

AMENDED IN ASSEMBLY JUNE 30, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE MAY 5, 2009

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 An act to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29765, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29728.5, 29759, 29763.1, 29763.2, 29763.3, 29773, 29773.5, and 29778.5 to, to repeal Section 29763.5 of, and to repeal and add Sections 29736, 29739, 29753, 29760, 29761, 29761.5, 29762, 29763, and 29764 of, 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.

*This bill would revise and recast the provisions of the act to, among other things, reduce the number of members to 15 members, as specified. The bill would require the commission to conduct its meetings in compliance with the Ralph M. Brown Act. The bill would require the commission to appoint at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the delta. The bill would require the commission to adopt, not later than July 1, 2011, a comprehensive resources management plan containing specified elements and would require the commission to update the plan every 5 years. The bill would require the Delta Stewardship Council, when developing a delta plan, to take into consideration recommendations made by the commission. The bill would require all general plans of cities and counties within the delta to be consistent with the resources management plan that would be created and adopted by the commission, and the delta plan created and adopted by the Delta Stewardship Council, and thereby impose a state-mandated local program. The bill would revise and recast the process by which local government is to submit proposed general plan amendments and land use elements to ensure that the general plan is consistent with the resource management plan. The bill would require the commission to submit to the Legislature, by January 1, 2012, recommendations on the potential expansion of the primary zone. The bill would require the commission to develop a regional economic development plan for the delta region that is consistent with the delta plan.*

*This bill would establish the Delta Investment Fund within the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be used by the commission for the purposes of enhancing delta communities.*

~~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 any new Delta management plan that may be created or adopted by the commission, thereby imposing a state-mandated local program on cities and counties. The bill would authorize the commission to~~

~~impose a fee per acre-foot on any water diversion within the Delta watershed, and a fee on any water conveyed through or around the Delta, for the purpose of implementing this requirement. These fee revenues would be available, upon appropriation by the Legislature, to implement this requirement.~~

The bill would also require the commission to request federal agencies, as described, to participate in nonvoting liaison capacities with the commission to better assess and coordinate flood protection, water supply, and ecosystem protection issues.

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:*

1 SECTION 1. Section 29702 of the Public Resources Code is  
2 amended to read:

3 29702. The Legislature further finds and declares that the basic  
4 goals of the state for the delta are the following:

5 (a) Achieve the delta goals. "Delta goals" means all of the  
6 following:

- 7 (1) Restoring the delta ecosystem.
- 8 (2) Creating a more reliable water supply for California.
- 9 (3) Protecting and enhancing the unique cultural, recreational,  
10 agricultural, and socioeconomic values of the delta.

11 ~~(a)~~  
 12 (b) Protect, maintain, and, where possible, enhance and restore  
 13 the overall quality of the delta environment, including, but not  
 14 limited to, agriculture, wildlife habitat, and recreational activities.

15 ~~(b)~~  
 16 (c) Assure orderly, balanced conservation and development of  
 17 delta land resources.

18 ~~(e)~~  
 19 (d) Improve flood protection by structural and nonstructural  
 20 means to ensure an increased level of public health and safety.

21 SEC. 2. Section 29703.5 is added to the Public Resources Code,  
22 to read:

23 29703.5. The Legislature further finds and declares both of  
24 the following:

1 (a) *The Delta Protection Commission created pursuant to*  
2 *Section 29735 provides an existing forum for delta residents to*  
3 *engage in decisions regarding actions to recognize and enhance*  
4 *the unique cultural, recreational, and agricultural resources of*  
5 *the delta. As such, the commission is the appropriate agency to*  
6 *identify and provide recommendations to the Delta Stewardship*  
7 *Council on methods of preserving the delta as an evolving place*  
8 *as the Delta Stewardship Council develops and implements the*  
9 *delta plan.*

10 (b) *There is a need for the five delta counties to establish and*  
11 *implement a resources management plan for the delta and for the*  
12 *Delta Stewardship Council to consider that plan and*  
13 *recommendations of the commission in the adoption of the Delta*  
14 *plan.*

15 *SEC. 3. Section 29722.5 is added to the Public Resources Code,*  
16 *to read:*

17 29722.5. “Delta plan” means the plan adopted by the Delta  
18 Stewardship Council pursuant to Section \_\_\_\_\_.

19 *SEC. 4. Section 29725 of the Public Resources Code is*  
20 *amended to read:*

21 29725. “Local government” means the Counties of Contra  
22 Costa, Sacramento, San Joaquin, Solano, and Yolo, and the Cities  
23 of Sacramento, Stockton, Tracy, Antioch, Pittsburg, Isleton,  
24 Lathrop, Brentwood, ~~Rio Vista~~, West Sacramento, and Oakley,  
25 and any other cities that may be incorporated in the future in the  
26 primary zone.

27 *SEC. 5. Section 29727 of the Public Resources Code is*  
28 *amended to read:*

29 29727. “Port” means the Port of Sacramento and the Port of  
30 Stockton, including all the land owned or leased by those ports or  
31 potential sites identified in the delta county general plans as of  
32 the date of enactment of this act and otherwise authorized by law.

33 *SEC. 6. Section 29728.5 is added to the Public Resources Code,*  
34 *to read:*

35 29728.5. “Resources management plan” means the plan  
36 adopted by the commission pursuant to Section 29760.

37 *SEC. 7. Section 29733 of the Public Resources Code is*  
38 *amended to read:*

1 29733. “Unincorporated towns” means the communities of  
2 Walnut Grove, Clarksburg, Courtland, Hood, Locke, *Knightsen*,  
3 *Collinsville*, and Ryde.

4 *SEC. 8. Section 29735 of the Public Resources Code is*  
5 *amended to read:*

6 29735. There is hereby created the Delta Protection  
7 Commission consisting of ~~23~~ 15 members as follows:

8 (a) One member of the board of supervisors, or his or her  
9 designee, of each of the five counties within the delta whose  
10 supervisorial district is within the primary zone shall be appointed  
11 by the board of supervisors of the county.

12 (b) (1) Three elected city council members shall be selected  
13 and appointed by city selection committees, from ~~regional and~~  
14 ~~area councils of government~~ *the appropriate regions specified*  
15 *below*, one in each of the following areas:

16 (A) One from the north delta, ~~consisting of~~ *from either the*  
17 ~~Counties~~ *County of Yolo and or the County of Sacramento, on a*  
18 *rotating basis.*

19 (B) One from the south delta, consisting of the County of San  
20 Joaquin.

21 (C) One from the west delta, ~~consisting of~~ *from either the*  
22 ~~Counties~~ *County of Contra Costa and or the County of Solano, on*  
23 *a rotating basis.*

24 (2) A city council member may select a designee for purposes  
25 of paragraph (1).

26 (3) *Notwithstanding Section 29736, the term of office of the*  
27 *members selected pursuant to this subdivision shall be two years.*

28 (c) ~~(1)~~ One member each from the board of directors of ~~five~~  
29 ~~three~~ different reclamation districts that are located within the  
30 primary zone who are residents of the delta, and who are elected  
31 by the trustees of reclamations districts ~~within the following areas:~~  
32 *pursuant to paragraphs (1), (2), and (3). Each reclamation district*  
33 *may nominate one director to be a member. The member from an*  
34 *area shall be selected from among the nominees by a majority vote*  
35 *of the reclamation districts in that area. The member may select*  
36 *a designee for this purpose. For the purposes of this section, each*  
37 *reclamation district shall have one vote.*

38 ~~(A) Two members~~

39 (1) One member from the area of the North Delta Water Agency  
40 as described in Section 9.1 of the North Delta Water Agency Act

1 (Chapter 283 of the Statutes of 1973), provided at least one member  
2 is also a member of the Delta Citizens Municipal Advisory Council.

3 ~~(B)~~

4 (2) One member from *an area including* the west delta  
5 consisting of the area of Contra Costa County within the delta *and*  
6 *the Central Delta Water Agency as described in Section 9.1 of the*  
7 *Central Delta Water Agency Act (Chapter 1133 of the Statutes of*  
8 *1973).*

9 ~~(C) One member from the area of the Central Delta Water~~  
10 ~~Agency as described in Section 9.1 of the Central Delta Water~~  
11 ~~Agency Act (Chapter 1133 of the Statutes of 1973).~~

12 ~~(D)~~

13 (3) One member from the area of the South Delta Water Agency  
14 as described in Section 9.1 of the South Delta Water Agency Act  
15 (Chapter 1089 of the Statutes of 1973).

16 ~~(2) Each reclamation district may nominate one director to be~~  
17 ~~a member. The member from an area shall be selected from among~~  
18 ~~the nominees by a majority vote of the reclamation districts in that~~  
19 ~~area. The member may select a designee for this purpose. For~~  
20 ~~purposes of this section, each reclamation district shall have one~~  
21 ~~vote. The north delta area shall conduct separate votes to select~~  
22 ~~each of its two members.~~

23 ~~(d) The Director of Parks and Recreation, or the director's sole~~  
24 ~~designee.~~

25 ~~(e) The Director of Fish and Game, or the director's sole~~  
26 ~~designee.~~

27 ~~(f)~~

28 (d) The Secretary of Food and Agriculture, or the secretary's  
29 sole designee.

30 ~~(g)~~

31 (e) The executive officer of the State Lands Commission, or the  
32 executive officer's sole designee.

33 ~~(h) The Director of Boating and Waterways, or the director's~~  
34 ~~sole designee.~~

35 ~~(i) The Director of Water Resources, or the director's sole~~  
36 ~~designee.~~

37 ~~(j) The public member of the California Bay-Delta Authority~~  
38 ~~who represents the delta region or his or her designee.~~

1 ~~(k) (1) The Governor shall appoint three members and three~~  
2 ~~alternates from the general public who are delta residents or delta~~  
3 ~~landowners, as follows:~~

4 ~~(A) One member and one alternate shall represent the interests~~  
5 ~~of production agriculture with a background in promoting the~~  
6 ~~agricultural viability of delta farming.~~

7 ~~(B) One member and one alternate shall represent the interests~~  
8 ~~of conservation of wildlife and habitat resources of the delta region~~  
9 ~~and ecosystem.~~

10 ~~(C) One member and one alternate shall represent the interests~~  
11 ~~of outdoor recreational opportunities, including, but not limited~~  
12 ~~to, hunting and fishing.~~

13 ~~(2) An alternate may serve in the absence of a member.~~

14 ~~(f) The Secretary of the Natural Resources Agency, or his or~~  
15 ~~her sole designee.~~

16 ~~(g) The Secretary of Business, Transportation and Housing, or~~  
17 ~~his or her sole designee.~~

18 *SEC. 9. Section 29735.1 of the Public Resources Code is*  
19 *amended to read:*

20 29735.1. (a) A member of the commission described in  
21 subdivision (a), ~~(b), (c), or (j)~~ of Section 29735 may, subject to  
22 the confirmation of his or her appointing power, appoint an  
23 alternate to represent him or her at a commission meeting. An  
24 alternate may serve prior to confirmation for a period not to exceed  
25 90 days from the date of appointment, unless and until confirmation  
26 is denied.

27 (b) The alternate shall serve at the pleasure of the member who  
28 appoints him or her and shall have all of the powers and duties of  
29 a member of the commission, except that the alternate shall only  
30 participate and vote in a meeting in the absence of the member  
31 who appoints him or her. All provisions of law relating to conflicts  
32 of interest that are applicable to a member shall apply to an  
33 alternate. Whenever a member has, or is known to have, a conflict  
34 of interest on any matter, the member's alternate is ineligible to  
35 vote on that matter.

36 *SEC. 10. Section 29736 of the Public Resources Code is*  
37 *repealed.*

38 ~~29736. The term of office of the members of the commission~~  
39 ~~shall be for four years, and a member may serve for one or more~~  
40 ~~consecutive terms.~~

1     *SEC. 11. Section 29736 is added to the Public Resources Code,*  
2     *to read:*

3     29736. *The members of the commission shall serve at the*  
4     *pleasure of their appointing entities.*

5     *SEC. 12. Section 29738 of the Public Resources Code is*  
6     *amended to read:*

7     29738. *The position of a member of the commission shall be*  
8     *considered vacated upon the loss of any qualification required for*  
9     *appointment, and in that event the appointing authority shall*  
10    *appoint a successor within 30 days of the occurrence of the*  
11    *vacancy. ~~Upon the occurrence of the first vacancy among any of~~*  
12    *~~the members listed in subdivision (d), (e), (f), (g), (h), or (i) of~~*  
13    *~~Section 29735, the Director of Conservation or the director's~~*  
14    *~~designee shall serve as the successor member.~~*

15    *SEC. 13. Section 29739 of the Public Resources Code is*  
16    *repealed.*

17    ~~29739. The commission shall elect from its own members a~~  
18    ~~chairperson and vice chairperson whose terms of office shall be~~  
19    ~~two years, and who may be reelected. If a vacancy occurs in either~~  
20    ~~office, the commission shall fill the vacancy for the unexpired~~  
21    ~~term.~~

22    *SEC. 14. Section 29739 is added to the Public Resources Code,*  
23    *to read:*

24    29739. (a) *The commission, during the first commission*  
25    *meeting after January 1, 2010, shall elect from among the members*  
26    *listed in subdivision (a) of Section 29735 a chairperson who shall*  
27    *serve for one year.*

28    (b) *Subsequent chairpersons shall serve for two years and shall*  
29    *be elected from among the members listed in subdivision (a) of*  
30    *Section 29735.*

31    (c) *The chairperson shall serve as a voting member of the Delta*  
32    *Stewardship Council.*

33    *SEC. 15. Section 29741 of the Public Resources Code is*  
34    *amended to read:*

35    29741. *The time and place of the first meeting of the*  
36    *commission shall be prescribed by the Governor, but in no event*  
37    *shall it be scheduled for a date later than January 31, ~~1993~~ 2010.*  
38    *All meetings after the first meeting shall be held in a city within*  
39    *the delta.*

1     *SEC. 15.5. Section 29751 of the Public Resources Code is*  
2 *amended to read:*

3     29751. A majority of the voting members of the commission  
4 shall constitute a quorum for the transaction of the business of the  
5 commission. A majority vote of the voting members ~~present~~ shall  
6 be required to take action with respect to any matter unless  
7 otherwise specified in this division. The vote of each member shall  
8 be individually recorded.

9     *SEC. 16. Section 29752 of the Public Resources Code is*  
10 *amended to read:*

11     29752. The commission shall adopt its own rules, regulations,  
12 and procedures necessary for its organization and operation *and*  
13 *shall conduct its meeting in compliance with the Ralph M. Brown*  
14 *Act (Chapter 9 (commencing with Section 54950) of Part 1 of*  
15 *Division 2 of Title 5 of the Government Code).*

16     *SEC. 17. Section 29753 of the Public Resources Code is*  
17 *repealed.*

18     ~~29753. The commission shall appoint agricultural,~~  
19 ~~environmental, and recreational advisory committees for the~~  
20 ~~purpose of providing the commission with timely comments,~~  
21 ~~advice, and information. The commission may appoint committees~~  
22 ~~from its membership or may appoint additional advisory~~  
23 ~~committees from members of other interested public agencies and~~  
24 ~~private groups. The commission shall seek advice and~~  
25 ~~recommendations from advisory committees appointed by local~~  
26 ~~government which are involved in subject matters affecting the~~  
27 ~~delta.~~

28     *SEC. 18. Section 29753 is added to the Public Resources Code,*  
29 *to read:*

30     29753. *The commission shall appoint at least one advisory*  
31 *committee to provide input regarding the diverse interests within*  
32 *the delta. At a minimum, the advisory committees shall include*  
33 *representatives of state agencies and other stakeholders with*  
34 *interests in the delta's ecosystem, water supply, and*  
35 *socio-economic sustainability, including, but not limited to, its*  
36 *recreational, agricultural, flood control, environmental, and water*  
37 *resources, and state, local, and utility infrastructure. The*  
38 *commission shall encourage participation of various federal*  
39 *agencies, including the federal Bureau of Reclamation, the federal*  
40 *Fish and Wildlife Service, the Army Corps of Engineers, and others*

1 *as appropriate. The commission may appoint committees from its*  
2 *membership or may appoint additional advisory committees from*  
3 *members of other interested public agencies and private groups.*  
4 *The commission shall seek advice and recommendations from*  
5 *advisory committees appointed by local government that are*  
6 *involved in subject matters affecting the delta.*

7 *SEC. 19. Section 29754 of the Public Resources Code is*  
8 *amended to read:*

9 29754. The commission shall establish and maintain an office  
10 within the delta *or the City of Rio Vista*, and for this purpose the  
11 commission may rent or own property and equipment. Any rule,  
12 regulation, procedure, plan, or other record of the commission  
13 which is of such a nature as to constitute a public record under  
14 state law shall be available for inspection and copying during  
15 regular office hours.

16 *SEC. 20. Section 29756.5 of the Public Resources Code is*  
17 *amended to read:*

18 29756.5. The commission may act as the facilitating agency  
19 for the implementation of any joint habitat restoration or  
20 enhancement programs located within the primary zone of the  
21 delta, *including, but not limited to, a national heritage area*  
22 *designation in the delta.*

23 *SEC. 21. Section 29759 is added to the Public Resources Code,*  
24 *to read:*

25 29759. (a) *The commission shall develop a regional economic*  
26 *development plan for the delta region. The regional economic*  
27 *development plan shall address agriculture, recreation, tourism,*  
28 *and other innovative land uses.*

29 (b) *The policies in the regional economic development plan*  
30 *shall be based on local plans and shall be consistent with the delta*  
31 *plan.*

32 (c) *The plan shall identify ways to encourage recreational*  
33 *investment along the key river corridors, as appropriate.*

34 *SEC. 22. Section 29760 of the Public Resources Code is*  
35 *repealed.*

36 ~~29760. (a) Not later than October 1, 1994, the commission~~  
37 ~~shall prepare and adopt, by a majority vote of the membership of~~  
38 ~~the commission, and thereafter review and maintain, a~~  
39 ~~comprehensive long-term resource management plan for land uses~~  
40 ~~within the primary zone of the delta. The resource management~~

1 plan shall consist of the map of the primary zone and text or texts  
2 setting forth a description of the needs and goals for the delta and  
3 a statement of the policies, standards, and elements of the resource  
4 management plan.

5 (b) ~~The resource management plan shall meet the following~~  
6 ~~requirements:~~

7 (1) ~~Protect and preserve the cultural values and economic vitality~~  
8 ~~that reflect the history, natural heritage, and human resources of~~  
9 ~~the delta.~~

10 (2) ~~Conserve and protect the quality of renewable resources.~~

11 (3) ~~Preserve and protect agricultural viability.~~

12 (4) ~~Restore, improve, and manage levee systems by promoting~~  
13 ~~strategies, including, but not limited to, methods and procedures~~  
14 ~~which advance the adoption and implementation of coordinated~~  
15 ~~and uniform standards among governmental agencies for the~~  
16 ~~maintenance, repair, and construction of both public and private~~  
17 ~~levees.~~

18 (5) ~~Preserve and protect delta dependent fisheries and their~~  
19 ~~habitat.~~

20 (6) ~~Preserve and protect riparian and wetlands habitat, and~~  
21 ~~promote and encourage a net increase in both the acreage and~~  
22 ~~values of those resources on public lands and through voluntary~~  
23 ~~cooperative arrangements with private property owners.~~

24 (7) ~~Preserve and protect the water quality of the delta, both for~~  
25 ~~instream purposes and for human use and consumption.~~

26 (8) ~~Preserve and protect open-space and outdoor recreational~~  
27 ~~opportunities.~~

28 (9) ~~Preserve and protect private property interests from~~  
29 ~~trespassing and vandalism.~~

30 (10) ~~Preserve and protect opportunities for controlled public~~  
31 ~~access and use of public lands and waterways consistent with the~~  
32 ~~protection of natural resources and private property interests.~~

33 (11) ~~Preserve, protect, and maintain navigation.~~

34 (12) ~~Protect the delta from any development that results in any~~  
35 ~~significant loss of habitat or agricultural land.~~

36 (13) ~~Promote strategies for the funding, acquisition, and~~  
37 ~~maintenance of voluntary cooperative arrangements, such as~~  
38 ~~conservation easements, between property owners and conservation~~  
39 ~~groups that protect wildlife habitat and agricultural land, while not~~  
40 ~~impairing the integrity of levees.~~

1 ~~(14) Permit water reservoir and habitat development that is~~  
2 ~~compatible with other uses.~~

3 ~~(e) The resource management plan shall not supersede the~~  
4 ~~authority of local governments over areas within the secondary~~  
5 ~~zone.~~

6 ~~(d) To facilitate, in part, the requirements specified in paragraphs~~  
7 ~~(8), (9), (10), and (11) of subdivision (b), the commission shall~~  
8 ~~include in the resource management plan, in consultation with all~~  
9 ~~law enforcement agencies having jurisdiction in the delta, a strategy~~  
10 ~~for the implementation of a coordinated marine patrol system~~  
11 ~~throughout the delta that will improve law enforcement and~~  
12 ~~coordinate the use of resources by all jurisdictions to ensure an~~  
13 ~~adequate level of public safety. The strategic plan shall identify~~  
14 ~~resources to implement that coordination. The commission shall~~  
15 ~~have no authority to abrogate the existing authority of any law~~  
16 ~~enforcement agency.~~

17 ~~(e) To the extent that any of the requirements specified in this~~  
18 ~~section are in conflict, nothing in this division shall deny the right~~  
19 ~~of the landowner to continue the agricultural use of the land.~~

20 *SEC. 23. Section 29760 is added to the Public Resources Code,*  
21 *to read:*

22 *29760. (a) Not later than July 1, 2011, the commission shall*  
23 *prepare and adopt, by a majority vote of the membership of the*  
24 *commission, a comprehensive resources management plan. The*  
25 *plan shall include information and recommendations that inform*  
26 *the Delta Stewardship Council's policies towards the*  
27 *socio-economic sustainability of the delta region.*

28 *(b) The plan shall include, but not be limited to, the following*  
29 *elements:*

30 *(1) Public safety such as flood protection recommendations.*

31 *(2) Economic elements of local general plans and other local*  
32 *economic efforts including recommendations on continued*  
33 *socio-economic sustainability of agriculture and its infrastructure,*  
34 *and legacy communities in the delta.*

35 *(3) Comments and recommendations to the Department of Water*  
36 *Resources concerning its periodic update of the flood management*  
37 *plan for the delta.*

38 *(4) [PLACEHOLDER].*

39 *SEC. 24. Section 29761 of the Public Resources Code is*  
40 *repealed.*

1 ~~29761. The Director of the Office of Planning and Research~~  
2 ~~shall submit comments and recommendations on the resource~~  
3 ~~management plan for the commission's consideration, prior to the~~  
4 ~~plan's adoption.~~

5 *SEC. 25. Section 29761 is added to the Public Resources Code,*  
6 *to read:*

7 *29761. The commission shall adopt, by a majority vote, the*  
8 *plan and each plan update after at least three public hearings,*  
9 *with at least one hearing held in a community in the north delta,*  
10 *in the south delta, and in the west delta.*

11 *SEC. 26. Section 29761.5 of the Public Resources Code is*  
12 *repealed.*

13 ~~29761.5. Not later than January 7, 1995, the commission shall~~  
14 ~~transmit copies of the resource management plan to the Governor.~~  
15 ~~Copies of the resource management plan shall be made available,~~  
16 ~~upon request, to Members of the Legislature.~~

17 *SEC. 27. Section 29761.5 is added to the Public Resources*  
18 *Code, to read:*

19 *29761.5. (a) The commission shall update the plan every five*  
20 *years on or before December 31, in years ending in six and one.*

21 *(b) The commission shall transmit copies of the plan and its*  
22 *revisions to the Governor, the Legislature, and the Delta*  
23 *Stewardship Council within 60 days of adoption or revision for*  
24 *review and approval by the Delta Stewardship Council for*  
25 *consistency with the delta plan. The approved resources*  
26 *management plan shall be implemented by the Delta Protection*  
27 *Commission.*

28 *SEC. 28. Section 29762 of the Public Resources Code is*  
29 *repealed.*

30 ~~29762. The commission shall adopt, by a majority vote of the~~  
31 ~~membership of the commission, the resource management plan~~  
32 ~~after at least three public hearings, with at least one hearing held~~  
33 ~~in a city in the north delta, the south delta, and the west delta.~~

34 *SEC. 29. Section 29762 is added to the Public Resources Code,*  
35 *to read:*

36 *29762. The Delta Stewardship Council, when developing the*  
37 *delta plan pursuant to Section \_\_\_\_ of the \_\_\_\_ Code, shall take*  
38 *into consideration the recommendations provided by the*  
39 *commission including recommendations included in the resources*  
40 *management plan, and shall make specific findings with respect*

1 to how the elements of the resources management plan are  
2 incorporated into the delta plan. If the Delta Stewardship Council  
3 finds that the recommendations of the commission are consistent  
4 with the objectives of the delta plan and the purposes of this  
5 division, the recommendations shall be adopted by the Delta  
6 Stewardship Council. If the Delta Stewardship Council rejects  
7 findings and recommendations submitted by the commission, the  
8 council shall make findings in the record regarding its reasons  
9 for that decision.

10 SEC. 30. Section 29763 of the Public Resources Code is  
11 repealed.

12 ~~29763. Within 180 days from the date of the adoption of the~~  
13 ~~resource management plan or any amendments, changes, or~~  
14 ~~updates, to the resource management plan by the commission, all~~  
15 ~~local governments shall submit to the commission proposed~~  
16 ~~amendments that will cause their general plans to be consistent~~  
17 ~~with the criteria in Section 29763.5 with respect to land located~~  
18 ~~within the primary zone.~~

19 SEC. 31. Section 29763 is added to the Public Resources Code,  
20 to read:

21 29763. Within 180 days from the date of the Delta Stewardship  
22 Council's adoption of the delta plan and the commission's adoption  
23 of the resources management plan, all local governments shall  
24 submit to the commission proposed general plan amendments and  
25 land use elements to make their general plans consistent with the  
26 resources management plan with respect to land use within the  
27 primary zone. Within 180 days of any amendments, changes, or  
28 updates to those plans or elements, local governments shall submit  
29 to the commission proposed changes or updates to those plans or  
30 elements to the delta plan and the resources management plan  
31 with respect to land use within the primary zone.

32 SEC. 32. Section 29763.1 is added to the Public Resources  
33 Code, to read:

34 29763.1. The commission shall act on proposed local  
35 government general plan amendments within 60 days from the  
36 date of submittal of the proposed amendments. The commission  
37 shall approve the proposed general plan amendments by a majority  
38 vote of the commission membership only after making a written  
39 finding that the proposed amendments are consistent with and in

1 *furtherance of the resources management plan, based on*  
2 *substantial evidence in the record.*

3 *SEC. 33. Section 29763.2 is added to the Public Resources*  
4 *Code, to read:*

5 *29763.2. In reviewing local government general plans or*  
6 *general plan amendments, the commission shall make written*  
7 *findings as to the potential impact of the proposed amendments,*  
8 *to the extent that those impacts will not increase requirements or*  
9 *restrictions upon agricultural practices in the primary zone, based*  
10 *on substantial evidence in the record, as follows:*

11 *(a) The general plan, and any development approved or*  
12 *proposed that is consistent with the general plan, will not result*  
13 *in wetland or riparian loss.*

14 *(b) The general plan, and any development approved or*  
15 *proposed that is consistent with the general plan, will not result*  
16 *in the degradation of water quality.*

17 *(c) The general plan, and any development approved or*  
18 *proposed that is consistent with the general plan, will not result*  
19 *in increased nonpoint source pollution.*

20 *(d) The general plan, and any development approved or*  
21 *proposed that is consistent with the general plan, will not result*  
22 *in the degradation or reduction of Pacific Flyway habitat.*

23 *(e) The general plan, and any development approved or*  
24 *proposed that is consistent with the general plan, will not result*  
25 *in reduced public access, provided the access does not infringe*  
26 *on private property rights.*

27 *(f) The general plan, and any development approved or proposed*  
28 *that is consistent with the general plan, will not expose the public*  
29 *to increased flood hazard.*

30 *(g) The general plan, and any development approved or*  
31 *proposed that is consistent with the general plan, will not adversely*  
32 *impact agricultural lands or increase the potential for vandalism,*  
33 *trespass, or the creation of public or private nuisances on public*  
34 *or private land.*

35 *(h) The general plan, and any development approved or*  
36 *proposed that is consistent with the general plan, will not result*  
37 *in the degradation or impairment of levee integrity.*

38 *(i) The general plan, and any development approved or proposed*  
39 *that is consistent with the general plan, will not adversely impact*  
40 *navigation.*

1 (j) *The general plan, and any development approved or proposed*  
2 *that is consistent with the general plan, will not result in any*  
3 *increased requirements or restrictions upon agricultural practices*  
4 *in the primary zone.*

5 *SEC. 34. Section 29763.3 is added to the Public Resources*  
6 *Code, to read:*

7 *29763.3. If the commission finds that the general plan is not*  
8 *consistent with the resources management plan, the commission*  
9 *shall remand the general plan back to the originating local*  
10 *government with findings, based on substantial evidence in the*  
11 *record and as approved by the commission, on items to be*  
12 *addressed. The local government shall have 120 days to make*  
13 *changes and resubmit the revised general plan to the commission*  
14 *for review pursuant to Section 29763.*

15 *SEC. 35. Section 29763.5 of the Public Resources Code is*  
16 *repealed.*

17 ~~29763.5. The commission shall act on proposed local~~  
18 ~~government general plan amendments within 60 days from the~~  
19 ~~date of submittal of the proposed amendments. The commission~~  
20 ~~shall approve the proposed general plan amendments by a majority~~  
21 ~~vote of the commission membership, with regard to lands within~~  
22 ~~the primary zone, only after making all of the following written~~  
23 ~~findings as to the potential impact of the proposed amendments,~~  
24 ~~to the extent that those impacts will not increase requirements or~~  
25 ~~restrictions upon agricultural practices in the primary zone, based~~  
26 ~~on substantial evidence in the record:~~

27 ~~(a) The general plan, and any development approved or proposed~~  
28 ~~that is consistent with the general plan, are consistent with the~~  
29 ~~resource management plan.~~

30 ~~(b) The general plan, and any development approved or proposed~~  
31 ~~that is consistent with the general plan, will not result in wetland~~  
32 ~~or riparian loss.~~

33 ~~(c) The general plan, and development approved or proposed~~  
34 ~~that is consistent with the general plan, will not result in the~~  
35 ~~degradation of water quality.~~

36 ~~(d) The general plan, and any development approved or proposed~~  
37 ~~that is consistent with the general plan, will not result in increased~~  
38 ~~nonpoint source pollution.~~

1 (e) ~~The general plan, and any development approved or proposed~~  
2 ~~that is consistent with the general plan, will not result in the~~  
3 ~~degradation or reduction of Pacific Flyway habitat.~~

4 (f) ~~The general plan, and any development approved or proposed~~  
5 ~~that is consistent with the general plan, will not result in reduced~~  
6 ~~public access, provided the access does not infringe on private~~  
7 ~~property rights.~~

8 (g) ~~The general plan, and any development approved or proposed~~  
9 ~~that is consistent with the general plan, will not expose the public~~  
10 ~~to increased flood hazard.~~

11 (h) ~~The general plan, and any development approved or proposed~~  
12 ~~that is consistent with the general plan, will not adversely impact~~  
13 ~~agricultural lands or increase the potential for vandalism, trespass,~~  
14 ~~or the creation of public or private nuisances on public or private~~  
15 ~~land.~~

16 (i) ~~The general plan, and any development approved or proposed~~  
17 ~~that is consistent with the general plan, will not result in the~~  
18 ~~degradation or impairment of levee integrity.~~

19 (j) ~~The general plan, and any development approved or proposed~~  
20 ~~that is consistent with the general plan, will not adversely impact~~  
21 ~~navigation.~~

22 (k) ~~The general plan, and any development approved or proposed~~  
23 ~~that is consistent with the general plan, will not result in any~~  
24 ~~increased requirements or restrictions upon agricultural practices~~  
25 ~~in the primary zone.~~

26 *SEC. 36. Section 29764 of the Public Resources Code is*  
27 *repealed.*

28 ~~29764. This division does not confer any permitting authority~~  
29 ~~upon the commission or require any local government to conform~~  
30 ~~their general plan, or land use entitlement decisions, to the resource~~  
31 ~~management plan, except with regard to lands within the primary~~  
32 ~~zone. The resource management plan does not preempt local~~  
33 ~~government general plans for lands within the secondary zone.~~

34 *SEC. 37. Section 29764 is added to the Public Resources Code,*  
35 *to read:*

36 *29764. Land use authorities granted to the commission by this*  
37 *division are limited to the primary zone, and shall not preempt*  
38 *local government general plans for lands within the secondary*  
39 *zone.*

1 SEC. 38. Section 29765 of the Public Resources Code is  
2 amended to read:

3 29765. (a) Prior to the commission approving the general plan  
4 amendments of the local government, the local government may  
5 approve development within the primary zone only after making  
6 all of the following written findings on the basis of substantial  
7 evidence in the record:

8 ~~(a)~~

9 (1) The development will not result in wetland or riparian loss.

10 ~~(b)~~

11 (2) The development will not result in the degradation of water  
12 quality.

13 ~~(c)~~

14 (3) The development will not result in increased nonpoint source  
15 pollution or soil erosion, including subsidence or sedimentation.

16 ~~(d)~~

17 (4) The development will not result in degradation or reduction  
18 of Pacific Flyway habitat.

19 ~~(e)~~

20 (5) The development will not result in reduced public access,  
21 provided that access does not infringe upon private property rights.

22 ~~(f)~~

23 (6) The development will not expose the public to increased  
24 flood hazards.

25 ~~(g)~~

26 (7) The development will not adversely impact agricultural  
27 lands or increase the potential for vandalism, trespass, or the  
28 creation of public or private nuisances on private or public land.

29 ~~(h)~~

30 (8) The development will not result in the degradation or  
31 impairment of levee integrity.

32 ~~(i)~~

33 (9) The development will not adversely impact navigation.

34 ~~(j)~~

35 (10) The development will not result in any increased  
36 requirements or restrictions upon agricultural practices in the  
37 primary zone.

38 (b) Subsequent to commission approval of a local government's  
39 general plan or general plan amendment, no additional  
40 development shall occur in the primary zone of the delta unless

1 *the relevant proposed amendment to a local government's general*  
2 *plan is determined to be consistent with the resources management*  
3 *plan.*

4 *SEC. 39. Section 29771 of the Public Resources Code is*  
5 *amended to read:*

6 29771. After a hearing on an appealed action pursuant to  
7 subdivisions (a) and (b) of Section 29770, the commission shall  
8 either deny the appeal or remand the matter to the local government  
9 or local agency for reconsideration, after making specific findings.  
10 Upon remand, the local government or local agency shall modify  
11 the appealed action and resubmit the matter for review to the  
12 commission. A proposed action appealed pursuant to this section  
13 shall not be effective until the commission has adopted written  
14 findings, based on substantial evidence in the record, that the action  
15 is consistent with the resource management plan, the approved  
16 portions of local government general plans that implement the  
17 resource management plan, and this division.

18 *SEC. 40. Section 29773 is added to the Public Resources Code,*  
19 *to read:*

20 29773. (a) *The commission may review and provide comments*  
21 *and recommendations to the Delta Stewardship Council on any*  
22 *significant project or proposed project within the scope of the*  
23 *delta plan, including, but not limited to, actions by state and federal*  
24 *agencies, that may affect the unique cultural recreational and*  
25 *agricultural values within the primary and secondary zones.*  
26 *Review provided to the council shall include, but is not limited to:*

27 (1) *Identification of impacts to the cultural, recreational, and*  
28 *agricultural values of the delta.*

29 (2) *Recommendations for actions that may avoid, reduce, or*  
30 *mitigate impacts to the cultural, recreational, and agricultural*  
31 *values of the delta.*

32 (3) *Review of consistency of the project or proposed project*  
33 *with the resources management plan and the delta plan.*

34 (4) *Identify and recommend methods to address delta community*  
35 *concerns regarding large scale habitat plan development and*  
36 *implementation.*

37 (b) *The council shall consider the recommendations of the*  
38 *commission during a public hearing and shall make findings*  
39 *regarding whether the recommendations will be incorporated into*

1 *the project and whether the recommendations are consistent with*  
 2 *the delta plan.*

3 *SEC. 41. Section 29773.5 is added to the Public Resources*  
 4 *Code, to read:*

5 *29773.5. On or before January 1, 2012, the commission shall*  
 6 *prepare and submit to the Legislature recommendations on*  
 7 *potential expansion or change to the primary zone. The commission*  
 8 *shall consider recommendations on the status of all of the following*  
 9 *areas:*

10 *(a) Rio Vista.*

11 *(b) Isleton.*

12 *(c) Bethel Island.*

13 *(d) Brannan-Andrus Island.*

14 *(e) Cosumnes/Mokelumne floodway.*

15 *(f) The San Joaquin/South Delta lowlands.*

16 *SEC. 42. Section 29778.5 is added to the Public Resources*  
 17 *Code, to read:*

18 *29778.5. The Delta Investment Fund is hereby created in the*  
 19 *State Treasury. Any funds within the Delta Investment Fund shall*  
 20 *be available upon appropriation by the Legislature to the*  
 21 *commission for the implementation of the regional economic*  
 22 *development plan for the purposes of enhancing delta communities.*  
 23 *The Delta Investment Fund may receive funds from federal, state,*  
 24 *local, and private sources.*

25 *SEC. 43. Section 29780 of the Public Resources Code is*  
 26 *amended to read:*

27 *29780. On January 1 of each year, the commission shall submit*  
 28 *to the Governor and the Legislature a report describing the progress*  
 29 *that has been made in achieving the objectives of this division.*  
 30 *The report shall include, but not be limited to, ~~at~~ both of the*  
 31 *following information:*

32 ~~*(a) An evaluation of the effectiveness of the resource*~~  
 33 ~~*management plan in preserving agricultural lands, restoring delta*~~  
 34 ~~*habitat, improving levee protection and water quality, providing*~~  
 35 ~~*increased public access and recreational opportunities, and in*~~  
 36 ~~*undertaking other functions prescribed in this division.*~~

37 *(a) An evaluation of the effectiveness of the commission in*  
 38 *undertaking its functions prescribed in this division, including,*  
 39 *but not limited to, its following mandates:*

1 (1) *Determining the consistency of local general plans with the*  
2 *delta plan.*

3 (2) *Outcomes of appealed local land use decisions pursuant to*  
4 *Sections 29770, 29771, and 29773.*

5 (3) *Outcomes of reviews initiated by the commission.*

6 (4) *Facilitating regional economic development.*

7 (5) *Supporting other regional activities for the enhancement of*  
8 *delta communities.*

9 (b) An update of the resource management plan, using baseline  
10 conditions set forth in the original resource management plan.

11 ~~(e) The status of the environmental thresholds established by~~  
12 ~~the commission in the original resource management plan.~~

13 *SEC. 44. If the Commission on State Mandates determines that*  
14 *this act contains costs mandated by the state, reimbursement to*  
15 *local agencies and school districts for those costs shall be made*  
16 *pursuant to Part 7 (commencing with Section 17500) of Division*  
17 *4 of Title 2 of the Government Code.*

18 ~~SECTION 1. Section 29735.5 is added to the Public Resources~~  
19 ~~Code, to read:~~

20 ~~29735.5. The commission shall request federal agencies,~~  
21 ~~including, but not limited to, the United States Army Corps of~~  
22 ~~Engineers, the United States Fish and Wildlife Service, and the~~  
23 ~~United States Bureau of Reclamation to participate in nonvoting~~  
24 ~~liaison capacities with the commission to better assess and~~  
25 ~~coordinate flood protection, water supply, and ecosystem protection~~  
26 ~~issues.~~

27 ~~SEC. 2. Section 29759 is added to the Public Resources Code,~~  
28 ~~to read:~~

29 ~~29759. (a) The commission shall require all general plans of~~  
30 ~~cities and counties within the Delta, and the resource management~~  
31 ~~plan, to be consistent with~~

32 ~~any new Delta management plan that may be created or adopted~~  
33 ~~by the commission.~~

34 ~~(b) The commission may impose a fee per acrefoot on any water~~  
35 ~~diversion within the Delta watershed, and a fee on any water~~  
36 ~~conveyed through or around the Delta, for the purpose of~~  
37 ~~implementing subdivision (a).~~

38 ~~(c) The implementation of subdivision (a) shall be funded, upon~~  
39 ~~appropriation of the Legislature, from fee revenues collected~~

1 pursuant to subdivision (b) or from fee revenues collected pursuant  
2 to Section \_\_\_\_\_.

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