29 ~~the following:~~

30 (1) ~~The Secretary of the Natural Resources Agency, or his or~~
31 ~~her designee.~~

32 (2) ~~The Director of Finance, or his or her designee.~~

33 (3) ~~The chairperson of the Delta Protection Commission, or his~~
34 ~~or her designee.~~

35 (4) ~~Two public members appointed by the Governor.~~

36 (5) ~~Two public members appointed by the Senate Committee~~
37 ~~on Rules.~~

38 (6) ~~Two public members appointed by the Speaker of the~~
39 ~~Assembly.~~

~~(7) One public member appointed by the Governor, one public member appointed by the Senate Committee on Rules, and one public member appointed by the Speaker of the Assembly shall be locally elected officials from within the five Delta-region counties. The three other public members shall represent statewide interests, with one member residing in the Delta and one member residing in southern California, and each shall have expertise in natural sciences, water and flood management, or conservation sufficient to contribute to the goals of the conservancy.~~

~~(b) The seven nonvoting members shall consist of the following:~~

~~(1) A designee of the San Francisco Bay Conservation and Development Commission for coordination purposes.~~

~~(2) Three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly, appointed by the Speaker of the Assembly, shall meet with the conservancy and participate in its activities to the extent that this participation is not incompatible with their positions as Members of the Legislature. At least two of the Members of the Senate and two Members of the Assembly shall represent a district that encompasses a portion of the Delta.~~

~~27213. The members appointed by the Governor shall serve at his or her pleasure. The locally elected public members shall serve for a term of four years, with a two-term limit. The state interest public members shall serve for a term of four years, with a two-term limit.~~

~~27214. The Secretary of the Natural Resources Agency shall select one of the public members to serve as chairperson of the board. A majority of the membership of the board constitutes a quorum.~~

~~27215. The board shall appoint an executive officer of the conservancy.~~

~~Article 3. Powers, Duties, and Limitations~~

~~27220. The conservancy's jurisdiction is limited to the Delta.~~

~~27221. The conservancy may do all of the following:~~

~~(a) Fund or undertake pilot projects based on the research of Delta science and engineering advisory groups.~~

1 ~~(b) Develop, plan, and conduct environmental reviews, and~~
2 ~~implement, monitor, and manage projects, or provide grants or~~
3 ~~loans to others for these activities.~~

4 ~~(c) Acquire water or water rights.~~

5 ~~27222. (a) The conservancy may pursue and accept funds from~~
6 ~~various sources, including, but not limited to, federal, state, and~~
7 ~~local funds or grants, private philanthropy, gifts, donations,~~
8 ~~bequests, devises, subventions, grants, rents, royalties, or other~~
9 ~~assistance and funds from public and private sources.~~

10 ~~(b) The conservancy may accept fees levied by others, which~~
11 ~~shall not be subject to appropriation.~~

12 ~~(c) The conservancy may create and manage endowments.~~

13 ~~(d) All funds received by the conservancy shall be deposited in~~
14 ~~the fund for expenditure for the purposes of this chapter.~~

15 ~~27223. The Sacramento-San Joaquin Delta Conservancy Fund~~
16 ~~is hereby created in the State Treasury. Moneys in the fund shall~~
17 ~~be available, upon appropriation by the Legislature, only for the~~
18 ~~purposes of this division.~~

19 ~~27224. (a) The conservancy may create or participate in a joint~~
20 ~~powers authority or a supporting nonprofit organization to further~~
21 ~~the goals of the conservancy, including long-term land management~~
22 ~~and stewardship, interagency relations, and revenue generation.~~

23 ~~(b) The conservancy may establish a supporting nonprofit~~
24 ~~organization to assist with conservancy operations.~~

25 ~~(c) The conservancy may engage in partnerships with nonprofit~~
26 ~~organizations, local public agencies, and landowners.~~

27 ~~(d) The conservancy may provide grants and loans to state~~
28 ~~agencies, local public agencies, nonprofit organizations, and tribal~~
29 ~~organizations to further the goals of the conservancy.~~

30 ~~27225. (a) The conservancy shall implement and manage the~~
31 ~~habitat restoration and protection elements of the Bay Delta~~
32 ~~Conservation Plan.~~

33 ~~(b) The conservancy may acquire, accept, and hold interests in~~
34 ~~real property and improve, lease, or transfer interests in real~~
35 ~~property. Priority shall be given to property interests within or~~
36 ~~adjacent to the highest priority ecosystem restoration areas, as~~
37 ~~identified by local, regional, and state habitat restoration plans.~~

38 ~~27226. (a) The conservancy shall hold public hearings.~~

39 ~~(b) The conservancy shall create and maintain a strategic plan.~~

1 ~~(c) The conservancy shall periodically report to the Legislature~~
2 ~~and the public.~~

3
4 Article 4. Programs
5

6 ~~27230. Within two years of hiring an executive director, the~~
7 ~~board shall create and adopt a strategic plan for the implementation~~
8 ~~of programs to achieve the goals of the conservancy. The plan~~
9 ~~shall describe its interaction with local, regional, state, and federal~~
10 ~~land use, water and flood management, and habitat conservation~~
11 ~~and protection efforts within and adjacent to the Delta and shall~~
12 ~~be consistent with the Delta plan when completed.~~

13 ~~27231. The programs of the conservancy shall include all of~~
14 ~~the following:~~

- 15 ~~(a) Protection of agriculture and working landscapes.~~
 - 16 ~~(b) Increased recreation and public access in the Delta, including~~
17 ~~linkages to areas outside the delta.~~
 - 18 ~~(c) Tourism and economic vitality in the Delta.~~
 - 19 ~~(d) Habitat enhancement and restoration, monitoring of restored~~
20 ~~lands, and ongoing adaptive management of conservancy lands~~
21 ~~and habitat projects in response to monitoring.~~
 - 22 ~~(e) Creation of a streamlined habitat permit program.~~
 - 23 ~~(f) Facilitation of safe harbor agreements for adjacent~~
24 ~~landowners, watershed planning and projects, including floodplains~~
25 ~~and river parkways, and legacy community support and community~~
26 ~~waterfronts.~~
 - 27 ~~(g) Consideration of carbon sequestration and a response to the~~
28 ~~effects of climate change.~~
 - 29 ~~(h) Environmental education and historic and cultural resource~~
30 ~~protection.~~
 - 31 ~~(i) Cooperative relationship with local and state land use~~
32 ~~authorities to assist with implementation of local general plans~~
33 ~~and state plans.~~
 - 34 ~~(j) Cooperation with a science advisory board on research, and~~
35 ~~with the California Delta Ecosystem and Water Council and other~~
36 ~~Delta governing entities.~~
 - 37 ~~(k) Assistance for local entities in implementation of the Habitat~~
38 ~~Conservation Plan/Natural Communities Conservation Plan.~~
- 39 ~~27232. The programs of the conservancy shall be based on~~
40 ~~strategies that include all of the following:~~

~~(a) Scientific investigation to balance the Delta's unique ecological needs with water supply reliability.~~

~~(b) Recommendations for adaptive management strategies to achieve a resilient Delta ecosystem with consideration of climate change, sea level rise, habitat shifting, and potential levee failure.~~

~~(c) Emphasis on public outreach with regular opportunities for public participation and input, coordinated with efforts of the California Delta Ecosystem and Water Council and other Delta governing entities.~~

~~27233. (a) The conservancy shall establish the Sacramento-San Joaquin Delta Conservancy Advisory Council.~~

~~(b) The council shall be composed of 14 members as follows:~~

~~(1) Five representatives of local government from jurisdictions including the five Delta counties.~~

~~(2) Three representative of public water agencies that rely, at least in part, on water for use within or exported from the Delta watershed.~~

~~(3) Three representatives of federal and state entities with land interests in the Delta, including those focused on tourism and economic enhancement, recreation, agricultural, and ecosystem protections.~~

~~(4) Three representatives from the environmental and environmental justice communities.~~

~~(c) The committee shall do both of the following:~~

~~(1) Provide information and expertise for the conservancy's efforts to adaptively manage the Delta's natural resources and its other programs.~~

~~(2) Facilitate public participation in the conservancy's implementation of its programs.~~

CHAPTER 5.4. DELTA SCIENCE AND ENGINEERING PROGRAM

~~27300.~~

~~27200. (a) The Legislature finds and declares that California should maintain a strong and consistent investment in science and engineering important to the Delta. There should be a more direct link between scientific investigation and real-world management and policy. To achieve this, the council will need both a permanent science and engineering staff and an independent Delta Science and Engineering Board that reviews council actions.~~

(b) It is the intent of the Legislature that the Delta Science and Engineering Program should be a replacement for, and a successor to, the successful CALFED Science Program, and that the Delta Science and Engineering Board should be a replacement for the CALFED Independent Science Board.

(c) The council, by March 1, 2010, shall appoint a Delta Science and Engineering Board, consisting of between 12 and 20 individuals with natural science, social science, engineering, and policy expertise. Members may serve a maximum of two five-year terms. Lead scientists appointed by the council shall have a rotating appointment of three years. Lead scientists shall be formally engaged by an agency other than the state.

(d) The council, by March 1, 2010, shall create a Delta Science and Engineering Program.

(e) It is the intent of the Legislature that the program do all of the following:

(1) Research critical scientific issues of both the physical Delta and elsewhere in the state relevant to Delta management.

(2) Organize, assess, and synthesize the best available science for policymakers and the council.

(3) Review all major projects undertaken to advance the goals of the Delta Vision.

(4) Conduct independent science and engineering reviews of the work of government agencies or consultant work upon the request of the council, the conservancy, or other state agencies.

(5) Establish communication channels to effectively transmit science and engineering results to broader and more diverse audiences.

(6) Develop discussion papers and interactive lectures.

CHAPTER 6. 5. DELTA STEWARDSHIP PLAN

~~27400.~~

27300. The Legislature finds and declares all of the following:

(a) The Delta Stewardship Plan is intended to guide and shape management of the Delta to ensure its revitalization and create a statewide reliable water delivery system.

(b) The current lack of a legally binding, cohesive plan has caused agencies and Delta stakeholders to work in a vacuum, developing policies and programs that lack context. The CALFED

1 Record of Decision included most elements of such a plan but
2 failed to be implemented for three reasons: those in charge had no
3 authority to ensure its implementation, those who were
4 implementing it had no accountability, and, in the end, there was
5 no money.

6 (c) In addition, all parties recognize that the management of the
7 Delta is rife with uncertainty. Any functional governance structure
8 must be flexible and adaptable to changing circumstances. A
9 governance structure built around a plan can achieve this flexibility
10 by incorporating periodic revisions and grounding management
11 directions in adaptive management principles. Importantly,
12 management and scientific understanding must evolve together.
13 Management decisions and plan provisions must incorporate the
14 best available science, and be formulated in such a way that
15 scientific knowledge can be generated through direct observation
16 of the Delta's response to various actions.

17 (d) The plan is intended to achieve the ~~coequal~~ *primary* goals
18 of the Delta Vision. It should build upon and integrate other plans,
19 *including the Delta Protection Commission Resources Management*
20 *Plan and the Central Valley Flood Protection Plan*, modifying
21 and extending them as needed to meet its responsibilities.

22 (e) Existing policies and programs in the Delta lack cohesion
23 and integration. The aim of this proposed plan is to remedy those
24 two faults. The plan should be developed and adopted by the
25 council before January 1, 2011.

26 (f) All state, regional, and local agencies with planning
27 responsibilities should be required to carry out their actions in
28 conformity with the plan, while providing the flexibility needed
29 to meet the Delta's management challenges. Approving a plan
30 governing the Delta thereby ensures consistency among existing
31 ~~state, federal,~~ *federal, state,* regional, and local agencies and
32 provides the flexibility needed to meet the Delta's management
33 challenges.

34 (g) Local governments and other state and federal agencies
35 should continue planning, decisionmaking, and operations
36 consistent with the plan.

37 ~~27401.~~

38 *27301.* The Legislature further finds and declares that the plan
39 should do all of the following:

1 (a) Incorporate any species protection requirements that impact
2 Delta resources.

3 (b) Incorporate requirements for water flow and water quality
4 in the Delta that achieve the coequal goals.

5 (c) Define state land use interests in the Delta, especially those
6 that impact the ecosystem, water supply reliability, and flood
7 concerns. The commission and local governments should provide
8 the oversight to protect those interests ~~in consistency~~ *consistent*
9 with the plan. In the case that these state interests extend from the
10 Delta into adjacent areas, the commission should work with
11 relevant local governments to address the linkages.

12 (d) Provide principles and procedures for adaptive management.

13 (e) Provide for the modeling, data collection, management,
14 monitoring, analysis, and interpretation to support policy
15 decisionmaking.

16 (f) Ensure flexibility and resiliency in managing the Delta.

17 (g) Incorporate the recommendations of the Delta Vision
18 Strategic Plan.

19 (h) Include an accurate up-to-date assessment of water supply
20 availability.

21 (i) Articulate a detailed financing plan that identifies costs,
22 benefits, and revenue sources.

23 (j) Serve as a foundational document for a programmatic
24 environmental impact statement or environmental impact report,
25 as well as any projects undertaken requiring permits pursuant to
26 the California Environmental Quality Act (Division 13
27 (commencing with Section 21000)) or the federal National
28 Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

29 ~~27402.~~

30 27302. (a) The commission shall do all of the following:

31 (1) Identify and address, by December 31, 2010, any
32 inconsistencies in the water quality plans adopted by the State
33 Water Resources Control Board and the plan.

34 (2) Present the council with a draft plan no later than October
35 1, 2010.

36 (b) The council shall review, and, if necessary, amend the plan
37 at least every five years.

38 (c) The Delta Science and Engineering Board, with the support
39 of the Delta Science and Engineering Program, shall develop a
40 science-based adaptive management program to provide for

1 continued study of, and adaptation to, actions implemented by
2 ~~state, federal,~~ *federal, state,* and local agencies in the Delta.

3 ~~27403.~~

4 27303. The commission shall develop the plan in accordance
5 with all of the following:

6 (a) The plan shall be consistent with the procedural and
7 substantive requirements of the federal Coastal Zone Management
8 Act of 1972 (16 U.S.C. Sec. 1451 et seq.).

9 (b) The commission shall coordinate with stakeholders as well
10 as ~~state, federal,~~ *federal, state,* and local agencies.

11 ~~(c) The commission shall start by assessing existing plans and~~
12 ~~planning efforts and use elements which are consistent with the~~
13 ~~goals of the Delta Vision.~~

14 *(c) The plan shall be based on the Delta Protection Commission*
15 *Resources Management Plan, the Central Valley Flood Protection*
16 *Plan, and any other water supply and species protection plans it*
17 *determines as foundational.*

18 (d) The commission shall encourage the participation of ~~local,~~
19 ~~state, and federal~~ *federal, state, and local* agencies to help to better
20 integrate their responsibilities and capacities into the plan.

21 (e) The commission shall ensure that the plan recognizes and
22 addresses the uncertainty involved in Delta decisionmaking and
23 design an adaptive management plan to ensure that ongoing Delta
24 management builds knowledge about the ecosystem and provides
25 information for improved decisionmaking. The adaptive
26 management plan should build upon the work of the CALFED
27 Science Program to do all of the following:

28 (1) Synthesize existing knowledge about the Delta as a physical
29 system.

30 (2) State hypotheses about the effects of management actions
31 recommended in the plan on the ecosystem, water supply, and
32 other values.

33 (3) Recommend to the council additional management actions
34 expected to yield desired ecosystem or water supply outcomes or
35 designed to generate useful knowledge about the Delta.

36 (4) Design monitoring programs to systematically gather needed
37 data.

38 (5) Identify and put in place the processes by which the data
39 will be synthesized, hypotheses evaluated, and new management
40 actions recommended.

(6) On the five-year cycles on which the plan is reviewed and updated, the results should be integrated into a report on the knowledge of the Delta, an assessment of the success of current policies and management, and the identification, assessment, and recommendation of possible changes in policies or management.

(7) Beginning with the first five-year update, the council shall consider water rights decisions made by the State Water Resources Control Board to achieve an accurate accounting of the actual water in the Delta.

~~27404.~~

27304. (a) The council shall adopt the plan on or before January 1, 2011.

(b) Until the plan is adopted pursuant to this division, the Delta Vision strategic plan shall serve as the interim plan for the Delta.

CHAPTER 7.6. DELTA STEWARDSHIP FUND

~~27500.~~

27400. The Delta Stewardship Fund is hereby created in the State Treasury. The commission shall deposit in the fund any moneys received from federal, state, local, and private sources for Delta stewardship. Moneys in the fund shall be available, upon appropriation by the Legislature, for regional economic development consistent with the plan.

SEC. 2. Section 29735.5 is added to the Public Resources Code, to read:

29735.5. The commission shall request federal agencies, including, but not limited to, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, and the United States Bureau of Reclamation to participate in nonvoting liaison capacities with the commission to better assess and coordinate flood protection, water supply, and ecosystem protection issues.

SEC. 3. Section 29759 is added to the Public Resources Code, to read:

29759. (a) The commission shall require all general plans of cities and counties within the Delta, and the resource management plan, to be consistent with the Delta Stewardship Plan adopted pursuant to Division 17.5 (commencing with Section 27000).

(b) The commission shall do all of the following:

1 (1) Revise all of its plans and policies, including the resource
2 management plan, to be consistent with the Delta Stewardship
3 Plan adopted pursuant to Division 17.5 (commencing with Section
4 27000).

5 (2) Review and certify all city and county general plans for
6 consistency with the resource management plan and the Delta
7 Stewardship Plan.

8 (3) Exercise direct consistency determination authority over
9 development proposals in the primary zone. The commission shall
10 make an affirmative determination that any project approved by
11 a city or county within the primary zone is consistent with the
12 resource management plan and the Delta Stewardship Plan.

13 (4) Review, hold public hearings and receive testimony, and
14 provide recommendations to the Delta Stewardship Council on all
15 proposed projects subject to approval by that council.

16 (5) Develop a Delta regional economic development plan to
17 support increased investment in agriculture, recreation, tourism,
18 and local communities.

19 *(6) Review for consistency any water conveyance or storage*
20 *project proposal. Any of these decisions may be appealed to the*
21 *council within 30 days of action taken.*

22 SEC. 4. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.