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AMENDMENTS TO SENATE BILL NO. 458
AS AMENDED IN ASSEMBLY JULY 9, 2009

DRAFT

Amendment 1

In line 1 of the heading, strike out “Senator Wolk” and insert:

Senators Steinberg and Simitian

Amendment 2

Strike lines 1 to 3, inclusive, of the title, and insert:

An act to amend Sections 29702, 29725, 29727, 29733, 29735, 29735.1, 29738, 29741, 29751, 29752, 29754, 29756.5, 29763, 29771, and 29780 of, to add Sections 29703.5, 29722.5, 29722.7, 29728.5, 29759, 29773, 29773.5, and 29778.5 to, to add Division 22.3 (commencing with Section 32300) to, to repeal Section 29762 of, and to repeal

and add Sections 29736, 29739, 29753, 29761, 29761.5, and 29764 of, the Public Resources Code, relating to Sacramento-San Joaquin Delta.

Amendment 3

On page 2, before line 1, insert:

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

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

(a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

~~(a)~~

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

~~(b) Assure~~

(c) Ensure orderly, balanced conservation and development of delta land resources.

~~(c)~~

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

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

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

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

(b) There is a need for the five Delta counties to establish and implement a resources management plan for the Delta and for the Delta Stewardship Council to consider that plan and recommendations of the commission in the adoption of the Delta Plan.

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

29722.5. “Delta Plan” means the plan adopted by the Delta Stewardship Council pursuant to Section 85300 of the Water Code.

SEC. 4. Section 29722.7 is added to the Public Resources Code, to read:

29722.7. “Economic sustainability plan” means the plan adopted by the commission pursuant to Section 29759.

SEC. 5. Section 29725 of the Public Resources Code is amended to read:

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

SEC. 6. Section 29727 of the Public Resources Code is amended to read:

29727. “Port” means the Port of Sacramento and the Port of Stockton, including all the land owned or leased by those ports or potential sites identified in the Delta county general plans as of January 1, 2010, and otherwise authorized by law.

SEC. 7. Section 29728.5 is added to the Public Resources Code, to read:

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

SEC. 8. Section 29733 of the Public Resources Code is amended to read:

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

SEC. 9. Section 29735 of the Public Resources Code is amended to read:

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

(a) One member of the board of supervisors, or his or her designee, of each of the five counties within the ~~delta~~ Delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of ~~the county~~ each of those respective counties.

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

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

(B) One from the south ~~delta~~ Delta, consisting of the County of San Joaquin.

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

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

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

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

~~(A) Two members~~

(1) One member from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of

1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.

(B)

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

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

(D)

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

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

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

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

~~(f)~~

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

~~(g)~~

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

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

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

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

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

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

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

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

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

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

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

SEC. 10. Section 29735.1 of the Public Resources Code is amended to read:

29735.1. (a) A member of the commission described in subdivision (a), ~~(b)~~, ~~(e)~~, or ~~(j)~~ of Section 29735 may, subject to the confirmation of his or her appointing power, appoint an alternate to represent him or her at a commission meeting. An

alternate may serve prior to confirmation for a period not to exceed 90 days from the date of appointment, unless and until confirmation is denied.

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

SEC. 11. Section 29736 of the Public Resources Code is repealed.

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

SEC. 12. Section 29736 is added to the Public Resources Code, to read:

29736. The appointed members of the commission shall serve at the pleasure of their appointing entities.

SEC. 13. Section 29738 of the Public Resources Code is amended to read:

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

SEC. 14. Section 29739 of the Public Resources Code is repealed.

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

SEC. 15. Section 29739 is added to the Public Resources Code, to read:

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

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

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

SEC. 16. Section 29741 of the Public Resources Code is amended to read:

29741. The time and place of the first meeting of the commission after January 1, 2010, shall be prescribed by the Governor, but in no event shall it be scheduled for a date later than January 31, ~~1993~~ 2010. All meetings after the first meeting shall be held in a city within the ~~delta~~ Delta.

SEC. 17. Section 29751 of the Public Resources Code is amended to read:

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

SEC. 18. Section 29752 of the Public Resources Code is amended to read:

29752. The commission shall adopt its own rules, regulations, and procedures necessary for its organization and operation, and shall conduct its meetings in compliance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 19. Section 29753 of the Public Resources Code is repealed.

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

SEC. 20. Section 29753 is added to the Public Resources Code, to read:

29753. (a) The commission shall appoint at least one advisory committee to provide recommendations regarding the diverse interests within the Delta. At a minimum, the advisory committees shall include representatives of state agencies and other stakeholders with interests in the Delta's ecosystem, water supply, and socioeconomic sustainability, including, but not limited to, its recreational, agricultural, flood control, environmental, and water resources, and state, local, and utility infrastructure. The commission shall encourage participation of various federal agencies, including the United States Bureau of Reclamation, the United States Fish and Wildlife Service, the United States Army Corps of Engineers, and others as appropriate.

(b) The commission may appoint committees from its membership or may appoint additional advisory committees from members of other interested public agencies and private groups.

(c) The commission shall seek advice and recommendations from advisory committees appointed by local government that are involved in subject matters affecting the Delta.

SEC. 21. Section 29754 of the Public Resources Code is amended to read:

29754. The commission shall establish and maintain an office within the ~~delta~~ Delta or the City of Rio Vista, and for this purpose the commission may rent or own property and equipment. Any rule, regulation, procedure, plan, or other record of the commission which is of such a nature as to constitute a public record under state law shall be available for inspection and copying ~~during regular office hours~~ pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 22. Section 29756.5 of the Public Resources Code is amended to read:

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

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

29759. (a) Not later than July 1, 2011, the commission shall prepare and adopt, by a majority vote of the membership of the commission, an economic sustainability plan. The economic sustainability plan shall include information and recommendations

that inform the Delta Stewardship Council's policies regarding the socioeconomic sustainability of the Delta region.

(b) The economic sustainability plan shall include, but not be limited to, all of the following:

(1) Public safety recommendations, such as flood protection recommendations.

(2) The economic goals, policies, and objectives in local general plans and other local economic efforts, including recommendations on continued socioeconomic sustainability of agriculture and its infrastructure and legacy communities in the Delta.

(3) Comments and recommendations to the Department of Water Resources concerning its periodic update of the flood management plan for the Delta.

(4) Identification of ways to encourage recreational investment along the key river corridors, as appropriate.

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

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

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

29761. The commission shall adopt, by a majority vote, the economic sustainability plan and each plan update after at least three public hearings, with at least one hearing held in a community in the north Delta, one in the south Delta, and one in the west Delta.

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

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

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

29761.5. (a) The commission shall review, and, as determined to be necessary, amend the economic sustainability plan every five years on or before December 31 in years ending in six or one.

(b) The commission shall transmit copies of the economic sustainability plan and any subsequent amendments to the Governor, Legislature, each local government as defined in Section 29725, and Delta Stewardship Council within 60 days of adoption or amendment. Within 180 days of the commission's adoption or amendment of the economic sustainability plan, the Delta Stewardship Council shall review the economic sustainability plan for consistency with the Delta Plan.

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

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

SEC. 29. Section 29763 of the Public Resources Code is amended to read:

29763. Within 180 days from the date of the adoption of the resource management plan or any amendments, changes, or updates, to the resource management plan by the commission, all each local governments government shall submit to the commission proposed amendments ~~that will cause their general plans to be to its general~~

~~plan that are intended to make the general plan consistent with the criteria in Section 29763.5 resource management plan~~ with respect to land located within the primary zone.

SEC. 30. Section 29764 of the Public Resources Code is repealed.

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

SEC. 31. Section 29764 is added to the Public Resources Code, to read:

29764. Land use authority granted to the commission by this division is limited to the primary zone, and shall not preempt local government general plans for lands within the secondary zone.

SEC. 32. Section 29771 of the Public Resources Code is amended to read:

29771. After a hearing on an appealed action pursuant to Section 29770, the commission shall either deny the appeal or remand the matter to the local government or local agency for reconsideration, after making specific findings. Upon remand, the local government or local agency shall modify the appealed action and resubmit the matter for review to the commission. A proposed action appealed pursuant to this section shall not be effective until the commission has adopted written findings, based on substantial evidence in the record, that the action is consistent with the ~~resource management~~ economic sustainability plan, the approved portions of local government

general plans that implement the ~~resource management~~ economic sustainability plan, and this division.

SEC. 33. Section 29773 is added to the Public Resources Code, to read:

29773. (a) The commission may review and provide comments and recommendations to the Delta Stewardship Council on any significant project or proposed project within the scope of the Delta Plan, including, but not limited to, actions by state and federal agencies, that may affect the unique cultural, recreational, and agricultural values within the primary and secondary zones. Review and comment authority granted to the commission shall include, but is not limited to, all of the following:

(1) Identification of impacts to the cultural, recreational, and agricultural values of the Delta.

(2) Recommendations for actions that may avoid, reduce, or mitigate impacts to the cultural, recreational, and agricultural values of the Delta.

(3) Review of consistency of the project or proposed project with the resources management plan and the Delta Plan.

(4) Identification and recommendation of methods to address Delta community concerns regarding large-scale habitat plan development and implementation.

(b) The council shall take into consideration the recommendations of the commission, including the recommendations included in the economic sustainability plan. If the council, in its discretion, determines that a recommendation of the commission is feasible and consistent with the objectives of the Delta Plan and the purposes of this division, the council shall adopt the recommendation.

SEC. 34. Section 29773.5 is added to the Public Resources Code, to read:

29773.5. On or before July 1, 2010, the commission shall prepare and submit to the Legislature recommendations regarding the potential expansion of or change to the primary zone or the Delta. The commission shall consider recommendations on the status of all of the following areas:

- (a) Rio Vista.
- (b) Isleton.
- (c) Bethel Island.
- (d) Brannan-Andrus Island.
- (e) Cosumnes/Mokelumne floodway.
- (f) The San Joaquin/South Delta lowlands.

SEC. 35. Section 29778.5 is added to the Public Resources Code, to read:

29778.5. The Delta Investment Fund is hereby created in the State Treasury. Any funds within the Delta Investment Fund shall be available, upon appropriation by the Legislature, to the commission for the implementation of the regional economic sustainability plan, developed pursuant to Section 29759, for the purposes of enhancing Delta communities. The Delta Investment Fund may receive funds from federal, state, local, and private sources.

SEC. 36. Section 29780 of the Public Resources Code is amended to read:

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

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

(a) An evaluation of the effectiveness of the commission in undertaking its functions prescribed in this division, including, but not limited to, its mandates as follows:

(1) Determining the consistency of local general plans with the Delta Plan.

(2) Outcomes of appealed local land use decisions pursuant to Sections 29770 and 29771.

(3) Outcomes of reviews initiated by the commission.

(4) Facilitating regional economic sustainability.

(5) Supporting other regional activities for the enhancement of Delta communities.

(b) An update of the ~~resource management~~ economic sustainability plan, using baseline conditions set forth in the original ~~resource management economic sustainability~~ plan.

SEC. 37. Division 22.3 (commencing with Section 32300) is added to the Public Resources Code, to read:

DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS

32300. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Conservancy Act.

32301. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta is a unique natural resource of local, state, and national significance.

(b) At 1,300 square miles, the Delta is the largest estuary on the west coast of North and South America.

(c) Its rivers and labyrinths of sloughs and channels are home to 750 species of plants and wildlife as well as 55 species of fish, provide habitat for 700 native plant and animal species, and are part of the Pacific Flyway.

(d) The Delta contains more than 500,000 acres of agricultural land, with unique soils, and farmers who are creative and utilize innovative agriculture, such as carbon sequestration crops, subsidence reversal crops, wildlife-friendly crops, and crops direct for marketing to the large urban populations nearby.

(e) The Delta and Suisun Marsh provide numerous opportunities for recreation, such as boating, kayaking, fishing, hiking, birding, and hunting. Navigable waterways in the Delta are available for public access and currently make up the majority of recreational opportunities. There is a need for land-based recreational access points including parks, picnic areas, and campgrounds.

(f) The Delta's history is rich with a distinct natural, agricultural, and cultural heritage. It is home to the community of Locke, the only town in the United States built primarily by early Chinese immigrants. Other legacy communities include Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista, Ryde, and Walnut Grove.

(g) The Delta is home to more than 500,000 people and 200,000 jobs, and contributes over thirty-five billion dollars (\$35,000,000,000) to the state's economy.

(h) In addition, the Delta provides water to more than 25 million Californians and three million acres of agricultural land. It supports a four hundred billion dollar (\$400,000,000,000) economy and is traversed by energy, communications, and transportation facilities vital to the economic health of California.

(i) A Sacramento-San Joaquin Delta Conservancy can support efforts that advance both environmental protection and the economic well-being of Delta residents in a complementary manner, including all of the following:

- (1) Protect and enhance habitat and habitat restoration.
- (2) Protect and preserve Delta agriculture and working landscapes.
- (3) Provide increased opportunities for tourism and recreation.
- (4) Promote Delta legacy communities and economic vitality in the Delta in coordination with the Delta Protection Commission.
- (5) Increase the resilience of the Delta to the effects of natural disasters such as floods and earthquakes, in coordination with the Delta Protection Commission.
- (6) Protect and improve water quality.

(7) Assist the Delta regional economy through the operation of the conservancy's program.

(8) Identify priority projects and initiatives for which funding is needed.

(9) Protect, conserve, and restore the region's physical, agricultural, cultural, historical, and living resources.

(10) Assist local entities in the implementation of their habitat conservation plans (HCPs) and natural community conservation plans (NCCPs).

(11) Facilitate take protection and safe harbor agreements under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) for adjacent landowners and local public agencies.

(12) Promote environmental education.

CHAPTER 2. DEFINITIONS

32310. For the purposes of this division, the following terms have the following meanings:

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

(b) "Conservancy" means the Sacramento-San Joaquin Delta Conservancy.

(c) "Delta" means the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code.

(d) “Fund” means the Sacramento-San Joaquin Delta Conservancy Fund created pursuant to Section 32360.

(e) “Local public agency” means a city, county, special district, or joint powers authority.

(f) “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 natural environment, preservation or enhancement of wildlife, preservation of cultural and historical resources, or efforts to provide for the enjoyment of public lands.

(g) “Suisun Marsh” means the area defined in Section 29101 and protected by Division 19 (commencing with Section 29000).

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

CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

32320. There is in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy, which is created as a state agency to work in collaboration and cooperation with local governments and interested parties.

32322. (a) The conservancy shall act as a primary state agency to implement ecosystem restoration in the Delta.

(b) The conservancy shall support efforts that advance environmental protection and the economic well-being of Delta residents, including all of the following:

- (1) Protect and enhance habitat and habitat restoration.
- (2) Protect and preserve Delta agriculture and working landscapes.
- (3) Provide increased opportunities for tourism and recreation in the Delta.
- (4) Promote Delta legacy communities and economic vitality in the Delta, in coordination with the Delta Protection Commission.
- (5) Increase the resilience of the Delta to the effects of natural disasters such as floods and earthquakes, in coordination with the Delta Protection Commission.
- (6) Protect and improve water quality.
- (7) Assist the Delta regional economy through the operation of the conservancy's program.
- (8) Identify priority projects and initiatives for which funding is needed.
- (9) Protect, conserve, and restore the region's physical, agricultural, cultural, historical, and living resources.

(10) Assist local entities in the implementation of their habitat conservation plans (HCPs) and natural community conservation plans (NCCPs).

(11) Facilitate take protection and safe harbor agreements under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code) for adjacent landowners and local public agencies.

(12) Promote environmental education through grant funding.

(c) When implementing subdivision (b), the conservancy shall undertake efforts to enhance public use and enjoyment of lands owned by the public.

CHAPTER 4. GOVERNING BOARD

32330. The board shall consist of 11 voting members and two nonvoting members, appointed or designated as follows:

(a) The 11 voting members of the board shall consist of all of the following:

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

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

(3) One member of the board or a designee who is appointed by the Contra Costa County Board of Supervisors, who is a resident of that county.

(4) One member of the board or a designee who is appointed by the Sacramento County Board of Supervisors, who is a resident of that county.

(5) One member of the board or a designee who is appointed by the San Joaquin County Board of Supervisors, who is a resident of that county.

(6) One member of the board or a designee who is appointed by the Solano County Board of Supervisors, who is a resident of that county.

(7) One member of the board or a designee who is appointed by the Yolo County Board of Supervisors, who is a resident of that county.

(8) Two public members appointed by the Governor, subject to confirmation by the Senate.

(9) One public member appointed by the Senate Committee on Rules.

(10) One public member appointed by the Speaker of the Assembly.

(b) The two nonvoting members shall consist of a Member of the Senate, appointed by the Senate Committee on Rules, and a Member of the Assembly, appointed by the Speaker of the Assembly. The members appointed under this subdivision 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. The appointed members shall represent a district that encompasses a portion of the Delta.

(c) Ten nonvoting liaison advisers who shall serve in an advisory, nonvoting capacity shall consist of all of the following:

(1) One representative of the United States Fish and Wildlife Service, designated by the United States Secretary of the Interior.

(2) One representative of the United States National Marine Fisheries Service, designated by the United States Secretary of the Interior.

(3) One representative of the United States Bureau of Reclamation, designated by the United States Secretary of the Interior.

(4) One representative of the United States Army Corps of Engineers, designated by the Commanding Officer, United States Army Corps of Engineers, South Pacific Division.

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

(6) A designee of the State Coastal Conservancy for coordination purposes.

(7) A designee of the Suisun Resource Conservation District for coordination purposes.

(8) A designee of the Central Valley Flood Protection Board.

(9) A designee of the Yolo Basin Foundation.

(10) A designee of the Delta Protection Commission.

(d) The public member appointed by the Governor shall serve for a term of four years, with a two-term limit.

(e) The locally appointed members and alternates shall serve at the pleasure of the appointing board of supervisors.

(f) The public members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall serve for a term of four years, with a two-term limit.

(g) The Members of the Senate and Assembly shall serve at the pleasure of the appointing body.

(h) Alternates may be appointed by the county boards of supervisors.

32332. Annually, the voting members of the board shall elect from among the voting members a chairperson and vice chairperson, and other officers as necessary. If the office of the chairperson or vice chairperson becomes vacant, a new chairperson or vice chairperson shall be elected by the voting members of the board to serve for the remainder of the term. The chairperson shall be selected from among the members specified in paragraphs (3) to (7), inclusive, of subdivision (a) of Section 32330.

32334. A majority of the voting members shall constitute a quorum for the transaction of the business of the conservancy. The board shall not transact the business of the conservancy if a quorum is not present at the time a vote is taken. A decision of the board requires an affirmative vote of six of the voting members, and the vote is binding with respect to all matters acted on by the conservancy.

32336. The board shall adopt rules and procedures for the conduct of business by the conservancy.

32338. The board may establish advisory boards or committees, hold community meetings, and engage in public outreach.

32340. The board shall establish and maintain a headquarters office within the Delta. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations.

32342. The board shall determine the qualifications of, and shall appoint, an executive officer of the conservancy, who shall be exempt from civil service. The board shall employ other staff as necessary to execute the powers and functions provided for in this division.

32344. The board may enter into contracts with private entities and public agencies to procure consulting and other services necessary to achieve the purposes of this division.

32346. The conservancy's expenses for support and administration may be paid from the conservancy's operating budget and any other funding sources available to the conservancy.

32348. The board shall conduct business in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

32350. The board shall hold its regular meetings within the Delta or the City of Rio Vista.

CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS

32360. (a) Except as specified in Section 32360.5, the jurisdiction and activities of the conservancy are limited to the Delta and Suisun Marsh.

(b) The Sacramento-San Joaquin Delta Conservancy Fund is hereby created in the State Treasury. Moneys in the fund shall be available, upon appropriation by the Legislature, only for the purposes of this division.

(1) Funds provided for ecosystem restoration and enhancement shall be available for ecosystem restoration projects consistent with the conservancy's strategic plan adopted pursuant to Section 32376.

(2) Funds may be allocated to a separate program for economic sustainability in the Delta. The conservancy shall develop this program, in conjunction with the Delta Protection Commission and other interested parties. Funds provided to the conservancy to implement the Bay Delta Conservation Plan shall not be used for economic sustainability projects.

32360.5. In furtherance of the conservancy's role in implementing the Delta Plan, the conservancy may take or fund an action outside the Delta and Suisun Marsh if the board makes all of the following findings:

- (a) The project implements the ecosystem goals of the Delta Plan.
- (b) The project is consistent with the requirements of any applicable state and federal permits.
- (c) The conservancy has given notice to and receives and reviews any comments from affected local jurisdictions and the Delta Protection Commission.
- (d) The conservancy has given notice to and reviewed any comments received from any state conservancy where the project is located.
- (e) The project will provide significant benefits to the Delta.

32362. The conservancy may engage in partnerships with nonprofit organizations, local public agencies, and landowners.

32363. In implementing this division, the conservancy shall cooperate and consult with the city or county in which a grant is proposed to be expended or an interest in real property is proposed to be acquired, and shall, as necessary or appropriate, coordinate its efforts with other state agencies, in cooperation with the Secretary of the Natural Resources Agency. The conservancy shall, as necessary or appropriate,

cooperate and consult with a public water system, levee, flood control, or drainage agency that owns or operates facilities, including lands appurtenant thereto, where a grant is proposed to be expended or an interest in land is proposed to be acquired.

32364. (a) The conservancy may require a grantee to enter into an agreement with the conservancy on terms and conditions specified by the conservancy.

(b) The conservancy may require a cost-share or local funding requirement for a grant. The conservancy may make that cost-share or local funding requirement contingent upon the total amount of funding available, the fiscal resources of the applicant, or urgency of the project. The conservancy may waive cost-share requirements.

(c) The conservancy may fund or award grants for plans and feasibility studies consistent with its strategic plan or the Delta Plan.

(d) The conservancy may seek repayment or reimbursement of funds granted on terms and conditions it deems appropriate. The proceeds of repayment shall be deposited in the fund.

(e) The conservancy may require any funds over and above the costs of eligible or approved projects or of acquisition to be returned to the conservancy, to be available for expenditure when appropriated by the Legislature.

32364.5 (a) The conservancy may provide grants and loans to state agencies, local public agencies, nonprofit organizations, and tribal organizations to further the goals of the conservancy.

(b) An entity applying for a grant from the conservancy to acquire an interest in real property shall specify all of the following in the grant application:

(1) The intended use of the property.

(2) The manner in which the land will be managed.

(3) How the cost of ongoing operations, maintenance, and management will be provided, including an analysis of the maintaining entity's financial capacity to support those ongoing costs.

(4) Grantees shall demonstrate, where applicable, how they will provide payments in lieu of taxes, assessments, or charges otherwise due to elements of local government.

32365. The conservancy may sue and be sued.

32366. (a) The conservancy may acquire from willing sellers or transferors interests in real property and improve, lease, or transfer interests in real property, in order to carry out the purposes of this division.

(b) The conservancy shall use conservation easements to accomplish ecosystem restoration whenever feasible.

32368. The conservancy may enter into an agreement with a public agency, nonprofit organization, or private entity for the construction, management, or maintenance of facilities authorized by the conservancy.

32370. The conservancy shall not exercise the power of eminent domain.

32372. (a) The conservancy may pursue and accept funds from various sources, including, but not limited to, federal, state, and local funds or grants, private philanthropy, gifts, donations, bequests, devises, subventions, grants, rents, royalties, or other assistance and funds from public and private sources.

(b) The conservancy may accept fees levied by others.

(c) The conservancy may create and manage endowments.

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

32376. Within two years of hiring an executive officer, the board shall prepare and adopt a strategic plan to achieve the goals of the conservancy. The plan shall describe its interaction with local, regional, state, and federal land use, recreation, water and flood management, and habitat conservation and protection efforts within and adjacent to the Delta. The strategic plan shall establish priorities and criteria for projects and programs, based upon an assessment of program requirements, institutional capabilities, and funding needs throughout the Delta. The strategic plan shall be consistent with the Delta Plan, the Delta Protection Commission's resources management plan, the Central Valley Flood Protection Plan, the Suisun Marsh Preservation Act of 1977 (Division 19 (commencing with Section 29000)), and the Habitat Management, Preservation and Restoration Plan for the Suisun Marsh.

32378. (a) The conservancy may expend funds and award grants and loans to facilitate collaborative planning efforts and to develop projects and programs that are designed to further the purposes of this division.

(b) The conservancy may provide and make available technical information, expertise, and other nonfinancial assistance to public agencies, nonprofit organizations, and tribal organizations, to support program and project development and implementation.

32380. The conservancy may acquire water or water rights to support the goals of the conservancy.

32381. This division does not grant to the conservancy any of the following:

(a) The power of a city or county to regulate land use.

(b) The power to regulate any activities on land, except as the owner of an interest in the land, or pursuant to an agreement with, or a license or grant of management authority from, the owner of an interest in the land.

(c) The power over water rights held by others.

SEC. 38. This bill shall only become operative if Assembly Bill 39, Assembly Bill 49, Senate Bill 12, and Senate Bill 229 of the 2009–10 Regular Session of the Legislature, relating to water use and resource management, are each enacted and become effective on or before January 1, 2010.

Amendment 4

On page 2, strike out lines 1 to 25, inclusive, and strike pages 3 to 11, inclusive