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AMENDMENTS TO SENATE BILL NO. 12
AS AMENDED IN ASSEMBLY JULY 9, 2009

Amendment 1

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

An act to add Division 35 (commencing with Section 85000) to, and to repeal Division 26.4 (commencing with Section 79400) of, the Water Code, relating to the Sacramento-San Joaquin Delta.

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Division 26.4 (commencing with Section 79400) of the Water Code is repealed.

SEC. 2. Division 35 (commencing with Section 85000) is added to the Water Code, to read:

DIVISION 35. SACRAMENTO-SAN JOAQUIN DELTA REFORM ACT OF 2009

PART 1. GENERAL PROVISIONS

CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

85000. This division shall be known, and may be cited, as the Sacramento-San Joaquin Delta Reform Act of 2009.

85001. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state's management of Delta watershed resources.

(b) In response to the Delta crisis, the Legislature and the Governor required development of a new long-term strategic vision for managing the Delta. The Governor appointed a Blue Ribbon Task Force to recommend a new "Delta Vision Strategic Plan" to his cabinet committee, which, in turn, made recommendations for a Delta Vision to the Governor and the Legislature on January 3, 2009.

(c) By enacting this division, it is the intent of the Legislature to facilitate the implementation of a program for the sustainable management of the Sacramento-San

Joaquin Delta ecosystem and to establish a governance structure that will direct efforts across state agencies to develop a legally enforceable Delta Plan.

85002. The Legislature finds and declares that Sacramento-San Joaquin Delta, referred to as “the Delta” in this division, is a critically important natural resource for California and the nation. It serves Californians concurrently as both the hub of the California water system and the most valuable estuary ecosystem on the west coast of North and South America.

85003. The Legislature finds and declares all of the following:

(a) Originally, the Delta was a shallow wetland with water covering the area for many months of the year. Natural levees, created by deposits of sediment, allowed some islands to emerge during the dry summer months. Salinity would fluctuate, depending on the season and the amount of precipitation in any one year, and the species that comprised the Delta ecosystem had evolved and adapted to this unique, dynamic system.

(b) Delta property ownership developed pursuant to the federal Swamp Land Act of 1850, and state legislation enacted in 1861, and as a result of the construction of levees to keep previously seasonal wetlands dry throughout the year. That property ownership, and the exercise of associated rights, continue to depend on the landowners’ maintenance of those nonproject levees and do not include any right to state funding of levee maintenance or repair.

(c) In 1933, the Legislature approved the California Central Valley Project Act, which relied upon the transfer of Sacramento River water south through the Delta and maintenance of a more constant salinity regime by using upstream reservoir releases

of freshwater to create a hydraulic salinity barrier. As a result of the operations of state and federal water projects, the natural salinity variations in the Delta have been altered. Restoring a healthy estuarine ecosystem in the Delta may require developing a more natural salinity regime in parts of the Delta.

CHAPTER 2. DELTA POLICY

85020. (a) The coequal goals shall be the standard for long-term management of Delta water and environmental resources.

(b) The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

(1) Manage the Delta's water and environmental resources and the water resources of the state over the long-term.

(2) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

(3) Restore the Delta ecosystem, including its fisheries, as the heart of a healthy estuary.

(4) Promote statewide water conservation, efficiency, and sustainable use.

(5) Achieve water quality objectives in the Delta.

(6) Improve the existing water conveyance system and expand statewide water storage.

(7) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.

(8) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

85021. The policy of the State of California is to reduce dependence on water from the Delta watershed, over the long-term, for statewide water supply reliability. Each region that depends on water from the Delta shall improve its regional self-reliance for water through investment in water-use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

85022. (a) It is the intent of the Legislature that state and local land use actions are consistent with the Delta Plan, including the commission's resources management plan. This section's findings, policies, and goals apply to Delta land-use planning and development.

(b) The actions of the council shall be guided by the findings, policies, and goals expressed in this section when reviewing decisions of the commission pursuant to Division 19.5 (commencing with Section 29700) of the Public Resources Code.

(c) The Legislature finds and declares as follows:

(1) The Delta is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced estuary ecosystem of hemispheric importance.

(2) The permanent protection of the Delta's natural and scenic resources is the paramount concern to present and future residents of the state and nation.

(3) To promote the public safety, health, and welfare, and to protect public and private property, wildlife, fisheries, and the natural environment, it is necessary to protect the ecosystem of the Delta and prevent its deterioration and destruction.

(4) Existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to persons living and working in the Delta.

(d) The fundamental goals for managing land use in the Delta are to:

(1) Protect, maintain, enhance, and, where feasible, restore the overall quality of the Delta environment and its natural and artificial resources.

(2) Ensure the utilization and conservation of Delta resources taking into account the social and economic needs of the people of the state.

(3) Maximize public access to Delta resources and maximize public recreational opportunities in the Delta consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

(4) Ensure priority for Delta-dependent and Delta-related development over other development in the Delta.

(5) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the Delta.

85023. The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta.

CHAPTER 3. MISCELLANEOUS PROVISIONS

85031. This division does not diminish, impair, or otherwise affect any area of origin, watershed of origin, county of origin, or any other water rights protections provided under the law. This division does not limit or otherwise affect the application of Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

85032. This division does not affect any of the following:

(a) The Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

(b) The California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(c) The Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)).

(d) The application of the public trust doctrine.

(e) Any water right.

(f) The liability of the state for flood protection in the Delta or its watershed.

85034. (a) (1) The Delta Stewardship Council shall administer all contracts, grants, easements, and agreements made or entered into by the California Bay-Delta

Authority under Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009.

(2) The exercise of the authority described in paragraph (1) is not subject to review or approval by the Department of General Services.

(3) A contract, lease, license, or any other agreement to which the California Bay-Delta Authority is a party is not void or voidable as a result of the implementation of this subdivision, but shall continue in full force and effect until the end of its term.

(b) The Delta Stewardship Council shall be the successor to and shall assume from the California Bay-Delta Authority all of the administrative rights, abilities, obligations, and duties of that authority.

(c) The Delta Stewardship Council shall have possession and control of all records, papers, equipment, supplies, contracts, leases, agreements, and other property, real or personal, connected with the administration of Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009, or held for the benefit or use of the California Bay-Delta Authority.

(d) The Delta Stewardship Council shall assume from the California Bay-Delta Authority all responsibility to manage the science program element that was required to be undertaken by Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009.

CHAPTER 4. DEFINITIONS

85050. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division.

85051. “Acquisition” means the acquisition of a fee interest or any other interest, including easements, leases, and development rights.

85053. “Bay Delta Conservation Plan” means a natural community conservation plan that complies with the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), and complies with Section 10 of the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) and accompanying regulations.

85054. “Coequal goals” means the goals of assuring a reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem and the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

85055. “Commission” means the Delta Protection Commission established in Division 19.5 (commencing with Section 29700) of the Public Resources Code.

85056. “Conservancy” means the Sacramento-San Joaquin Delta Conservancy established in Section 32320 of the Public Resources Code.

85057. “Council” means the Delta Stewardship Council established in Section 85200.

85058. “Delta” means the Sacramento-San Joaquin Delta as defined in Section 12220, the Suisun Marsh as defined in Section 29101 of the Public Resources Code, and the Yolo Bypass.

85059. “Delta Plan” means the comprehensive, long-term management plan for the Delta to achieve the coequal goals as adopted by the council in accordance with this division.

85060. “Delta watershed” means the Sacramento River Hydrologic Region and the San Joaquin River Hydrologic Region as described in the department’s Bulletin No. 160-05.

85063. “Private water agency” means a public utility as defined in Section 216 of the Public Utilities Code that provides water service as defined in Section 515 or a mutual water company as defined in Section 2725 of the Public Utilities Code.

85064. “Public water agency” means a public entity, as defined in Section 514, that provides water service, as defined in Section 515.

85066. “Restoration” means the application of ecological principles to restore a degraded or fragmented ecosystem and return it to a condition in which its biological and structural components achieve a close approximation of its natural potential.

85067. “Strategic Plan” means both the “Delta Vision Strategic Plan” issued by the Delta Vision Blue Ribbon Task Force on October 17, 2008, and the “Delta Vision Implementation Report” adopted by the Delta Vision Committee and dated December 31, 2008. Where the two documents conflict, the “Delta Vision Strategic Plan” issued by the Delta Vision Blue Ribbon Task Force shall prevail.

PART 2. EARLY ACTIONS

85080. Upon appointment of a quorum of the council, the council shall assume responsibility for overseeing implementation of early actions, as provided in this part. The council may identify early actions in addition to those identified in this part pertaining to transportation, utilities, recreation, water supply, ecosystem improvements, and flood control.

85081. (a) Within 60 days of the appointment of a quorum of the council, the council shall request a list of nominees to serve on the Delta Independent Science Board from the Director of the University of California Center for Water Resources and the Director of the United States Geological Survey office in Sacramento.

(b) The council shall appoint persons to serve on the Delta Independent Science Board, in accordance with Section 85280, within 30 days of receiving the list of nominees.

85082. Within 120 days of the appointment of a quorum of the council, the council shall develop and implement a strategy to appropriately engage participation of the federal agencies with responsibilities in the Delta. This strategy may include developing the Delta Plan consistent with the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.), the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and Section 8 of the federal Reclamation Act of 1902.

85083. Within 120 days of the appointment of a quorum of the council, the council shall begin developing information necessary to develop the Delta Plan in accordance with this division, including, but not limited to, all of the following:

(a) A list of all applicable legal requirements, including requirements relating to federal and state endangered species laws that pertain to the Delta.

(b) Determination of the relevance of other federal, state, and local plans to the development of the Delta Plan.

85084. The council shall develop an interim plan that includes recommendations for early actions, projects, and programs, including, but not limited to, the following:

(a) Develop and implement an interim finance strategy for developing the Delta Plan and taking the early actions described in this part.

(b) Commence study of the transfer of the State Water Project to a separate public agency or utility.

(c) Designate the department and the Department of Fish and Game to implement near-term restoration projects, including, but not limited to, Dutch Slough tidal marsh restoration, Meins Island tidal marsh restoration, and floodplain and floodway improvements in the Yolo Bypass.

(d) Direct the Department of Fish and Game, consistent with the board's determinations of instream flow needs in the Delta pursuant to Section 85086, to submit information and any recommendations as to the Delta's instream flow needs to the board by April 1, 2010. The information shall include only information in its possession that the Department of Fish and Game deems reliable.

85085. The department shall do all of the following:

(a) Conduct a study of the Middle River Corridor Two-Barrier pilot project.

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

(c) Construct demonstration fish protection screens at Clifton Court Forebay.

(d) Assist the Department of Fish and Game in implementing early action ecosystem restoration projects, including, but not limited to, Dutch Slough tidal marsh restoration, Meins Island tidal marsh restoration, and floodplain and floodway improvements in the Yolo Bypass.

85086. (a) The board shall establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010.

(b) It is the intent of the Legislature to establish an accelerated process to determine instream flow needs of the Delta and its tributaries on a preliminary basis for the purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan.

(c) (1) The board, in consultation with the Department of Fish and Game and by June 30, 2010, shall complete an analysis of the best available scientific information in existence as of the date of enactment of this division and determine the instream flow needs in the Delta, from the Sacramento River watershed, for ecosystem and water quality purposes. The Department of Fish and Game may submit to the board information generated in the Bay Delta Conservation Plan development process or other appropriate sources.

(2) The board may not grant any petition to change the point of diversion in the Delta for the State Water Project or the federal Central Valley Project from the current points of diversion in the south Delta to a location in the Sacramento River watershed before the board makes its determination pursuant to paragraph (1) and complies with all other existing statutory requirements for changing a point of diversion.

(d) (1) The board shall charge the department for the costs of this analysis and determination pursuant to the board's authority to regulate the water rights of the State Water Project and the federal Central Valley Project.

(2) The department shall obtain reimbursement for those charges from the State Water Project contractors, pursuant to the existing State Water Project contracts, and may use funding made available pursuant to the Financial Assistance Agreement for the Delta Habitat Conservation and Conveyance Program, as executed by the United States Bureau of Reclamation on March 13, 2009.

(e) The board shall submit its instream flow need determinations pursuant to this section to the council within 30 days of final adoption.

(f) The preliminary instream flow need determinations required by this section shall not be subject to judicial review.

85087. The board, by December 31, 2010, shall submit a prioritized schedule to complete determinations as to instream flow needs for the Delta and for high priority rivers and streams in the Delta watershed, not otherwise described in Section 85086, by 2012, and for all major rivers and streams outside the Delta watershed by 2018. In developing this schedule, the board shall consult with the Department of Fish and Game as to the timing of its submission of recommendations for instream flow needs.

PART 3. DELTA GOVERNANCE

CHAPTER 1. DELTA STEWARDSHIP COUNCIL

85200. (a) The Delta Stewardship Council is hereby established as an independent agency of the state.

(b) (1) The council shall consist of seven members, of which four members shall be appointed by the Governor and confirmed by the Senate, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be the Chairperson of the Delta Protection Commission. Initial appointments to the council shall be made by July 1, 2010.

(2) The initial term of office of each member of the council shall be ____ or ____ years, as specified in subdivision (c), and all subsequent terms shall be four years.

(3) No member of the council shall serve two consecutive terms, but a member may be reappointed after a period of two years following the end of his or her term, except that those members of the council that serve an initial term of ____ or ____ years may be immediately appointed to a subsequent full ____-year term.

(c) The Governor, upon his or her appointment of members pursuant to subdivision (b), shall designate the appointees as serving initial terms of either ____ or ____ years. One class shall have three members and the other two classes shall have two members each. For the class that has three members, the terms of office shall be ____ years. The second class, composed of two members, shall serve ____ years. The

third class, composed of two members, one each appointed by the Senate Rules Committee and the Speaker of the Assembly, by July 1, 2010, shall serve ____ years. Thereafter, the terms of all succeeding members shall be ____ years.

(d) Any vacancy shall be filled by the appointing authority within 60 days. If the term of a council member expires, and no successor is appointed within the allotted timeframe, the existing member may serve up to 180 days beyond the expiration of his or her term.

(e) The council members shall select a chairperson from among its members, who shall serve for not more than four years in that capacity.

(f) The council shall meet once a month in a public forum. At least two meetings each year shall take place at a location within the Delta.

85201. The chairperson shall serve full time. Other members shall serve one-third time. The council may select a vice chairperson and other officers determined to be necessary.

(a) Each member of the council shall receive the salary provided for in Section 11564 of the Government Code.

(b) The members of the council shall be reimbursed for expenses necessarily incurred in the performance of official duties.

(c) The council shall appoint an executive officer who shall serve full time.

(d) The executive officer shall hire employees necessary to carry out council functions.

(e) The number of employees and qualifications of those employees shall be determined by the council, subject to the availability of funds.

(f) The salary of each employee of the council shall be determined by the State Personnel Board, and shall reflect the duties and responsibilities of the position.

(g) All persons employed by the council are state employees, subject to the duties, responsibilities, limitations, and benefits of the state.

85202. Council members shall possess diverse expertise and reflect a statewide perspective.

85203. The headquarters of the council shall be located in Sacramento.

85204. The council shall establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency shall coordinate its actions pursuant to the Delta Plan with the council and the other relevant agencies.

CHAPTER 2. MISSION, DUTIES, AND RESPONSIBILITIES OF THE COUNCIL

85210. The council has all of the following powers:

(a) To sue or be sued.

(b) To enter into contracts.

(c) To employ the services of public, nonprofit, and private entities.

(d) To delegate administrative functions to council staff.

(e) To employ its own legal staff or contract with other state or federal agencies for legal services, or both. The council may employ special legal counsel with the approval of the Attorney General.

(f) To receive funds, including funds from private and local governmental sources, contributions from public and private sources, as well as state and federal appropriations.

- (g) To disburse funds through grants, public assistance, loans, and contracts.
- (h) To request reports from state, federal, and local governmental agencies on issues related to the implementation of the Delta Plan.
- (i) To adopt regulations as required for the implementation of this division.
- (j) To obtain and hold regulatory permits and prepare environmental documents.
- (k) To comment on state agency environmental impact reports for projects outside the Delta that the council determines will have a significant impact on the Delta.
- (l) To hold hearings and conduct investigations in all parts of the state necessary to carry out the powers vested in it, and for those purposes has the powers conferred upon the heads of state departments pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. Any hearing or investigation by the council may be conducted by any member of the council, or other designee, upon authorization of the council, and he or she shall have the powers granted to the council by this section, provided that any final action of the council shall be taken by a majority of the members of the council at a meeting duly called and held.

85211. The Delta Plan shall include performance measurements that will enable the council to track progress in meeting the objectives of the Delta Plan. The performance measurements shall include, but need not be limited to, quantitative or otherwise measurable assessments of the status and trends in all of the following:

- (a) The health of the Delta's estuary ecosystem for supporting aquatic and terrestrial species, habitats, and processes.
- (b) Viable populations of Delta fisheries and other aquatic organisms.
- (c) The reliability of California water supply connected to the Delta.

85212. (a) The council shall adopt a consultation process for the purposes of this division with all state agencies, departments, boards, and commissions that have specified responsibilities to develop, implement, monitor, and adhere to all or part of the Delta Plan. The council shall ensure, to the maximum extent practicable, that the actions of these entities are consistent with the Delta Plan. Pursuant to this subdivision, the council may initiate consultation when an action or omission of action by a state agency is contrary to the Delta Plan.

(b) Any affected person may seek review by the council of an actual or proposed action, or the failure to act, of a state agency to determine whether that action or failure to act is consistent with the Delta Plan. The council shall establish guidelines to implement this subdivision.

(c) Any budget proposal developed by a state agency as part of the Governor's annual budget process that affects the implementation of the Delta Plan shall be provided to the council for review and approval, prior to inclusion in the Governor's budget.

(d) The council may not propose any action that is inconsistent with state law or regulation or that impedes the timely implementation of the Delta Plan.

85215. To ensure effective coordination and consistency with the Delta Plan, the council shall identify those state agency plans that should be reviewed by the council, and if necessary, amended to be consistent with Delta Plan. In addition to other plans identified by the council, the following state agencies and the specified plans shall be subject to review by the council to determine consistency with the Delta Plan:

(a) The Delta Protection Commission's Resource Management Plan.

(b) The Delta Conservancy's Strategic Plan.

(c) The Suisun Marsh Management Plan.

(d) All State Water Project and joint State Water Project/federal Central Valley Project operation plans.

85216. Within 180 days from the date of the adoption of the Delta Plan or any amendments or updates to the Delta Plan by the council, the state agencies shall submit their plans, as described in Section 85215, or their proposed amendments to those plans, to the council for review.

85217. The council shall act on the proposed state agency plan or plan amendments within 60 days from the date of submittal of the proposed plan or plan amendments. The council shall either determine the plan or plan amendments are consistent with the Delta Plan or remand the plan or amendments to the state agency for reconsideration. The council shall approve or remand the proposed plan or plan amendments by a majority vote of the council membership only after concluding that the plan is consistent with the Delta Plan.

85218. A state agency shall adopt its proposed plan or plan amendment within 120 days after their approval by the council.

85219. (a) Any water conveyance facility proposed to be constructed within or around the Delta shall be authorized by the council pursuant to this division and consistent with the council's obligation to comprehensively address the coequal goals, including, but not limited to, water supply reliability.

(b) Prior to taking any action to authorize the construction of any water conveyance facility within or around the Delta, the council shall make the following determinations:

(1) The board has adopted instream flow determinations for the Sacramento River and waterways within the Delta that provide the volume, quality, and timing of water required for a healthy Delta ecosystem under different conditions, including seasonal, annual, and interannual bases, and including an assessment of increased spring and fall outflow and increased San Joaquin River inflow.

(2) Each water agency that relies on water exports from the Delta watershed has submitted to the council a contingency plan for Delta water supply curtailments and drought, consistent with the board's instream flow requirements, and a long-term plan for reducing reliance on those exports.

(3) The proposed water conveyance facility will be operated in a manner consistent with achieving the coequal goals.

85220. Nothing in this chapter affects the authority of the Department of Fish and Game or the board.

CHAPTER 3. DELTA WATERMASTER

85230. (a) The board, in consultation with the council, shall appoint, for a term of four years, a special master for the Delta, whose title shall be "the Delta Watermaster."

(b) The Delta Watermaster shall exercise the board's authority to provide timely monitoring and enforcement of board orders and permit terms and conditions. The Delta Watermaster's delegated authority shall include, but not be limited to, authority to require monitoring and reporting, authority for approvals delegated to an officer or employee of the board by the terms of a water right permit or license, authority to approve temporary urgency changes, and authority to issue a notice of proposed cease and desist order or administrative civil liability complaint.

(c) The internal procedures adopted by the board shall provide for due process in adjudicative proceedings, and may establish procedures for the issuance of a stay of any order or decision of the Delta Watermaster for which a petition for reconsideration is filed or reconsideration is ordered under Section 1122. The board may provide any additional duties or needs of the Delta Watermaster that the board deems necessary for effective day-to-day enforcement of its decisions.

(d) The Delta Watermaster shall submit regular reports to the board and the council including, but not limited to, reports on water rights administration, water quality issues, and conveyance operations.

CHAPTER 4. DELTA INDEPENDENT SCIENCE BOARD AND DELTA SCIENCE PROGRAM

85280. (a) The Delta Science Board is hereby established in state government.

(1) The Delta Science Board shall consist of no more than 10 members nominated by the lead scientist and appointed by the council in accordance with Section 85081.

The term of office for members of the Delta Science Board shall be five years. A member may serve no more than two terms.

(2) Members of the Delta Science Board shall be nationally or internationally prominent scientists with appropriate expertise to evaluate the broad range of scientific programs that support adaptive management of the Delta. The members shall not be directly affiliated with a program or agency subject to the review activities of the Delta Science Board.

(3) The Delta Science Board shall provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Delta through periodic reviews of each of those programs that shall be scheduled to ensure that all Delta scientific research, monitoring, and assessment programs are reviewed at least once every four years.

(4) The Delta Science Board shall submit to the council a report on the results of each review, including recommendations for any changes in the programs reviewed by the board.

(b) After consultation with the Delta Science Board, the council shall appoint a lead scientist for the Delta Science Program.

(1) The lead scientist shall meet all of the following qualifications:

(A) Hold an advanced degree in a field related to water or ecosystem management.

(B) Have a strong record of scientific research and publication in peer-reviewed scientific journals in a field related to water or ecosystem management.

(C) Have experience advising high-level managers in science-based decisionmaking in the areas of water management and ecosystem restoration.

(D) Have the capability to guide the application of an adaptive management process to resource management policy decision in the Delta.

(2) The term of office for the lead scientist shall be no more than three years. The lead scientist may serve no more than two terms.

(3) The lead scientist shall oversee the implementation of the Delta Science Program. In carrying out that responsibility, the lead scientist shall regularly consult with the agencies participating in the program.

(4) The mission of the Delta Science Program shall be to provide the best possible unbiased scientific information to inform water and environmental decisionmaking in the Delta. That mission shall be carried out through funding research, synthesizing and communicating scientific information to policymakers and decisionmakers, promoting independent scientific peer review, and coordinating with Delta agencies to promote science-based adaptive management. The Delta Science Program shall assist with development and periodic updates of the Delta Plan's adaptive management program.

(c) The Delta Science Program shall function as a replacement for, and successor to, the CALFED Science Program and the Delta Science Board shall replace the CALFED Independent Science Board.

SEC. 3. The bill shall only become operative if SB 229, SB 458, AB 39, and AB 49 of the 2009–10 Regular Session of the Legislature, relating to water use and resource management, are enacted and become effective on or before January 1, 2010.

Amendment 3

On page 2, strike out lines 1 to 3, inclusive

DRAFT