

AMENDED IN SENATE NOVEMBER 2, 2009

AMENDED IN SENATE OCTOBER 29, 2009

CALIFORNIA LEGISLATURE—2009–10 SEVENTH EXTRAORDINARY SESSION

SENATE BILL

No. 4

Introduced by Senator Steinberg

October 28, 2009



SBX7 4 2009

~~An act to amend Sections 6103.1 and 6103.4 of the Government Code, 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, to amend Sections 1052, 1055, 1055.2, 1055.3, 1120, 1525, 1535, 1538, 1550, 1551, 1825, 1845, 2525, 2526, 2550, 2763.5, 5100, 5101, 5103, 5106, and 5107 of, to amend and repeal Section 10631.5 of, to add Sections 1051.1, 1240.5, 1826, 1846, and 1847 to, to add Chapter 2.7 (commencing with Section 348) to Division 1 of, to add Part 2.55 (commencing with Section 10608) and Part 2.11 (commencing with Section 10920) to Division 6 of, to add Division 35 (commencing with Section 85000) to, to repeal Section 5108 of, to repeal Division 26.4 (commencing with Section 79400) of, to repeal and add Section 12924 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, and to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) by amending Items 3940-001-0439 and 3940-001-3058 of Section 2.00 of the Budget Act of 2009, relating to public resources, and making an appropriation therefor. An act to amend Sections 6103.1 and 6103.4 of the Government Code, 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 Sections 29762 and 29764 of, and to repeal and add Sections 29736, 29739, 29753, 29761, and 29761.5 of, the Public Resources Code, to amend Sections 1052, 1055, 1055.2, 1055.3, 1120, 1228.5, 1228.7, 1525, 1535, 1538, 1550, 1551, 1825, 1845, 2525, 2526, 2550, 2763.5, 5100, 5101, 5103, 5106, and 5107 of, to amend and repeal Section 10631.5 of, to add Sections 1051.1, 1240.5, 1826, 1846, and 1847 to, to repeal Section 5108 of, to add Part 2.55 (commencing with Section 10608) and Part 2.11 (commencing with Section 10920) to Division 6 of, to add Division 35 (commencing with Section 85000) to, to repeal Division 26.4 (commencing with Section 79400) of, to repeal and add Section 12924 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, and to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) by amending Items 3940-001-0439 and 3940-001-3058 of Section 2.00 of the Budget Act of 2009, relating to public resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Steinberg. Public resources.

(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the 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 (Delta).

This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of commission members, as specified. 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, an economic sustainability plan containing specified elements

and would require the commission to review and, as determined to be necessary, amend the plan every 5 years.

The bill would require the commission to prepare and submit to the Legislature, by July 1, 2010, recommendations on the potential expansion of or change to the primary zone of the Delta.

The bill would establish the Delta Investment Fund in the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be required to be expended by the commission to implement the regional economic sustainability plan.

The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to act as a primary state agency to implement ecosystem restoration in the Delta and to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to use conservation easements to accomplish ecosystem restoration whenever feasible. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent with certain plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, to finance projects, including ecosystem restoration and economic sustainability projects.

(2) Existing law requires the Secretary of the Natural Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, recommendations for implementing a specified strategic plan relating to the sustainable management of the Delta.

This bill would enact the Sacramento-San Joaquin Delta Reform Act of 2009. The bill would establish the Delta Stewardship Council as an independent agency of the state. The council would be required to consist of 7 members appointed in a specified manner. The bill would specify the powers of the council. The bill would require the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan), meeting specified requirements. The bill would require a state or local public agency that proposes to undertake certain proposed

actions that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. By imposing these requirements on a local public agency, the bill would impose a state-mandated local program. The bill would establish an appeal process by which a person may claim that a proposed action is inconsistent with the Delta Plan, as prescribed.

The bill would impose requirements on the Department of Water Resources in connection with the preparation of a specified Bay Delta Conservation Plan (BDCP). The BDCP would only be permitted to be incorporated in the Delta Plan if certain requirements are met.

The bill would establish the Delta Independent Science Board, whose members would be appointed by the council. The bill would require the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

The bill would require the State Water Resources Control Board to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The bill would require the board to develop new flow criteria for the Delta ecosystem, as specified. The board would be required to submit those determinations to the council. The bill would require the board, in consultation with the council, to appoint a special master for the Delta, referred to as the Delta Watermaster. The bill would grant specified authority to the Delta Watermaster.

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

This bill would repeal that act. The bill would impose requirements on the council in connection with the repeal of that act.

(4) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that

prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would provide that urban retail water suppliers, on and after July 1, 2016, and agricultural water suppliers, on and after July 1, 2013, are not eligible for state water grants or loans unless they comply with the water conservation requirements established by the bill. The bill would repeal, on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

(5) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is not eligible for state water grants or loans unless the supplier complies with the water management planning requirements established by the bill.

(6) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service. Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality.

This bill would expand the exemption to other provisions relating to water use, including provisions that require the payment of fees to the State Water Resources Control Board for official services relating to statements of water diversion and use.

(7) Existing law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. Under existing law, the board makes determinations with regard to the availability of recycled water.

This bill would authorize the board, in conducting an investigation or proceeding for these purposes, to order any person or entity that diverts water or uses water to submit any technical or monitoring report related to the diversion or use of water by that person or entity. The bill would authorize the board, in connection with the investigation or proceeding, to inspect the facilities of any person or entity to determine compliance with specified water use requirements.

(8) Existing law authorizes the State Water Resources Control Board, upon the submission of a petition signed by a claimant to water of any stream system requesting a determination of rights among the claimants to that water, to enter an order granting the petition. After granting the petition, the board is required to investigate the stream system to gather information necessary to make a determination of the water rights of that stream system.

This bill would authorize the board to initiate a determination of rights under its own motion if after a hearing it finds, based on substantial evidence, that the public interest and necessity will be served by a determination of rights.

(9) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the administrative imposition of civil liability by the

board for a trespass in an amount not to exceed \$500 for each day in which the trespass occurs. Moneys generated by the imposition of civil liability under these provisions are deposited in the Water Rights Fund.

This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed the sum of \$1,000 or \$5,000 for each day in which the trespass occurs, as specified, or the highest market value of the water, whichever is the greater amount. The moneys would be required to be deposited in the Water Rights Fund, as specified. The bill would establish the Water Rights Protection Subaccount in the Water Rights Fund. Specified penalties would be required to be deposited in the subaccount. The bill would state legislative intent regarding the expenditure of the moneys in the subaccount.

(10) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a prescribed statement of diversion and use. Existing law requires a statement to include specified information, including, on and after January 1, 2012, monthly records of water diversions.

This bill would revise the types of water diversions for which the reporting requirement does not apply, including, among other diversions, a diversion that occurs before January 1, 2009, if certain requirements are met. The bill would delete exceptions to the monthly record requirement, and revise requirements relating to the contents of the statement of diversions and use.

The bill would subject a person to civil liability if that person fails to file, as required, a diversion and use statement for a diversion or use that occurs after January 1, 2009, tampers with any measuring device, or makes a material misstatement in connection with the filing of a diversion and use statement. The board would be authorized to impose the civil liability in accordance with a specified schedule. Funds recovered pursuant to these provisions would be required to be deposited in the Water Rights Fund, as specified.

The bill would establish a rebuttable presumption, in any proceeding before the board in which it is alleged that an appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.

The bill would require a person who files a statement of diversion and use, and certain petitions involving a change in a water right, to pay an annual fee, for deposit in the Water Rights Fund. The bill would include as recoverable costs, for which the board may be reimbursed from the fund upon appropriation therefor, costs incurred in connection with carrying out requirements relating to the statements of diversion and use and the performance of duties under the public trust doctrine and provisions that require the reasonable use of water.

(11) Existing law authorizes the State Water Resources Control Board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water. Any person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would increase, as specified, the civil penalties that apply to a person who violates a cease and desist order. The bill would impose civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for a failure to comply with various reporting or monitoring requirements, including requirements imposed pursuant to the public trust doctrine. The bill would authorize the board to impose additional civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for the violation of a permit, license, certificate, or registration, or an order or regulation involving the unreasonable use of water. Funds derived from the imposition of these civil penalties would be deposited in the Water Rights Fund, as specified.

The bill would require that, in a proceeding before the board in which it is alleged that an appropriative water right has ceased, or is subject to prescribed action, there would be a rebuttable presumption that no use occurred on or after January 1, 2009, unless that diversion or use was reported to the board within 6 months after it is required to be filed with the board.

(12) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision

that establishes funding requirements for the construction of certain groundwater projects.

This bill would establish a groundwater monitoring program pursuant to which specified entities, in accordance with prescribed procedures, may propose to be designated by the Department of Water Resources as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a basin or subbasin, as defined. The bill would require the department to work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department. The bill would authorize the department to make recommendations for improving an existing monitoring program, and to require additional monitoring wells under certain circumstances. Under certain circumstances, the department would be required to perform groundwater monitoring functions. In that event, prescribed entities with authority to assume groundwater monitoring functions with regard to a basin or subbasin for which the department has assumed those functions would not be eligible for a water grant or loan awarded or administered by the state.

(13) Existing law requires the department to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 1980.

This bill would repeal that provision. The department would be required to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 2012, and thereafter in years ending in 5 or 0.

(14) Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the Department of Water Resources, upon appropriation therefor, to meet the long term water needs of the state. Eligible projects are required to implement integrated regional water management plans and include fisheries restoration and protection projects. A portion of these funds may be expended directly or granted by the department to address multiregional needs or issues of statewide significance.

This bill would appropriate \$28,000,000 of these funds to the department for the department to expend, as specified, on the Two-Gates Fish Protection Demonstration Program managed by the United States

Bureau of Reclamation. The bill would make a statement of legislative intent to finance the activities of the Delta Stewardship Council and the Sacramento-San Joaquin Delta Conservancy from funds made available pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006 and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Bond Act of 2006.

(15) The Budget Act of 2009 made appropriations for the support of the State Water Resources Control Board for the 2009–10 fiscal year, with certain payments from the Water Rights Fund.

This bill would amend and supplement the Budget Act of 2009 by making an additional appropriation from the fund to support water rights enforcement. The bill would, commencing with the 2010–11 fiscal year, continuously appropriate \$3,750,000 on an annual basis only from fee revenue in the fund to the board for the purpose of funding permanent water right enforcement positions.

(16) 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.

~~(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the 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 (Delta).~~

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~~The bill would require the commission to prepare and submit to the Legislature, by July 1, 2010, recommendations on the potential expansion of or change to the primary zone or the Delta.~~

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~~The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to act as a primary state agency to implement ecosystem restoration in the Delta and to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to use conservation easements to accomplish ecosystem restoration whenever feasible. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent with certain plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, to finance projects, including ecosystem restoration and economic sustainability projects.~~

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The bill would require the State Water Resources Control Board to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The bill would require the board to develop new flow criteria for the Delta ecosystem, as specified. The board would be required to submit those determinations to the council. The bill would require the board, in consultation with the council, to appoint a special master for the Delta, referred to as the Delta Watermaster. The bill would grant specified authority to the Delta Watermaster.

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

This bill would repeal that act. The bill would impose requirements on the council in connection with the repeal of that act.

(4) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state

would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would provide that urban retail water suppliers, on and after July 1, 2016, and agricultural water suppliers, on and after July 1, 2013, are not eligible for state water grants or loans unless they comply with the water conservation requirements established by the bill. The bill would repeal, on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

(5) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is not eligible for state water grants or loans unless the supplier complies with the water management planning requirements established by the bill.

(6) Existing law generally prohibits the state, or a county, city, district, or other political subdivision, or any public officer or body acting in its official capacity on behalf of any of those entities, from being required to pay any fee for the performance of an official service.

Existing law exempts from this provision any fee or charge for official services required pursuant to specified provisions of law relating to water use or water quality.

This bill would expand the exemption to other provisions relating to water use, including provisions that require the payment of fees to the State Water Resources Control Board for official services relating to statements of water diversion and use.

(7) Existing law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Existing law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. Under existing law, the board makes determinations with regard to the availability of recycled water.

This bill would authorize the board, in conducting an investigation or proceeding for these purposes, to order any person or entity that diverts water or uses water to submit any technical or monitoring report related to the diversion or use of water by that person or entity. The bill would authorize the board, in connection with the investigation or proceeding, to inspect the facilities of any person or entity to determine compliance with specified water use requirements.

(8) Existing law authorizes the State Water Resources Control Board, upon the submission of a petition signed by a claimant to water of any stream system requesting a determination of rights among the claimants to that water, to enter an order granting the petition. After granting the petition, the board is required to investigate the stream system to gather information necessary to make a determination of the water rights of that stream system.

This bill would authorize the board to initiate a determination of rights under its own motion if after a hearing it finds, based on substantial evidence, that the public interest and necessity will be served by a determination of rights.

(9) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the administrative imposition of civil liability by the board for a trespass in an amount not to exceed \$500 for each day in which the trespass occurs. Moneys generated by the imposition of civil liability under these provisions are deposited in the Water Rights Fund.

This bill would provide that a person or entity committing a trespass may be liable in an amount not to exceed the sum of \$1,000 or \$5,000 for each day in which the trespass occurs, as specified, or the highest market value of the water, whichever is the greater amount. The moneys would be required to be deposited in the Water Rights Fund, as specified. The bill would establish the Water Rights Protection Subaccount in the Water Rights Fund. Specified penalties would be required to be deposited in the subaccount. The bill would state legislative intent regarding the expenditure of the moneys in the subaccount.

(10) Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a prescribed statement of diversion and use. Existing law requires a statement to include specified information, including, on and after January 1, 2012, monthly records of water diversions. Under existing law, the monthly record requirement does not apply to a surface water diversion with a combined diversion capacity from a natural channel that is less than 50 cubic feet per second or to diverters using siphons in the tidal zone. Existing law subjects a person who makes a material misstatement in connection with the filing of the diversion and use statements to administratively imposed civil penalties in the amount of \$500 for each violation.

This bill would revise the types of water diversions for which the reporting requirement does not apply, including, among other diversions, a diversion that occurs before January 1, 2009, if certain requirements are met. The bill would delete exceptions to the monthly record requirement, and revise requirements relating to the contents of the statement of diversions and use.

The bill would subject a person to civil liability if that person fails to file, as required, a diversion and use statement for a diversion or use that occurs after January 1, 2009, tampers with any measuring device, or makes a material misstatement in connection with the filing of a diversion and use statement. The board would be authorized to impose the civil liability in accordance with a specified schedule. Funds recovered pursuant to these provisions would be required to be deposited in the Water Rights Fund, as specified.

The bill would authorize the board and the Department of Water Resources to adopt emergency regulations for the electronic filing of reports of water diversion or use that are required to be filed with those respective state agencies under specified statutory provisions.

The bill would establish a rebuttable presumption, in any proceeding before the board in which it is alleged that an appropriative right has ceased or is subject to prescribed action, that no use required to be included in a statement of diversion and use occurred unless that use is included in a statement that is submitted to the board within a specified time period.

The bill would require a person who files a statement of diversion and use, and certain petitions involving a change in a water right, to pay an annual fee, for deposit in the Water Rights Fund. The bill would include as recoverable costs, for which the board may be reimbursed from the fund upon appropriation therefor, costs incurred in connection with carrying out requirements relating to the statements of diversion and use and the performance of duties under the public trust doctrine and provisions that require the reasonable use of water.

(11) Existing law authorizes the State Water Resources Control Board to issue a cease and desist order against a person who is violating, or threatening to violate, certain requirements, including requirements set forth in a decision or order relating to the unauthorized use of water. Any person who violates a cease and desist order may be liable in an amount not to exceed \$1,000 for each day in which the violation occurs. Revenue generated from these penalties is deposited in the Water Rights Fund.

This bill would increase, as specified, the civil penalties that apply to a person who violates a cease and desist order. The bill would impose civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for a failure to comply with various reporting or monitoring requirements, including requirements imposed pursuant to the public trust doctrine. The bill would authorize the board to impose additional civil liability, in an amount not to exceed \$500 for each day in which a violation occurs, for the violation of a permit, license, certificate, or registration, or an order or regulation involving the unreasonable use of water. Funds derived from the imposition of these civil penalties would be deposited in the Water Rights Fund, as specified.

The bill would require that, in a proceeding before the board in which it is alleged that an appropriative water right has ceased, or is subject to prescribed action, there would be a rebuttable presumption that no use occurred on or after January 1, 2009, unless that diversion or use was reported to the board within 6 months after it is required to be filed with the board.

~~(12) Existing law authorizes a local agency whose service area includes a groundwater basin that is not subject to groundwater management to adopt and implement a groundwater management plan pursuant to certain provisions of law. Existing law requires a groundwater management plan to include certain components to qualify as a plan for the purposes of those provisions, including a provision that establishes funding requirements for the construction of certain groundwater projects.~~

This bill would establish a groundwater monitoring program pursuant to which specified entities, in accordance with prescribed procedures, may propose to be designated by the Department of Water Resources as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a basin or subbasin, as defined. The bill would require the department to work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department. The bill would authorize the department to make recommendations for improving an existing monitoring program, and to require additional monitoring wells under certain circumstances. If the department makes a specified determination with regard to a basin or subbasin, the department would be required to notify the counties within which that basin or subbasin is located. Upon such notification, the counties would be required to take certain action related to groundwater monitoring, thereby imposing a state-mandated local program. Under certain circumstances, specified entities with authority to assume groundwater monitoring functions with regard to a basin or subbasin would not be eligible for a water grant or loan awarded or administered by the state, unless certain actions occur.

~~(13) Existing law requires the department to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 1980.~~

This bill would repeal that provision. The department would be required to conduct an investigation of the state's groundwater basins and to report its findings to the Governor and the Legislature not later than January 1, 2012, and every 5 years thereafter.

~~(14) Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the~~

amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the Department of Water Resources, upon appropriation therefor, to meet the long term water needs of the state. Eligible projects are required to implement integrated regional water management plans and include fisheries restoration and protection projects. A portion of these funds may be expended directly or granted by the department to address multiregional needs or issues of statewide significance.

~~This bill would appropriate \$28,000,000 of these funds to the department for the department to expend, as specified, on the Two-Gates Fish Protection Demonstration Program managed by the United States Bureau of Reclamation. The bill would make a statement of legislative intent to finance the activities of the Delta Stewardship Council and the Sacramento-San Joaquin Delta Conservancy from funds made available pursuant to the Disaster Preparedness and Flood Prevention Bond Act of 2006 and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Bond Act of 2006.~~

~~(15) The Budget Act of 2009 made appropriations for the support of the State Water Resources Control Board for the 2009–10 fiscal year, with certain payments from the Water Rights Fund.~~

~~This bill would amend and supplement the Budget Act of 2009 by making an additional appropriation from the fund to support water rights enforcement. The bill would, commencing with the 2010–11 fiscal year, continuously appropriate \$3,750,000 on an annual basis only from fee revenue in the fund to the board for the purpose of funding permanent water rights enforcement positions.~~

~~(16) 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: yes. Fiscal committee: yes.
State-mandated local program: yes.~~

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

1 SECTION 1. Section 6103.1 of the Government Code is
2 amended to read:

1 6103.1. Section 6103 does not apply to any fee or charge for
2 official services required by ~~Parts Part 1~~ (commencing with Section
3 1000), Part 2 (commencing with Section 1200), Part 3
4 (commencing with Section 2000), ~~and Part 4~~ (commencing with
5 Section 4000), Part 5 (commencing with Section 4999), or Part
6 5.1 (commencing with Section 5100), of Division 2, Division 7
7 (commencing with Section 13000), or Division 35 (commencing
8 with Section 85000) of the Water Code.

9 *SEC. 2. Section 6103.4 of the Government Code is amended*
10 *to read:*

11 6103.4. Section 6103 does not apply to any fee or charge for
12 official services required by Section 100860 of the Health and
13 Safety Code, ~~or Part 5 (commencing with Section 4999) of Division~~
14 ~~2, or Division 7 (commencing with Section 13000), of the Water~~
15 ~~Code.~~

16 *SEC. 3. Section 29702 of the Public Resources Code is*
17 *amended to read:*

18 29702. The Legislature further finds and declares that the basic
19 goals of the state for the ~~delta~~ Delta are the following:

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

26 (a)

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

31 (b) ~~Assure~~

32 (c) Ensure orderly, balanced conservation and development of
33 ~~delta~~ Delta land resources.

34 (e)

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

37 *SEC. 4. Section 29703.5 is added to the Public Resources Code,*
38 *to read:*

39 29703.5. The Legislature further finds and declares both of
40 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. 5. 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 85300 of the Water Code.*

19 *SEC. 6. Section 29722.7 is added to the Public Resources Code,*
20 *to read:*

21 29722.7. *“Economic sustainability plan” means the plan*
22 *adopted by the commission pursuant to Section 29759.*

23 *SEC. 7. Section 29725 of the Public Resources Code is*
24 *amended to read:*

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

31 *SEC. 8. Section 29727 of the Public Resources Code is*
32 *amended to read:*

33 29727. *“Port” means the Port of Sacramento and the Port of*
34 *Stockton, including all the land owned or leased by those ports,*
35 *or potential sites identified in the Delta county general plans as*
36 *of January 1, 2010, and otherwise authorized by law.*

37 *SEC. 9. Section 29728.5 is added to the Public Resources Code,*
38 *to read:*

39 29728.5. *“Resources management plan” means the plan*
40 *adopted by the commission pursuant to Section 29760.*

1 SEC. 10. Section 29733 of the Public Resources Code is
2 amended to read:

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

6 SEC. 11. Section 29735 of the Public Resources Code is
7 amended to read:

8 29735. There is hereby created the Delta Protection
9 Commission consisting of ~~23~~ 15 members as follows:

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

15 (b) (1) ~~Three~~ *Two* elected city council members shall be selected
16 and appointed by city selection committees, from ~~regional and~~
17 ~~area councils of government~~ *the appropriate regions specified in*
18 *subparagraphs (A) and (B)*, one in each of the following areas:

19 ~~(A) One from the north delta, consisting of the Counties of Yolo~~
20 ~~and Sacramento.~~

21 ~~(B)~~

22 (A) One from the south ~~delta~~ *Delta*, consisting of the County of
23 San Joaquin.

24 ~~(C)~~

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

28 (2) *One elected city council member shall be selected and*
29 *appointed by city selection committees, from regional and area*
30 *councils of government from the north Delta, consisting of the*
31 *Counties of Yolo and Sacramento.*

32 ~~(2)~~

33 (3) A city council member *appointed pursuant to this*
34 *subdivision* may select a designee for purposes of ~~paragraph (1)~~
35 *this subdivision*.

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

38 (c) ~~(1)~~ *One member each from the board of directors of five*
39 *three* different reclamation districts that are located within the
40 primary zone who are residents of the ~~delta~~ *Delta*, and who are

1 elected by the trustees of ~~reclamations~~ *reclamation* districts ~~within~~
 2 ~~the following areas:~~ *pursuant to paragraphs (1), (2), and (3).* Each
 3 *reclamation district may nominate one director to be a member.*
 4 *The member from an area described in paragraph (1), (2), or (3)*
 5 *shall be selected from among the nominees by a majority vote of*
 6 *the reclamation districts in that area. A member selected pursuant*
 7 *to this subdivision may select a designee for this purpose. For the*
 8 *purposes of this section, each reclamation district shall have one*
 9 *vote. Reclamation district members shall consist of the following:*

10 ~~(A) Two members~~

11 ~~(1) One member from the area of the North Delta Water Agency~~
 12 ~~as described in Section 9.1 of the North Delta Water Agency Act~~
 13 ~~(Chapter 283 of the Statutes of 1973), provided at least one member~~
 14 ~~is also a member of the Delta Citizens Municipal Advisory Council.~~

15 ~~(B)~~

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

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

24 ~~(D)~~

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

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

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

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

39 ~~(f)~~

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

3 ~~(g)~~

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

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

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

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

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

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

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

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

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

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

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

29 *SEC. 12. Section 29735.1 of the Public Resources Code is*
30 *amended to read:*

31 29735.1. (a) A member of the commission described in
32 subdivision (a), ~~(b)~~, ~~(c)~~, or ~~(j)~~ of Section 29735 may, subject to
33 the confirmation of his or her appointing power, appoint an
34 alternate to represent him or her at a commission meeting. An
35 alternate may serve prior to confirmation for a period not to exceed
36 90 days from the date of appointment, unless and until confirmation
37 is denied.

38 (b) The alternate shall serve at the pleasure of the member who
39 appoints him or her and shall have all of the powers and duties of
40 a member of the commission, except that the alternate shall only

1 participate and vote in a meeting in the absence of the member
 2 who appoints him or her. All provisions of law relating to conflicts
 3 of interest that are applicable to a member shall apply to an
 4 alternate. ~~Whenever~~ *If* a member has, or is known to have, a
 5 conflict of interest on any matter, the member's alternate is
 6 ineligible to vote on that matter.

7 *SEC. 13. Section 29736 of the Public Resources Code is*
 8 *repealed.*

9 ~~29736. The term of office of the members of the commission~~
 10 ~~shall be for four years, and a member may serve for one or more~~
 11 ~~consecutive terms.~~

12 *SEC. 14. Section 29736 is added to the Public Resources Code,*
 13 *to read:*

14 *29736. The appointed members of the commission shall serve*
 15 *at the pleasure of their appointing entities.*

16 *SEC. 15. Section 29738 of the Public Resources Code is*
 17 *amended to read:*

18 ~~29738. The position office of a an appointed member of the~~
 19 ~~commission shall be considered is vacated upon the loss of any~~
 20 ~~qualification required for appointment, and in that event the~~
 21 ~~appointing authority shall appoint a successor within 30 days of~~
 22 ~~the occurrence of the vacancy. Upon the occurrence of the first~~
 23 ~~vacancy among any of the members listed in subdivision (d), (e),~~
 24 ~~(f), (g), (h), or (i) of Section 29735, the Director of Conservation~~
 25 ~~or the director's designee shall serve as the successor member.~~

26 *SEC. 16. Section 29739 of the Public Resources Code is*
 27 *repealed.*

28 ~~29739. The commission shall elect from its own members a~~
 29 ~~chairperson and vice chairperson whose terms of office shall be~~
 30 ~~two years, and who may be reelected. If a vacancy occurs in either~~
 31 ~~office, the commission shall fill the vacancy for the unexpired~~
 32 ~~term.~~

33 *SEC. 17. Section 29739 is added to the Public Resources Code,*
 34 *to read:*

35 *29739. (a) The commission, during the first meeting of the*
 36 *commission after January 1, 2010, shall elect from among the*
 37 *members identified in subdivision (a) of Section 29735 a*
 38 *chairperson who shall serve for one year.*

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

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

6 SEC. 18. Section 29741 of the Public Resources Code is
7 amended to read:

8 29741. The time and place of the first meeting of the
9 commission, *on and after March 1, 2010*, shall be prescribed by
10 the Governor, but in no event shall it be scheduled for a date later
11 than ~~January~~ *March 31, 1993* 2010. All meetings after the first
12 meeting shall be held in a city within the ~~delta~~ Delta.

13 SEC. 19. Section 29751 of the Public Resources Code is
14 amended to read:

15 29751. A majority of the voting members of the commission
16 shall constitute a quorum for the transaction of the business of the
17 commission. A majority vote of the voting ~~members present~~
18 *membership* shall be required to take action with respect to any
19 matter unless otherwise specified in this division. The vote of each
20 member shall be individually recorded.

21 SEC. 20. Section 29752 of the Public Resources Code is
22 amended to read:

23 29752. The commission shall adopt its own rules, regulations,
24 and procedures necessary for its organization and operation, *and*
25 *shall conduct its meetings in compliance with the Bagley-Keene*
26 *Open Meeting Act (Article 9 (commencing with Section 11120) of*
27 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*
28 *Code).*

29 SEC. 21. Section 29753 of the Public Resources Code is
30 repealed.

31 ~~29753. The commission shall appoint agricultural,~~
32 ~~environmental, and recreational advisory committees for the~~
33 ~~purpose of providing the commission with timely comments,~~
34 ~~advice, and information. The commission may appoint committees~~
35 ~~from its membership or may appoint additional advisory~~
36 ~~committees from members of other interested public agencies and~~
37 ~~private groups. The commission shall seek advice and~~
38 ~~recommendations from advisory committees appointed by local~~
39 ~~government which are involved in subject matters affecting the~~
40 ~~delta.~~

1 SEC. 22. Section 29753 is added to the Public Resources Code,
2 to read:

3 29753. (a) The commission shall appoint at least one advisory
4 committee to provide recommendations regarding the diverse
5 interests within the Delta. At a minimum, the advisory committees
6 shall include representatives of state agencies and other
7 stakeholders with interests in the Delta's ecosystem, water supply,
8 and socioeconomic sustainability, including, but not limited to, its
9 recreational, agricultural, flood control, environmental, and water
10 resources, and state, local, and utility infrastructure. The
11 commission shall encourage participation of various federal
12 agencies, including the United States Bureau of Reclamation, the
13 United States Fish and Wildlife Service, the United States Army
14 Corps of Engineers, and others as appropriate.

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

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

21 SEC. 23. Section 29754 of the Public Resources Code is
22 amended to read:

23 29754. The commission shall establish and maintain an office
24 within the ~~delta~~ Delta or the City of Rio Vista, and for this purpose
25 the commission may rent or own property and equipment. Any
26 rule, regulation, procedure, plan, or other record of the commission
27 which is of such a nature as to constitute a public record under
28 state law shall be available for inspection and copying ~~during~~
29 ~~regular office hours~~ pursuant to the California Public Records Act
30 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
31 Title 1 of the Government Code).

32 SEC. 24. Section 29756.5 of the Public Resources Code is
33 amended to read:

34 29756.5. The commission may act as the facilitating agency
35 for the implementation of any joint habitat restoration or
36 enhancement programs located within the primary zone of the
37 ~~delta~~ Delta, including, but not limited to, a national heritage area
38 designation in the Delta.

39 SEC. 25. Section 29759 is added to the Public Resources Code,
40 to read:

1 29759. (a) Not later than July 1, 2011, the commission shall
2 prepare and adopt, by a majority vote of the membership of the
3 commission, an economic sustainability plan. The economic
4 sustainability plan shall include information and recommendations
5 that inform the Delta Stewardship Council's policies regarding
6 the socioeconomic sustainability of the Delta region.

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

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

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

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

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

20 SEC. 26. Section 29761 of the Public Resources Code is
21 repealed.

22 ~~29761. The Director of the Office of Planning and Research
23 shall submit comments and recommendations on the resource
24 management plan for the commission's consideration, prior to the
25 plan's adoption.~~

26 SEC. 27. Section 29761 is added to the Public Resources Code,
27 to read:

28 29761. The commission shall adopt, by a majority vote, the
29 economic sustainability plan and each plan update after at least
30 three public hearings, with at least one hearing held in a
31 community in the north Delta, one hearing in the south Delta, and
32 one hearing in the west Delta.

33 SEC. 28. Section 29761.5 of the Public Resources Code is
34 repealed.

35 ~~29761.5. Not later than January 7, 1995, the commission shall
36 transmit copies of the resource management plan to the Governor.
37 Copies of the resource management plan shall be made available,
38 upon request, to Members of the Legislature.~~

39 SEC. 29. Section 29761.5 is added to the Public Resources
40 Code, to read:

1 29761.5. (a) *The commission shall review, and, as determined*
 2 *to be necessary, amend the economic sustainability plan every five*
 3 *years on or before December 31 in years ending in six or one.*

4 (b) *The commission shall transmit copies of the economic*
 5 *sustainability plan and any subsequent amendments to the*
 6 *Governor, Legislature, each local government as defined in Section*
 7 *29725, and Delta Stewardship Council within 60 days of adoption*
 8 *or amendment. Within 180 days of the commission's adoption or*
 9 *amendment of the economic sustainability plan, the Delta*
 10 *Stewardship Council shall review the economic sustainability plan*
 11 *for consistency with the Delta Plan.*

12 *SEC. 30. Section 29762 of the Public Resources Code is*
 13 *repealed.*

14 ~~29762. The commission shall adopt, by a majority vote of the~~
 15 ~~membership of the commission, the resource management plan~~
 16 ~~after at least three public hearings, with at least one hearing held~~
 17 ~~in a city in the north delta, the south delta, and the west delta.~~

18 *SEC. 31. Section 29763 of the Public Resources Code is*
 19 *amended to read:*

20 29763. ~~Within 180 days from the date of the adoption of the~~
 21 ~~resource resources management plan or any amendments, changes,~~
 22 ~~or updates, to the resource resources management plan by the~~
 23 ~~commission, all each local governments government shall submit~~
 24 ~~to the commission proposed amendments that will cause their~~
 25 ~~general plans to be to its general plan that are intended to make~~
 26 ~~the general plan consistent with the criteria in Section 29763.5~~
 27 ~~resources management plan with respect to land located within~~
 28 ~~the primary zone.~~

29 *SEC. 32. Section 29764 of the Public Resources Code is*
 30 *repealed.*

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

37 *SEC. 33. Section 29771 of the Public Resources Code is*
 38 *amended to read:*

39 29771. *After a hearing on an appealed action pursuant to*
 40 *Section 29770, the commission shall either deny the appeal or*

1 remand the matter to the local government or local agency for
2 reconsideration, after making specific findings. Upon remand, the
3 local government or local agency shall modify the appealed action
4 and resubmit the matter for review to the commission. A proposed
5 action appealed pursuant to this section shall not be effective until
6 the commission has adopted written findings, based on substantial
7 evidence in the record, that the action is consistent with the
8 ~~resource~~ resources management plan, the approved portions of
9 local government general plans that implement the ~~resource~~
10 resources management plan, and this division.

11 *SEC. 34. Section 29773 is added to the Public Resources Code,*
12 *to read:*

13 *29773. (a) The commission may review and provide comments*
14 *and recommendations to the Delta Stewardship Council on any*
15 *significant project or proposed project within the scope of the*
16 *Delta Plan, including, but not limited to, actions by state and*
17 *federal agencies, that may affect the unique cultural, recreational,*
18 *and agricultural values within the primary and secondary zones.*
19 *Review and comment authority granted to the commission shall*
20 *include, but is not limited to, all of the following:*

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

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

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

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

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

38 *SEC. 35. Section 29773.5 is added to the Public Resources*
39 *Code, to read:*

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

6 (a) Rio Vista.

7 (b) Isleton.

8 (c) Bethel Island.

9 (d) Brannan-Andrus Island.

10 (e) Cosumnes/Mokelumne floodway.

11 (f) The San Joaquin/South Delta lowlands.

12 SEC. 36. Section 29778.5 is added to the Public Resources
 13 Code, to read:

14 29778.5. The Delta Investment Fund is hereby created in the
 15 State Treasury. Any funds within the Delta Investment Fund shall
 16 be available, upon appropriation by the Legislature, to the
 17 commission for the implementation of the regional economic
 18 sustainability plan, developed pursuant to Section 29759, for the
 19 purposes of enhancing Delta communities. The Delta Investment
 20 Fund may receive funds from federal, state, local, and private
 21 sources.

22 SEC. 37. Section 29780 of the Public Resources Code is
 23 amended to read:

24 29780. On January 1 of each year, the commission shall submit
 25 to the Governor and the Legislature a report describing the progress
 26 that has been made in achieving the objectives of this division.
 27 The report shall include, but *need* not be limited to, all of the
 28 following information:

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

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

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

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

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

2 (4) *Facilitating regional economic sustainability.*

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

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

8 (c) The status of the environmental thresholds established by
9 the commission in the original resource management plan.

10 SEC. 38. *Division 22.3 (commencing with Section 32300) is*
11 *added to the Public Resources Code, to read:*

12
13 *DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA*
14 *CONSERVANCY*

15
16 *CHAPTER 1. GENERAL PROVISIONS*

17
18 32300. *This division shall be known, and may be cited, as the*
19 *Sacramento-San Joaquin Delta Conservancy Act.*

20 32301. *The Legislature finds and declares all of the following:*

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

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

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

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

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

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

7 (g) *The Delta is home to more than 500,000 people and 200,000*
8 *jobs, and contributes over thirty-five billion dollars*
9 *(\$35,000,000,000) to the state's economy.*

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

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

19 (1) *Protect and enhance habitat and habitat restoration.*

20 (2) *Protect and preserve Delta agriculture and working*
21 *landscapes.*

22 (3) *Provide increased opportunities for tourism and recreation.*

23 (4) *Promote Delta legacy communities and economic vitality*
24 *in the Delta in coordination with the Delta Protection Commission.*

25 (5) *Increase the resilience of the Delta to the effects of natural*
26 *disasters such as floods and earthquakes, in coordination with the*
27 *Delta Protection Commission.*

28 (6) *Protect and improve water quality.*

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

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

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

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

38 (11) *Facilitate take protection and safe harbor agreements*
39 *under the federal Endangered Species Act of 1973 (16 U.S.C. Sec.*
40 *1531 et seq.) and the California Endangered Species Act (Chapter*

1 1.5 (commencing with Section 2050) of Division 3 of the Fish and
2 Game Code) for adjacent landowners and local public agencies.
3 (12) Promote environmental education.

4
5 CHAPTER 2. DEFINITIONS

6
7 32310. For the purposes of this division, the following terms
8 have the following meanings:

9 (a) “Board” means the governing board of the Sacramento-San
10 Joaquin Delta Conservancy.

11 (b) “Conservancy” means the Sacramento-San Joaquin Delta
12 Conservancy.

13 (c) “Delta” means the Sacramento-San Joaquin Delta as defined
14 in Section 12220 of the Water Code.

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

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

19 (f) “Nonprofit organization” means a private, nonprofit
20 organization that qualifies for exempt status under Section
21 501(c)(3) of Title 26 of the United States Code and that has among
22 its principal charitable purposes preservation of land for scientific,
23 recreational, scenic, or open-space opportunities, protection of
24 the natural environment, preservation or enhancement of wildlife,
25 preservation of cultural and historical resources, or efforts to
26 provide for the enjoyment of public lands.

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

29
30 CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

31
32 32320. There is in the Natural Resources Agency the
33 Sacramento-San Joaquin Delta Conservancy, which is created as
34 a state agency to work in collaboration and cooperation with local
35 governments and interested parties.

36 32322. (a) The conservancy shall act as a primary state agency
37 to implement ecosystem restoration in the Delta.

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

- 1 (1) *Protect and enhance habitat and habitat restoration.*
- 2 (2) *Protect and preserve Delta agriculture and working*
- 3 *landscapes.*
- 4 (3) *Provide increased opportunities for tourism and recreation*
- 5 *in the Delta.*
- 6 (4) *Promote Delta legacy communities and economic vitality*
- 7 *in the Delta, in coordination with the Delta Protection Commission.*
- 8 (5) *Increase the resilience of the Delta to the effects of natural*
- 9 *disasters such as floods and earthquakes, in coordination with the*
- 10 *Delta Protection Commission.*
- 11 (6) *Protect and improve water quality.*
- 12 (7) *Assist the Delta regional economy through the operation of*
- 13 *the conservancy’s program.*
- 14 (8) *Identify priority projects and initiatives for which funding*
- 15 *is needed.*
- 16 (9) *Protect, conserve, and restore the region’s physical,*
- 17 *agricultural, cultural, historical, and living resources.*
- 18 (10) *Assist local entities in the implementation of their habitat*
- 19 *conservation plans (HCPs) and natural community conservation*
- 20 *plans (NCCPs).*
- 21 (11) *Facilitate take protection and safe harbor agreements*
- 22 *under the federal Endangered Species Act of 1973 (16 U.S.C. Sec.*
- 23 *1531 et seq.), the California Endangered Species Act (Chapter 1.5*
- 24 *(commencing with Section 2050) of Division 3 of the Fish and*
- 25 *Game Code), and the Natural Community Conservation Planning*
- 26 *Act (Chapter 10 (commencing with Section 2800) of Division 3 of*
- 27 *the Fish and Game Code) for adjacent landowners and local public*
- 28 *agencies.*
- 29 (12) *Promote environmental education through grant funding.*
- 30 (c) *When implementing subdivision (b), the conservancy shall*
- 31 *undertake efforts to enhance public use and enjoyment of lands*
- 32 *owned by the public.*

33
34 *CHAPTER 4. GOVERNING BOARD*

35
36 32330. *The board shall consist of 11 voting members and two*
37 *nonvoting members, appointed or designated as follows:*
38 (a) *The 11 voting members of the board shall consist of all of*
39 *the following:*

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

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

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

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

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

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

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

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

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

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

25 (b) *The two nonvoting members shall consist of a Member of*
26 *the Senate, appointed by the Senate Committee on Rules, and a*
27 *Member of the Assembly, appointed by the Speaker of the Assembly.*
28 *The members appointed under this subdivision shall meet with the*
29 *conservancy and participate in its activities to the extent that this*
30 *participation is not incompatible with their positions as Members*
31 *of the Legislature. The appointed members shall represent a district*
32 *that encompasses a portion of the Delta.*

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

35 (1) *One representative of the United States Fish and Wildlife*
36 *Service, designated by the United States Secretary of Commerce.*

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

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

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

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

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

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

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

14 (9) A designee of the Yolo Basin Foundation.

15 (10) A designee of the Delta Protection Commission.

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

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

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

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

25 (h) Alternates may be appointed by the county boards of
26 supervisors, the Senate Committee on Rules, and the Speaker of
27 the Assembly.

28 32332. Annually, the voting members of the board shall elect
29 from among the voting members a chairperson and vice
30 chairperson, and other officers as necessary. If the office of the
31 chairperson or vice chairperson becomes vacant, a new
32 chairperson or vice chairperson shall be elected by the voting
33 members of the board to serve for the remainder of the term. The
34 chairperson shall be selected from among the members specified
35 in paragraphs (3) to (7), inclusive, of subdivision (a) of Section
36 32330.

37 32334. A majority of the voting members shall constitute a
38 quorum for the transaction of the business of the conservancy. The
39 board shall not transact the business of the conservancy if a
40 quorum is not present at the time a vote is taken. A decision of the

1 *board requires an affirmative vote of six of the voting membership,*
2 *and the vote is binding with respect to all matters acted on by the*
3 *conservancy.*

4 32336. *The board shall adopt rules and procedures for the*
5 *conduct of business by the conservancy.*

6 32338. *The board may establish advisory boards or committees,*
7 *hold community meetings, and engage in public outreach.*

8 32340. *The board shall establish and maintain a headquarters*
9 *office within the Delta. The conservancy may rent or own real and*
10 *personal property and equipment pursuant to applicable statutes*
11 *and regulations.*

12 32342. *The board shall determine the qualifications of, and*
13 *shall appoint, an executive officer of the conservancy, who shall*
14 *be exempt from civil service. The board shall employ other staff*
15 *as necessary to execute the powers and functions provided for in*
16 *this division.*

17 32344. *The board may enter into contracts with private entities*
18 *and public agencies to procure consulting and other services*
19 *necessary to achieve the purposes of this division.*

20 32346. *The conservancy's expenses for support and*
21 *administration may be paid from the conservancy's operating*
22 *budget and any other funding sources available to the conservancy.*

23 32348. *The board shall conduct business in accordance with*
24 *the Bagley-Keene Open Meeting Act (Article 9 (commencing with*
25 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
26 *the Government Code).*

27 32350. *The board shall hold its regular meetings within the*
28 *Delta or the City of Rio Vista.*

29

30 *CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS*

31

32 32360. (a) *Except as specified in Section 32360.5, the*
33 *jurisdiction and activities of the conservancy are limited to the*
34 *Delta and Suisun Marsh.*

35 (b) (1) *The Sacramento-San Joaquin Delta Conservancy Fund*
36 *is hereby created in the State Treasury. Moneys in the fund shall*
37 *be available, upon appropriation by the Legislature, only for the*
38 *purposes of this division.*

39 (2) *Funds provided for ecosystem restoration and enhancement*
40 *shall be available for ecosystem restoration projects consistent*

1 with the conservancy’s strategic plan adopted pursuant to Section
2 32376.

3 (3) Funds may be allocated to a separate program within the
4 conservancy for economic sustainability in the Delta. The economic
5 sustainability plan adopted pursuant to Section 29759 shall be the
6 basis for the program. Funds provided to the conservancy to
7 implement ecosystem restoration projects pursuant to the Bay
8 Delta Conservation Plan shall only be used for ecosystem
9 restoration purposes.

10 32360.5. In furtherance of the conservancy’s role in
11 implementing the Delta Plan, the conservancy may take or fund
12 an action outside the Delta and Suisun Marsh if the board makes
13 all of the following findings:

14 (a) The project implements the ecosystem goals of the Delta
15 Plan.

16 (b) The project is consistent with the requirements of any
17 applicable state and federal permits.

18 (c) The conservancy has given notice to and reviewed any
19 comments received from affected local jurisdictions and the Delta
20 Protection Commission.

21 (d) The conservancy has given notice to and reviewed any
22 comments received from any state conservancy where the project
23 is located.

24 (e) The project will provide significant benefits to the Delta.

25 32362. The conservancy may engage in partnerships with
26 nonprofit organizations, local public agencies, and landowners.

27 32363. In implementing this division, the conservancy shall
28 cooperate and consult with the city or county in which a grant is
29 proposed to be expended or an interest in real property is proposed
30 to be acquired, and shall, as necessary or appropriate, coordinate
31 its efforts with other state agencies, in cooperation with the
32 Secretary of the Natural Resources Agency. The conservancy shall,
33 as necessary or appropriate, cooperate and consult with a public
34 water system, levee, flood control, or drainage agency that owns
35 or operates facilities, including lands appurtenant thereto, where
36 a grant is proposed to be expended or an interest in land is
37 proposed to be acquired.

38 32364. (a) The conservancy may require a grantee to enter
39 into an agreement with the conservancy on terms and conditions
40 specified by the conservancy.

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

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

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

12 (e) The conservancy may require any funds that exceed the costs
13 of eligible or approved projects or of acquisition to be returned
14 to the conservancy, to be available for expenditure when
15 appropriated by the Legislature.

16 32364.5. (a) The conservancy may provide grants and loans
17 to state agencies, local public agencies, and nonprofit
18 organizations to further the goals of the conservancy.

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

22 (1) The intended use of the property.

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

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

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

31 32365. The conservancy may sue and be sued.

32 32366. (a) The conservancy may acquire from willing sellers
33 or transferors interests in real property and improve, lease, or
34 transfer interests in real property, in order to carry out the
35 purposes of this division.

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

38 32368. The conservancy may enter into an agreement with a
39 public agency, nonprofit organization, or private entity for the

1 construction, management, or maintenance of facilities authorized
2 by the conservancy.

3 32370. The conservancy shall not exercise the power of eminent
4 domain.

5 32372. (a) The conservancy may pursue and accept funds from
6 various sources, including, but not limited to, federal, state, and
7 local funds or grants, gifts, donations, bequests, devises,
8 subventions, grants, rents, royalties, or other assistance and funds
9 from public and private sources.

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

11 (c) The conservancy may create and manage endowments.

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

14 32376. Within two years of hiring an executive officer, the
15 board shall prepare and adopt a strategic plan to achieve the goals
16 of the conservancy. The plan shall describe its interaction with
17 local, regional, state, and federal land use, recreation, water and
18 flood management, and habitat conservation and protection efforts
19 within and adjacent to the Delta. The strategic plan shall establish
20 priorities and criteria for projects and programs, based upon an
21 assessment of program requirements, institutional capabilities,
22 and funding needs throughout the Delta. The strategic plan shall
23 be consistent with the Delta Plan, the Delta Protection
24 Commission's resources management plan, the Central Valley
25 Flood Protection Plan, the Suisun Marsh Preservation Act of 1977
26 (Division 19 (commencing with Section 29000)), and the Habitat
27 Management, Preservation and Restoration Plan for the Suisun
28 Marsh.

29 32378. (a) The conservancy may expend funds and award
30 grants and loans to facilitate collaborative planning efforts and
31 to develop projects and programs that are designed to further the
32 purposes of this division.

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

37 32380. The conservancy may acquire water or water rights to
38 support the goals of the conservancy.

39 32381. This division does not grant to the conservancy any of
40 the following:

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

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

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

7 SEC. 39. *Section 1051.1 is added to the Water Code, to read:*

8 1051.1. (a) *In conducting any investigation or proceeding*
9 *specified in Section 275 or 1051, or Article 7 (commencing with*
10 *Section 13550) of Chapter 7 of Division 7, the board may order*
11 *any person or entity that diverts or uses water to prepare and*
12 *submit to the board any technical or monitoring program reports*
13 *related to that person's or entity's diversion or use of water as the*
14 *board may specify. The costs incurred by the person or entity in*
15 *the preparation of those reports shall bear a reasonable*
16 *relationship to the need for the report and the benefit to be obtained*
17 *from the report. If the preparation of individual reports would*
18 *result in a duplication of effort, or if the reports are necessary to*
19 *evaluate the cumulative effect of several diversions or uses of*
20 *water, the board may order any person or entity subject to this*
21 *subdivision to pay a reasonable share of the cost of preparing*
22 *reports.*

23 (b) *Any order issued under this section shall be served by*
24 *personal service or registered mail on the party required to submit*
25 *technical or monitoring program reports or to pay a share of the*
26 *costs of preparing reports. Unless the board issues the order after*
27 *a hearing, the order shall inform the party of the right to request*
28 *a hearing within 30 days after the party has been served. If the*
29 *party does not request a hearing within that 30-day period, the*
30 *order shall take effect as issued. If the party requests a hearing*
31 *within that 30-day period, the board may adopt a decision and*
32 *order after conducting a hearing.*

33 (c) *Upon application of any person or entity or upon its own*
34 *motion, the board may review and revise any order issued pursuant*
35 *to this section, in accordance with the procedures set forth in*
36 *subdivision (b).*

37 (d) *In conducting any investigation or proceeding specified in*
38 *Section 275 or 1051, or Article 7 (commencing with Section 13550)*
39 *of Chapter 7 of Division 7, the board may inspect the facilities of*
40 *any person or entity to ascertain whether the purposes of Section*

1 100 and this division are being met and to ascertain compliance
 2 with any permit, license, certification, registration, decision, order,
 3 or regulation issued under Section 275, this division, or Article 7
 4 (commencing with Section 13550) of Chapter 7 of Division 7. The
 5 board shall adopt regulations for procedures pursuant to Article
 6 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1
 7 of Division 3 of Title 2 of the Government Code, and any time
 8 extensions necessary to implement those regulations. Except in
 9 the event of an emergency affecting the public health or safety, the
 10 inspection shall be made with the consent of the owner or possessor
 11 of the facilities or, if the consent is withheld, with a warrant duly
 12 issued pursuant to the procedure set forth in Title 13 (commencing
 13 with Section 1822.50) of Part 3 of the Code of Civil Procedure.

14 SEC. 40. Section 1052 of the Water Code is amended to read:

15 1052. (a) The diversion or use of water subject to this division
 16 other than as authorized in this division is a trespass.

17 ~~(b) Civil liability may be administratively imposed by the board~~
 18 ~~pursuant to Section 1055 for a trespass as defined in this section~~
 19 ~~in an amount not to exceed five hundred dollars (\$500) for each~~
 20 ~~day in which the trespass occurs.~~

21 ~~(e)~~

22 (b) The Attorney General, upon request of the board, shall
 23 institute in the superior court in and for any county ~~wherein~~ *in*
 24 *which* the diversion or use is threatened, is occurring, or has
 25 occurred ~~appropriate~~ *an* action for the issuance of injunctive relief
 26 as may be warranted by way of temporary restraining order,
 27 preliminary injunction, or permanent injunction.

28 ~~(d)~~

29 (c) (1) Any person or entity committing a trespass as defined
 30 in this section may be liable ~~for a sum~~ *in an amount* not to exceed
 31 ~~five hundred dollars (\$500) for each day in which the trespass~~
 32 ~~occurs. The~~ *the greater of either of the following amounts:*

33 (A) *One thousand dollars (\$1,000) for each day in which the*
 34 *trespass occurs for the first enforcement proceeding or five*
 35 *thousand dollars (\$5,000) for each day in which the trespass occurs*
 36 *for any subsequent enforcement proceeding.*

37 (B) *The highest market value of the water subject to the trespass.*

38 (2) The Attorney General, upon request of the board, shall
 39 petition the superior court to impose, assess, and recover any sums
 40 pursuant to this subdivision. In determining the appropriate amount,

1 the court shall take into consideration all relevant circumstances,
2 including, but not limited to, the extent of harm caused by the
3 violation, the nature and persistence of the violation, the length of
4 time over which the violation occurs, and, *with respect to the*
5 *violation, the ability to pay, the effect on the ability to continue in*
6 *business, the corrective action, if any, taken by the violator, and*
7 *other matters as justice may require.*

8 (3) *Civil liability may be imposed by the board pursuant to*
9 *Section 1055.*

10 (e)

11 (d) (1) All funds recovered pursuant to this section shall be
12 deposited in the Water Rights Fund established pursuant to Section
13 1550.

14 (f)

15 (2) *Any funds recovered pursuant to this section that exceed the*
16 *amounts that were authorized before the effective date of the*
17 *amendments made to this section by Senate Bill 5 of the 2009–10*
18 *Seventh Extraordinary Session of the Legislature shall be deposited*
19 *in the Water Rights Protection Subaccount in the Water Rights*
20 *Fund established pursuant to Section 1550.*

21 (e) The remedies prescribed in this section are cumulative and
22 not alternative.

23 (f) *The increase in the amount of penalties that may be imposed*
24 *pursuant to the amendments made to this section during the*
25 *2009–10 Seventh Extraordinary Session of the Legislature does*
26 *not apply to violations that occurred prior to the effective date of*
27 *those amendments.*

28 SEC. 41. *Section 1055 of the Water Code is amended to read:*

29 1055. (a) The executive director of the board may issue a
30 complaint to any person or entity on which administrative civil
31 liability may be imposed pursuant to Section 1052, ~~Section 1536,~~
32 ~~Section 1845, Article 4 (commencing with Section 1845) of Chapter~~
33 ~~12 of Part 2 of Division 2,~~ or Section 5107. The complaint shall
34 allege the act or failure to act that constitutes a trespass or violation,
35 the provision of law authorizing civil liability to be imposed, and
36 the proposed civil liability.

37 (b) The complaint shall be served by personal notice or certified
38 mail, and shall inform the party served that the party may request
39 a hearing not later than 20 days from the date the party was served.

1 The hearing shall be before *the board, or* a member of the board
2 as it may specify *in accordance with Section 183.*

3 ~~(e) After any hearing, the member shall report a proposed~~
4 ~~decision and order to the board and shall supply a copy to the party~~
5 ~~served with the complaint, the board’s executive director, and any~~
6 ~~other person requesting a copy. The member of the board acting~~
7 ~~as hearing officer may sit as a member of the board in deciding~~
8 ~~the matter. The board, after making an independent review of the~~
9 ~~record and taking any additional evidence as may be necessary~~
10 ~~that could not reasonably have been offered before the hearing~~
11 ~~officer, may adopt, with or without revision, the proposed decision~~
12 ~~and order.~~

13 *(c) The board may adopt an order setting administrative civil*
14 *liability, or determining that no liability will be imposed, after any*
15 *necessary hearing.*

16 (d) Orders setting administrative civil liability shall become
17 effective and final upon issuance thereof and payment shall be
18 made.

19 *SEC. 42. Section 1055.2 of the Water Code is amended to read:*
20 *1055.2. No person or entity shall be subject to both civil*
21 *liability imposed under Section 1055 and civil liability imposed*
22 *by the superior court under subdivision (d) of Section 1052, Section*
23 *1536, or Section 1845, or 1846 for the same act or failure to act.*

24 *SEC. 43. Section 1055.3 of the Water Code is amended to read:*
25 *1055.3. In determining the amount of civil liability, the board*
26 *shall take into consideration all relevant circumstances, including,*
27 *but not limited to, the extent of harm caused by the violation, the*
28 *nature and persistence of the violation, the length of time over*
29 *which the violation occurs, and with respect to the violator, the*
30 *ability to pay, the effect on the ability to continue in business, the*
31 *corrective action, if any, taken by the violator, and other matters*
32 *as justice may require.*

33 *SEC. 44. Section 1120 of the Water Code is amended to read:*
34 *1120. This chapter applies to any decision or order issued under*
35 *this part or Section 275, Part 2 (commencing with Section 1200),*
36 *Part 2 (commencing with Section 10500) of Division 6, Article 7*
37 *(commencing with Section 13550) of Chapter 7 of Division 7,*
38 *Section 85230, or the public trust doctrine.*

39 *SEC. 45. Section 1228.5 of the Water Code is amended to read:*

1 1228.5. (a) Registration of a small domestic or livestock
2 stockpond use pursuant to this article shall be renewed prior to the
3 expiration of each five-year period following completed
4 registration.

5 (b) Renewal of registration shall be made upon a form
6 prescribed by the board and shall contain such report of water use
7 made pursuant to the registration as may be required by the board.

8 (c) The conditions established by the board pursuant to Section
9 1228.6 which are in effect at the time of renewal of registration
10 shall supersede the conditions which were applicable to the original
11 completed registration.

12 (d) Failure to renew registration in substantial compliance with
13 the reporting requirements prescribed by the board within the time
14 period specified in subdivision (a), or to pay the renewal fee
15 specified in subdivision (b) of Section ~~1228.8~~ 1525, shall result
16 by operation of law in the revocation of any right acquired pursuant
17 to this article.

18 *SEC. 46. Section 1228.7 of the Water Code is amended to read:*

19 1228.7. (a) Any registrant may change the point of diversion
20 or place of use by delivering to the board an amended registration
21 form in accordance with Section 1228.3, including payment of the
22 registration fee specified in ~~subdivision (a) of Section 1228.8~~
23 *Section 1525*, except that the purpose of the use may not be
24 changed and the change may not operate to the injury of any legal
25 user of the water involved.

26 (b) Any completed amended registration of water use continues
27 in effect the priority of right as of the date of the original completed
28 registration.

29 (c) All provisions of this article regarding appropriations made
30 pursuant thereto, including, but not limited to, provisions regarding
31 enforcement, are applicable to the appropriation as described in
32 the completed amended registration, except that the conditions
33 established by the board pursuant to Section 1228.6 which are in
34 effect at the time of completion of the amended registration shall
35 supersede the conditions which were applicable to the original
36 completed registration.

37 *SEC. 47. Section 1240.5 is added to the Water Code, to read:*

38 *1240.5. In any proceeding before the board in which it is*
39 *alleged that a right to appropriate water has ceased or is subject*
40 *to forfeiture or revocation for nonuse, there shall be a rebuttable*

1 *presumption that no use occurred unless that use is included in a*
 2 *statement submitted pursuant to any reporting or monitoring*
 3 *requirement established under any permit, license, certificate,*
 4 *registration, decision or order, or regulation issued by the board*
 5 *pursuant to this division, Section 275, Article 7 (commencing with*
 6 *Section 13550) of Division 7, or the public trust doctrine under*
 7 *this part, and the statement is submitted within six months after it*
 8 *is required to be filed with the board. This section does not apply*
 9 *to any diversion or use that occurred before January 1, 2009.*

10 SEC. 48. *Section 1525 of the Water Code is amended to read:*

11 1525. (a) Each person or entity who holds a permit or license
 12 to appropriate water, and each lessor of water leased under Chapter
 13 1.5 (commencing with Section 1020) of Part 1, shall pay an annual
 14 fee according to a fee schedule established by the board.

15 (b) Each person or entity who files any of the following shall
 16 pay a fee according to a fee schedule established by the board:

17 (1) An application for a permit to appropriate water.

18 (2) A registration of appropriation for a small domestic use or
 19 livestock stockpond use.

20 (3) A petition for an extension of time within which to begin
 21 construction, to complete construction, or to apply the water to
 22 full beneficial use under a permit.

23 (4) A petition to change the point of diversion, place of use, or
 24 purpose of use, under a *registration for small domestic use or*
 25 *livestock stockpond use, or under a permit or license.*

26 (5) A petition to change the conditions of a permit or license,
 27 requested by the permittee or licensee, that is not otherwise subject
 28 to paragraph (3) or (4).

29 (6) *A petition under Section 1707 or 1740 to change the point*
 30 *of diversion, place of use, or purpose of use of a water right that*
 31 *is not subject to a permit or license to appropriate water.*

32 ~~(6)~~

33 (7) A petition to change the point of discharge, place of use, or
 34 purpose of use, of treated wastewater, requested pursuant to Section
 35 1211.

36 ~~(7)~~

37 (8) An application for approval of a water lease agreement.

38 ~~(8)~~

39 (9) A request for release from priority pursuant to Section 10504.

40 ~~(9)~~

1 (10) An application for an assignment of a state-filed application
2 pursuant to Section 10504.

3 (11) *A statement of water diversion and use pursuant to Part*
4 *5.1 (commencing with Section 5100).*

5 (c) The board shall set the fee schedule authorized by this section
6 so that the total amount of fees collected pursuant to this section
7 equals that amount necessary to recover costs incurred in
8 connection with the issuance, administration, review, monitoring,
9 and enforcement of permits, licenses, certificates, and registrations
10 to appropriate water, water leases, *statements of diversion and use*,
11 and orders approving changes in point of discharge, place of use,
12 or purpose of use of treated wastewater. The board may include,
13 as recoverable costs, but is not limited to including, the costs
14 incurred in reviewing applications, registrations, *statements of*
15 *diversion and use*, petitions and requests, prescribing terms of
16 permits, licenses, registrations, and change orders, enforcing and
17 evaluating compliance with permits, licenses, certificates,
18 registrations, change orders, and water leases, inspection,
19 monitoring, planning, modeling, reviewing documents prepared
20 for the purpose of regulating the diversion and use of water,
21 applying and enforcing *the public trust doctrine, Section 275*, the
22 prohibition set forth in Section 1052 against the unauthorized
23 diversion or use of water subject to this division, *the requirements*
24 *under Part 5.1 (commencing with Section 5100) for filing*
25 *statements of diversion and use*, and the administrative costs
26 incurred in connection with carrying out these actions.

27 (d) (1) The board shall adopt the schedule of fees authorized
28 under this section as emergency regulations in accordance with
29 Section 1530.

30 (2) For filings subject to subdivision (b), the schedule may
31 provide for a single filing fee or for an initial filing fee followed
32 by an annual fee, as appropriate to the type of filing involved, and
33 may include supplemental fees for filings that have already been
34 made but have not yet been acted upon by the board at the time
35 the schedule of fees takes effect.

36 (3) The board shall set the amount of total revenue collected
37 each year through the fees authorized by this section at an amount
38 equal to the revenue levels set forth in the annual Budget Act for
39 this activity. The board shall review and revise the fees each fiscal
40 year as necessary to conform with the revenue levels set forth in

1 the annual Budget Act. If the board determines that the revenue
2 collected during the preceding year was greater than, or less than,
3 the revenue levels set forth in the annual Budget Act, the board
4 may further adjust the annual fees to compensate for the over or
5 under collection of revenue.

6 (e) Annual fees imposed pursuant to this section for the 2003–04
7 fiscal year shall be assessed for the entire 2003–04 fiscal year.

8 (f) *Fees imposed on holders of riparian water rights or rights*
9 *to water appropriated prior to December 19, 1914, pursuant to*
10 *this chapter shall bear a fair or reasonable relationship to the*
11 *payor’s burden on, or benefits from, the board’s water rights*
12 *program funded by those fees.*

13 *SEC. 49. Section 1535 of the Water Code is amended to read:*

14 1535. (a) Any fee subject to this chapter that is required in
15 connection with the filing of an application, registration, request,
16 *statement*, or proof of claim, other than an annual fee required after
17 the period covered by the initial filing fee, shall be paid to the
18 board.

19 (b) If a fee established under subdivision (b) of Section 1525,
20 Section 1528, or Section 13160.1 is not paid when due, the board
21 may cancel the application, registration, petition, request, *statement*,
22 or claim, or may refer the matter to the State Board of Equalization
23 for collection of the unpaid fee.

24 *SEC. 50. Section 1538 of the Water Code is amended to read:*

25 1538. (a) In any proceeding pursuant to Section 1052 in which
26 it is determined that there has been a violation of the prohibition
27 against the unauthorized diversion or use of water subject to this
28 division, the board or court, as the case may be, may impose an
29 additional liability in the amount of *150 percent of any annual fees*
30 *that would have been required under this division if the diversion*
31 *or use had been authorized by a permit or license to appropriate*
32 *water.*

33 (b) *In any proceeding pursuant to Section 5107 in which the*
34 *board imposes liability for a failure to file a statement of diversion*
35 *and use or for a material misstatement in a statement of diversion*
36 *and use, the board may impose an additional liability in the amount*
37 *of 150 percent of any fees that have not been paid but would have*
38 *been required under this division if the statement of diversion and*
39 *use had been filed and did not make any material misstatement.*

1 (c) *The additional liability imposed under this section may*
2 *include interest, at the rate provided under Section 685.010 of the*
3 *Code of Civil Procedure, from the dates the annual fees would*
4 *have been assessed.*

5 *SEC. 51. Section 1550 of the Water Code is amended to read:*

6 1550. (a) *There is in the State Treasury a Water Rights Fund,*
7 *which is hereby established.*

8 (b) *There is hereby established the Water Rights Protection*
9 *Subaccount in the Water Rights Fund. It is the intent of the*
10 *Legislature that the moneys in the Water Rights Protection*
11 *Subaccount be available for expenditure, upon appropriation by*
12 *the Legislature, to reduce fees on water right holders, for water*
13 *restoration projects, conservancies, and for General Fund*
14 *purposes.*

15 *SEC. 52. Section 1551 of the Water Code is amended to read:*

16 1551. *All of the following shall be deposited in the Water*
17 *Rights Fund:*

18 (a) *All fees, expenses, and penalties collected by the board or*
19 *the State Board of Equalization under this chapter and Part 3*
20 *(commencing with Section 2000).*

21 (b) *All funds collected under Section 1052, ~~1845~~ or Article 4*
22 *(commencing with Section 1845) of Chapter 12, and Section 5107.*

23 (c) *All fees collected under Section 13160.1 in connection with*
24 *certificates for activities involving hydroelectric power projects*
25 *subject to licensing by the Federal Energy Regulatory Commission.*

26 *SEC. 53. Section 1825 of the Water Code is amended to read:*

27 1825. *It is the intent of the Legislature that the state should*
28 *take vigorous action to enforce the terms and conditions of permits,*
29 *licenses, certifications, and registrations to appropriate water, to*
30 *enforce state board orders and decisions, ~~and~~ to prevent the*
31 *unlawful diversion of water, and to prevent the waste,*
32 *unreasonable use, unreasonable method of use, or unreasonable*
33 *method of diversion, of water, and to enforce reporting and*
34 *monitoring requirements.*

35 *SEC. 54. Section 1826 is added to the Water Code, to read:*

36 1826. *The board shall establish a schedule of penalties that*
37 *applies to small farms for de minimis water right violations under*
38 *this division.*

39 *SEC. 55. Section 1845 of the Water Code is amended to read:*

1 1845. (a) Upon the failure of any person to comply with a
2 cease and desist order issued by the board pursuant to this chapter,
3 the Attorney General, upon the request of the board, shall petition
4 the superior court for the issuance of prohibitory or mandatory
5 injunctive relief as appropriate, including a temporary restraining
6 order, preliminary injunction, or permanent injunction.

7 (b) (1) Any person or entity who violates a cease and desist
8 order issued pursuant to this chapter may be liable ~~for a sum in an~~
9 ~~amount not to exceed one thousand dollars (\$1,000) for each day~~
10 ~~in which the violation occurs. the greater of either of the following~~
11 ~~amounts:~~

12 (A) *One thousand dollars (\$1,000) for each day in which the*
13 *violation occurs for the first enforcement proceeding or five*
14 *thousand (\$5,000) for each day in which the violation occurs for*
15 *any subsequent enforcement proceeding.*

16 (B) *The highest market value of the water.*

17 (2) Civil liability may be imposed by the superior court. The
18 Attorney General, upon the request of the board, shall petition the
19 superior court to impose, assess, and recover those sums.

20 (3) Civil liability may be imposed administratively by the board
21 pursuant to Section 1055.

22 (c) In determining the appropriate amount, the court, or the
23 board, as the case may be, shall take into consideration all relevant
24 circumstances, including, but not limited to, the extent of harm
25 caused by the violation, the nature and persistence of the violation,
26 the length of time over which the violation occurs, and, *with respect*
27 *to the violator, the ability to pay, the effect on the ability to continue*
28 *in business, the corrective action, if any, taken by the violator, and*
29 *other matters as justice may require.*

30 (d) (1) All funds recovered pursuant to this section shall be
31 deposited in the Water Rights Fund established pursuant to Section
32 1550.

33 (2) *Any funds recovered pursuant to this section that exceed the*
34 *amounts that were authorized before the effective date of the*
35 *amendments made to this section by Senate Bill 5 of the 2009–10*
36 *Seventh Extraordinary Session of the Legislature shall be deposited*
37 *in the Water Rights Protection Subaccount in the Water Rights*
38 *Funds established pursuant to Section 1550.*

39 (e) *The increase in the amount of penalties that may be imposed*
40 *pursuant to the amendments made to this section during the*

1 2009–10 Seventh Extraordinary Session of the Legislature does
2 not apply to violations that occurred prior to the effective date of
3 those amendments.

4 SEC. 56. Section 1846 is added to the Water Code, to read:

5 1846. (a) Any person or entity subject to a monitoring or
6 reporting requirement specified in subdivision (f) who violates
7 that reporting or monitoring requirement, makes a material
8 misstatement in any record or report submitted under that
9 reporting or monitoring requirement, or tampers with or renders
10 inaccurate any monitoring device required under that reporting
11 or monitoring requirement shall be liable for a sum not to exceed
12 five hundred dollars (\$500) for each day in which the violation
13 occurs.

14 (b) Civil liability may be imposed by the superior court. The
15 Attorney General, upon the request of the board, shall petition the
16 superior court to impose, assess, and recover those sums.

17 (c) Civil liability may be imposed administratively by the board
18 pursuant to Section 1055.

19 (d) In determining the appropriate amount, the court, or the
20 board, as the case may be, shall take into consideration all relevant
21 circumstances, including, but not limited to, the extent of harm
22 caused by the violation, the nature and persistence of the violation,
23 the length of time over which the violation occurs, and, with respect
24 to the violator, the ability to pay, the effect on the ability to
25 continue in business, the corrective action, if any, taken by the
26 violator, and other matters as justice may require.

27 (e) All funds recovered pursuant to this section shall be
28 deposited in the Water Rights Protection Subaccount in the Water
29 Rights Fund established pursuant to Section 1550.

30 (f) (1) This section applies to any reporting or monitoring
31 requirement established under any permit, license, certificate,
32 registration, decision or order, or regulation issued by the board
33 pursuant to this division, Section 275, Article 7 (commencing with
34 Section 13550) of Division 7, or the public trust doctrine.

35 (2) This section also applies to any reporting or monitoring
36 requirement established by the department under Section 275, if
37 the department requests enforcement pursuant to this section.

38 (3) This section does not provide a basis for imposing liability
39 on a watermaster who is subject to reporting or monitoring

1 requirements but does not divert or use the water subject to those
2 requirements.

3 SEC. 57. Section 1847 is added to the Water Code, to read:

4 1847. (a) Any person or entity who violates any term or
5 condition of a permit, license, certificate, or registration issued
6 under this division or any order or regulation adopted by the board
7 under Section 275 may be liable in an amount not to exceed five
8 hundred dollars (\$500) for each day in which the violation occurs.

9 (b) Civil liability may be imposed by the superior court. The
10 Attorney General, upon the request of the board, shall petition the
11 superior court to impose, assess, and recover those sums.

12 (c) Civil liability may be imposed administratively by the board
13 pursuant to Section 1055.

14 (d) In determining the appropriate amount, the court, or the
15 board, as the case may be, shall take into consideration all relevant
16 circumstances, including, but not limited to, the extent of harm
17 caused by the violation, the nature and persistence of the violation,
18 the length of time over which the violation occurs, and, with respect
19 to the violator, the ability to pay, the effect on the ability to
20 continue in business, the corrective action, if any, taken by the
21 violator, and other matters as justice may require.

22 (e) No liability shall be recoverable under this section for any
23 violation for which liability is recovered under Section 1052 or
24 1846.

25 (f) All funds recovered pursuant to this section shall be deposited
26 in the Water Rights Protection Subaccount in the Water Rights
27 Fund established pursuant to Section 1550.

28 SEC. 58. Section 2525 of the Water Code is amended to read:

29 2525. Upon petition signed by one or more claimants to water
30 of any stream system, requesting the determination of the rights
31 of the various claimants to the water of that stream system, the
32 board shall, if, upon investigation, it finds the facts and conditions
33 are such that the public interest and necessity will be served by a
34 determination of the water rights involved, enter an order granting
35 the petition and make proper arrangements to proceed with the
36 determination. The board may initiate a determination of rights
37 under its own motion if after a hearing it finds, based on substantial
38 evidence, that the public interest and necessity will be served by
39 a determination of the rights involved.

40 SEC. 59. Section 2526 of the Water Code is amended to read:

1 2526. As soon as practicable after granting the petition *or*
2 *motion* the board shall prepare and issue a notice setting forth the
3 following:

4 (a) The facts of the entry of the order and of the pendency of
5 the ~~proceedings~~; *proceedings*.

6 (b) That all claimants to rights to the use of water of the stream
7 system are required to inform the board within 60 days from the
8 date of the notice, or such further time as the board may allow, of
9 their intention to file proof of ~~claim~~; *claim*.

10 (c) The date prior to which all claimants to rights to the water
11 of the stream system shall notify the board in writing of their
12 intention to file proof of claim and the address to which all
13 subsequent notices to the claimant relating to the proceedings may
14 be ~~sent~~; *sent*.

15 (d) A statement that all claimants will be required to make proof
16 of their claims at a time to be fixed by the board after the
17 conclusion of its investigation.

18 *SEC. 60. Section 2550 of the Water Code is amended to read:*

19 2550. As soon as practicable after granting the petition *or*
20 *motion*, the board shall begin an investigation of the stream system,
21 of the diversion of water, of all beneficial uses being made of the
22 water, and of the water supply available for those uses, and shall
23 gather such other data and information as may be essential to the
24 proper determination of the water rights in the stream system.

25 *SEC. 61. Section 2763.5 of the Water Code is amended to read:*

26 2763.5. (a) No exception to the order of determination shall
27 be considered, except in the court's discretion for good cause
28 shown, unless the matter of the exception was presented to the
29 board in the form of an objection. Good cause includes, but is not
30 limited to, the existence of newly discovered relevant evidence
31 which, in the exercise of reasonable diligence, could not have been
32 presented to the board during the board's proceedings.

33 (b) This section does not apply to persons to whom the board
34 did not mail either (1) written notice of the board meeting at which
35 the petition *or motion* pursuant to Section 2525 is to be considered
36 as an item of business, or (2) written notice of the pendency of the
37 proceedings pursuant to Section 2526.

38 *SEC. 62. Section 5100 of the Water Code is amended to read:*

39 5100. As used in this part:

1 (a) “Best available technologies” means technologies at the
2 highest technically practical level, using flow totaling devices, and
3 if necessary, data loggers and telemetry.

4 (b) “Best professional practices” means practices attaining and
5 maintaining the accuracy of measurement and reporting devices
6 and methods.

7 (c) “Diversion” means taking water by gravity or pumping from
8 a surface stream or subterranean stream flowing through a known
9 and definite channel, or other body of surface water, into a canal,
10 pipeline, or other conduit, and includes impoundment of water in
11 a reservoir.

12 (d) “Person” means all persons whether natural or artificial,
13 including the United States of America, State of California, and
14 all political subdivisions, districts, municipalities, and public
15 agencies.

16 (e) ~~“Tidal zone” means those portions of the Sacramento-San
17 Joaquin Delta as described in Section 12220 that are ordinarily
18 subject to tidal action.~~

19 *SEC. 63. Section 5101 of the Water Code is amended to read:*
20 *5101. Each person who, after December 31, 1965, diverts water*
21 *shall file with the board, prior to July 1 of the succeeding year, a*
22 *statement of his or her diversion and use; provided, however, that*
23 ~~*no statement need, except that a statement is not required to be*~~
24 ~~*filed if the diversion is any of the following:*~~

25 (a) ~~From a spring which that does not flow off the property on
26 which it is located and from which the person’s aggregate
27 diversions do not exceed 25 acre-feet in any year.~~

28 (b) ~~Covered by an application, a registration for small domestic
29 or livestock stockpond uses, or permit or license to appropriate
30 water on file with the board.~~

31 (c) ~~Included in a notice filed pursuant to Part 5 (commencing
32 with Section 4999) of this division.~~

33 (d) ~~Regulated by a watermaster appointed by the department
34 and included in annual reports filed with a court or the board by
35 the watermaster, which reports identify the persons who have
36 diverted water and describe the general purposes and the place,
37 the use, and the quantity of water that has been diverted from each
38 source.~~

39 (e) ~~Reported by the department in its hydrologic data bulletins.~~

1 ~~(f) Included in the consumptive use data for the delta lowlands~~
2 ~~published by the department in its hydrologic data bulletins.~~

3 ~~(g)~~

4 (e) Included in annual reports filed with a court or the board by
5 a watermaster appointed by a court or pursuant to statute to
6 administer a final judgment determining rights to water, which
7 reports identify the persons who have diverted water and give the
8 general place of use and the quantity of water ~~which~~ *that* has been
9 diverted from each source.

10 ~~(h)~~

11 (f) For use in compliance with ~~the provisions of Article 2.5~~
12 ~~(commencing with Section 1226) or Article 2.7 (commencing with~~
13 ~~Section 1228) of Chapter 1 of Part 2 of this division.~~

14 (g) *A diversion that occurs before January 1, 2009, if any of*
15 *the following applies:*

16 (1) *The diversion is from a spring that does not flow off the*
17 *property on which it is located, and the person's aggregate*
18 *diversions exceed 25 acre-feet in any year.*

19 (2) *The diversion is covered by an application to appropriate*
20 *water on file with the board.*

21 (3) *The diversion is reported by the department in its hydrologic*
22 *data bulletins.*

23 (4) *The diversion is included in the consumptive use data for*
24 *the Delta lowlands published by the department in its hydrologic*
25 *data bulletins.*

26 *SEC. 64. Section 5103 of the Water Code is amended to read:*
27 *5103. Each statement shall be prepared on a form provided by*
28 *the board. The statement shall include all of the following*
29 *information:*

30 (a) *The name and address of the person who diverted water and*
31 *of the person filing the statement.*

32 (b) *The name of the stream or other source from which water*
33 *was diverted, and the name of the next major stream or other body*
34 *of water to which the source is tributary.*

35 (c) ~~the place of diversion. If a public land survey has been~~
36 ~~made, location of~~ *The location of the diversion works shall be*
37 ~~described~~ *depicted on a specific United States Geological Survey*
38 *topographic map, or shall be identified using the California*
39 *Coordinate System, or latitude and longitude measurements. If*
40 *assigned, the public land description to the nearest 40-acre*

1 subdivision. If not, it shall be described by reference to nearest
2 local landmarks or other recorded surveys and the assessor's parcel
3 number shall also be provided.

4 (d) The capacity of the diversion works and of the storage
5 reservoir, if any, and the months in which water was used during
6 the preceding calendar year.

7 (e) (1) On and after January 1, 2012, monthly records of water
8 diversions. The measurements of the diversion shall be made using
9 best available technologies and best professional practices. Nothing
10 in this paragraph shall be construed to require the implementation
11 of technologies or practices that are by a person who provides to
12 the board documentation demonstrating that the implementation
13 of those practices is not locally cost effective.

14 (2) Paragraph (1) does not apply to a surface water diversion
15 with a combined diversion capacity from a natural channel that is
16 less than 50 cubic feet per second or to diverters using siphons in
17 the tidal zone.

18 (3)

19 (2) (A) The terms of, and eligibility for, any grant or loan
20 awarded or administered by the department, the board, or the
21 California Bay-Delta Authority or its successor on behalf of a
22 person that is subject to paragraph (1) shall be conditioned on
23 compliance with that paragraph.

24 (B) Notwithstanding subparagraph (A), the board may determine
25 that a person is eligible for a grant or loan even though the person
26 is not complying with paragraph (1), if both of the following apply:

27 (i) The board determines that the grant or loan will assist the
28 grantee or loan recipient in complying with paragraph (1).

29 (ii) The person has submitted to the board a one-year schedule
30 for complying with paragraph (1).

31 (C) It is the intent of the Legislature that the requirements of
32 this subdivision shall complement and not affect the scope of
33 authority granted to the board by provisions of law other than this
34 article.

35 (f) For persons not subject to paragraph (1) of subdivision (e),
36 a description of the acreage of each crop irrigated, the average
37 number of people served with water, the average number of stock
38 watered, and the nature and extent of any other use during the
39 preceding calendar year, or other equivalent information that
40 indicates the quantity of water used as may be prescribed by the

1 ~~board. Those who maintain water measuring devices and keep~~
2 ~~monthly records of water diversions shall state the quantity of~~
3 ~~water diverted by months during the preceding calendar year.~~

4 ~~(g)~~

5 (f) The purpose of use.

6 ~~(h)~~

7 (g) A general description of the area in which the water was
8 used. ~~If the water was used on an area within the $\frac{1}{16}$ -section~~
9 ~~containing the point of diversion, a statement to that effect will~~
10 ~~suffice; otherwise a description or sketch of the general area of~~
11 ~~use shall be given. *The location of the place of use shall be depicted*~~
12 ~~*on a specific United States Geological Survey topographic map*~~
13 ~~*and on any other maps with identifiable landmarks. If assigned,*~~
14 ~~*the public land description to the nearest 40-acre subdivision and*~~
15 ~~*the assessor's parcel number shall also be provided.*~~

16 ~~(i)~~

17 (h) The year in which the diversion was commenced as near as
18 is known.

19 *SEC. 65. Section 5106 of the Water Code is amended to read:*

20 5106. (a) Neither the statements submitted under this part nor
21 the determination of facts by the board pursuant to Section 5105
22 shall establish or constitute evidence of a right to divert or use
23 water.

24 (b) (1) The board may rely on the names and addresses included
25 in statements submitted under this part for the purpose of
26 determining the names and addresses of persons who are to receive
27 notices with regard to proceedings before the board.

28 (2) Notwithstanding paragraph (1), any person may submit, in
29 writing, a request to the board to provide notification to a different
30 address, and the board shall provide the notification to that address.

31 (3) If the board provides notice to persons who file statements
32 under this part, the notice shall not be determined to be inadequate
33 on the basis that notice was not received by a person, other than a
34 party to whom the board's action is directed, who fails to file a
35 statement required to be filed under this part.

36 (4) This subdivision does not affect the requirement in Section
37 2527 to provide notice to all persons who own land that appears
38 to be riparian to the stream system.

39 (c) In any proceeding before the board to determine whether an
40 application for a permit to appropriate water should be approved,

1 any statement submitted under this part or determination by the
2 board pursuant to Section 5105 is evidence of the facts stated
3 therein.

4 *(d) (1) In any proceeding before the board in which it is alleged*
5 *that an appropriative right has ceased or is subject to forfeiture*
6 *for nonuse because water has not been put to beneficial use, there*
7 *shall be a rebuttable presumption that no use required to be*
8 *included in a statement submitted under this part occurred unless*
9 *that use is included in a statement submitted under this part and*
10 *that the statement is submitted within six months after it is required*
11 *to be filed with the board.*

12 *(2) Paragraph (1) does not apply to any use that occurred before*
13 *January 1, 2009.*

14 *SEC. 66. Section 5107 of the Water Code is amended to read:*

15 *5107. (a) The making of any willful misstatement pursuant to*
16 *this part is a misdemeanor punishable by a fine not exceeding one*
17 *thousand dollars (\$1,000) or by imprisonment in the county jail*
18 *for not to exceed six months, or both.*

19 *(b) Any person who fails to file a statement required to be filed*
20 *under this part for a diversion or use that occurs after January 1,*
21 *2009, who tampers with any measuring device, or who makes a*
22 *material misstatement pursuant to this part may be liable civilly*
23 *as provided in ~~subdivision (e)~~ subdivisions (c) and (d).*

24 *(c) Civil liability may be administratively imposed by the board*
25 *pursuant to Section 1055 in an amount not to exceed the following*
26 *amounts:*

27 *(1) For failure to file a statement, one thousand dollars (\$1,000),*
28 *plus five hundred dollars (\$500) per day for each additional day*
29 *on which the violation continues if the person fails to file a*
30 *statement within 30 days after the board has called the violation*
31 *to the attention of that person.*

32 *(2) For a violation resulting from a physical malfunction of a*
33 *measuring device not caused by the person or any other*
34 *unintentional misstatement, two hundred fifty dollars (\$250), plus*
35 *two hundred fifty dollars (\$250) per day for each additional day*
36 *on which the measuring device continues to malfunction or the*
37 *misstatement is not corrected if the person fails to correct or repair*
38 *the measuring device or correct the misstatement within 60 days*
39 *after the board has called the malfunction or violation to the*
40 *attention of that person.*

1 (3) *For knowingly tampering with any measuring device or*
2 *knowingly making a material misstatement in a statement filed*
3 *under this part, twenty-five thousand dollars (\$25,000), plus one*
4 *thousand dollars (\$1,000) for each day on which the violation*
5 *continues if the person fails to correct the violation within 30 days*
6 *after the board has called the violation to the attention of that*
7 *person.*

8 (4) *For any other violation, five hundred dollars (\$500), plus*
9 *two hundred fifty dollars (\$250) for each additional day on which*
10 *the violation continues if the person fails to correct the violation*
11 *within 30 days after the board has called the violation to the*
12 *attention of that person.*

13 (d) *When an additional penalty may be imposed under*
14 *subdivision (c) for failure to correct a violation or correct or repair*
15 *a malfunctioning measuring device within a specified period after*
16 *the violation has been called to a person's attention by the board,*
17 *the board, for good cause, may provide for a longer period for*
18 *correction of the problem, and the additional penalty shall not*
19 *apply if the violation is corrected within the period specified by*
20 *the board.*

21 ~~(e) Civil liability may be administratively imposed by the board~~
22 ~~pursuant to Section 1055 in an amount not to exceed five hundred~~
23 ~~dollars (\$500) for each violation.~~

24 (e) *In determining the appropriate amount, the board shall*
25 *consider all relevant circumstances, including, but not limited to,*
26 *all of the following factors:*

- 27 (1) *The extent of harm caused by the violation.*
28 (2) *The nature and persistence of the violation.*
29 (3) *The length of time over which the violation occurs.*
30 (4) *Any corrective action undertaken by the violator.*
31 (5) *The ability of the violator to pay.*
32 (6) *The effect on the ability of the violator to continue in*
33 *business.*
34 (7) *Other matters as justice may require.*

35 ~~(f)~~
36 (f) (1) *All funds recovered pursuant to this section shall be*
37 *deposited in the Water Rights Fund established pursuant to Section*
38 *1550.*

39 (2) *Any funds recovered pursuant to this section that exceed*
40 *those that were authorized before the effective date of the*

1 amendments made to this section by Senate Bill 5 of the 2009–10
2 Seventh Extraordinary Session of the Legislature shall be deposited
3 in the Water Rights Protection Subaccount in the Water Rights
4 Fund established pursuant to Section 1550.

5 (g) Remedies under this section are in addition to, and do not
6 supersede or limit, any other remedies, civil or criminal.

7 SEC. 67. Section 5108 of the Water Code is repealed.

8 ~~5108. Statements filed pursuant to this part shall be for~~
9 ~~informational purposes only, and neither the failure to file a~~
10 ~~statement nor any error in the information filed shall have any~~
11 ~~legal consequences whatsoever other than those specified in this~~
12 ~~part.~~

13 SEC. 68. Part 2.55 (commencing with Section 10608) is added
14 to Division 6 of the Water Code, to read:

15
16 PART 2.55. SUSTAINABLE WATER USE AND DEMAND
17 REDUCTION

18
19 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

20
21 10608. The Legislature finds and declares all of the following:

22 (a) Water is a public resource that the California Constitution
23 protects against waste and unreasonable use.

24 (b) Growing population, climate change, and the need to protect
25 and grow California’s economy while protecting and restoring
26 our fish and wildlife habitats make it essential that the state
27 manage its water resources as efficiently as possible.

28 (c) Diverse regional water supply portfolios will increase water
29 supply reliability and reduce dependence on the Delta.

30 (d) Reduced water use through conservation provides significant
31 energy and environmental benefits, and can help protect water
32 quality, improve streamflows, and reduce greenhouse gas
33 emissions.

34 (e) The success of state and local water conservation programs
35 to increase efficiency of water use is best determined on the basis
36 of measurable outcomes related to water use or efficiency.

37 (f) Improvements in technology and management practices offer
38 the potential for increasing water efficiency in California over
39 time, providing an essential water management tool to meet the
40 need for water for urban, agricultural, and environmental uses.

1 (g) The Governor has called for a 20 percent per capita
2 reduction in urban water use statewide by 2020.

3 (h) The factors used to formulate water use efficiency targets
4 can vary significantly from location to location based on factors
5 including weather, patterns of urban and suburban development,
6 and past efforts to enhance water use efficiency.

7 (i) Per capita water use is a valid measure of a water provider's
8 efforts to reduce urban water use within its service area. However,
9 per capita water use is less useful for measuring relative water
10 use efficiency between different water providers. Differences in
11 weather, historical patterns of urban and suburban development,
12 and density of housing in a particular location need to be
13 considered when assessing per capita water use as a measure of
14 efficiency.

15 10608.4. It is the intent of the Legislature, by the enactment of
16 this part, to do all of the following:

17 (a) Require all water suppliers to increase the efficiency of use
18 of this essential resource.

19 (b) Establish a framework to meet the state targets for urban
20 water conservation identified in this part and called for by the
21 Governor.

22 (c) Measure increased efficiency of urban water use on a per
23 capita basis.

24 (d) Establish a method or methods for urban retail water
25 suppliers to determine targets for achieving increased water use
26 efficiency by the year 2020, in accordance with the Governor's
27 goal of a 20-percent reduction.

28 (e) Establish consistent water use efficiency planning and
29 implementation standards for urban water suppliers and
30 agricultural water suppliers.

31 (f) Promote urban water conservation standards that are
32 consistent with the California Urban Water Conservation Council's
33 adopted best management practices and the requirements for
34 demand management in Section 10631.

35 (g) Establish standards that recognize and provide credit to
36 water suppliers that made substantial capital investments in urban
37 water conservation since the drought of the early 1990s.

38 (h) Recognize and account for the investment of urban retail
39 water suppliers in providing recycled water for beneficial uses.

1 (i) Require implementation of specified efficient water
2 management practices for agricultural water suppliers.

3 (j) Support the economic productivity of California's
4 agricultural, commercial, and industrial sectors.

5 (k) Advance regional water resources management.

6 10608.8. (a) (1) Water use efficiency measures adopted and
7 implemented pursuant to this part or Part 2.8 (commencing with
8 Section 10800) are water conservation measures subject to the
9 protections provided under Section 1011.

10 (2) Because an urban agency is not required to meet its urban
11 water use target until 2020 pursuant to subdivision (b) of Section
12 10608.24, an urban retail water supplier's failure to meet those
13 targets shall not establish a violation of law for purposes of any
14 state administrative or judicial proceeding prior to January 1,
15 2021. Nothing in this paragraph limits the use of data reported to
16 the department or the board in litigation or an administrative
17 proceeding. This paragraph shall become inoperative on January
18 1, 2021.

19 (3) To the extent feasible, the department and the board shall
20 provide for the use of water conservation reports required under
21 this part to meet the requirements of Section 1011 for water
22 conservation reporting.

23 (b) This part does not limit or otherwise affect the application
24 of Chapter 3.5 (commencing with Section 11340), Chapter 4
25 (commencing with Section 11370), Chapter 4.5 (commencing with
26 Section 11400), and Chapter 5 (commencing with Section 11500)
27 of Part 1 of Division 3 of Title 2 of the Government Code.

28 (c) This part does not require a reduction in the total water used
29 in the agricultural or urban sectors, because other factors,
30 including, but not limited to, changes in agricultural economics
31 or population growth may have greater effects on water use. This
32 part does not limit the economic productivity of California's
33 agricultural, commercial, or industrial sectors.

34 (d) The requirements of this part do not apply to an agricultural
35 water supplier that is a party to the Quantification Settlement
36 Agreement, as defined in subdivision (a) of Section 1 of Chapter
37 617 of the Statutes of 2002, during the period within which the
38 Quantification Settlement Agreement remains in effect. After the
39 expiration of the Quantification Settlement Agreement, to the extent
40 conservation water projects implemented as part of the

1 *Quantification Settlement Agreement remain in effect, the*
2 *conserved water created as part of those projects shall be credited*
3 *against the obligations of the agricultural water supplier pursuant*
4 *to this part.*

5
6 *CHAPTER 2. DEFINITIONS*
7

8 *10608.12. Unless the context otherwise requires, the following*
9 *definitions govern the construction of this part:*

10 (a) *“Agricultural water supplier” means a water supplier, either*
11 *publicly or privately owned, providing water to 10,000 or more*
12 *irrigated acres, excluding recycled water. “Agricultural water*
13 *supplier” includes a supplier or contractor for water, regardless*
14 *of the basis of right, that distributes or sells water for ultimate*
15 *resale to customers. “Agricultural water supplier” does not include*
16 *the department.*

17 (b) *“Base daily per capita water use” means any of the*
18 *following:*

19 (1) *The urban retail water supplier’s estimate of its average*
20 *gross water use, reported in gallons per capita per day and*
21 *calculated over a continuous 10-year period ending no earlier*
22 *than December 31, 2004, and no later than December 31, 2010.*

23 (2) *For an urban retail water supplier that meets at least 10*
24 *percent of its 2008 measured retail water demand through recycled*
25 *water that is delivered within the service area of an urban retail*
26 *water supplier or its urban wholesale water supplier, the urban*
27 *retail water supplier may extend the calculation described in*
28 *paragraph (1) up to an additional five years to a maximum of a*
29 *continuous 15-year period ending no earlier than December 31,*
30 *2004, and no later than December 31, 2010.*

31 (3) *For the purposes of Section 10608.22, the urban retail water*
32 *supplier’s estimate of its average gross water use, reported in*
33 *gallons per capita per day and calculated over a continuous*
34 *five-year period ending no earlier than December 31, 2007, and*
35 *no later than December 31, 2010.*

36 (c) *“Baseline commercial, industrial, and institutional water*
37 *use” means an urban retail water supplier’s base daily per capita*
38 *water use for commercial, industrial, and institutional users.*

39 (d) *“Commercial water user” means a water user that provides*
40 *or distributes a product or service.*

- 1 (e) “Compliance daily per capita water use” means the gross
2 water use during the final year of the reporting period, reported
3 in gallons per capita per day.
- 4 (f) “Disadvantaged community” means a community with an
5 annual median household income that is less than 80 percent of
6 the statewide annual median household income.
- 7 (g) “Gross water use” means the total volume of water, whether
8 treated or untreated, entering the distribution system of an urban
9 retail water supplier, excluding all of the following:
- 10 (1) Recycled water that is delivered within the service area of
11 an urban retail water supplier or its urban wholesale water
12 supplier.
- 13 (2) The net volume of water that the urban retail water supplier
14 places into long-term storage.
- 15 (3) The volume of water the urban retail water supplier conveys
16 for use by another urban water supplier.
- 17 (4) The volume of water delivered for agricultural use, except
18 as otherwise provided in subdivision (f) of Section 10608.24.
- 19 (h) “Industrial water user” means a water user that is primarily
20 a manufacturer or processor of materials as defined by the North
21 American Industry Classification System code sectors 31 to 33,
22 inclusive, or an entity that is a water user primarily engaged in
23 research and development.
- 24 (i) “Institutional water user” means a water user dedicated to
25 public service. This type of user includes, among other users,
26 higher education institutions, schools, courts, churches, hospitals,
27 government facilities, and nonprofit research institutions.
- 28 (j) “Interim urban water use target” means the midpoint
29 between the urban retail water supplier’s base daily per capita
30 water use and the urban retail water supplier’s urban water use
31 target for 2020.
- 32 (k) “Locally cost effective” means that the present value of the
33 local benefits of implementing an agricultural efficiency water
34 management practice is greater than or equal to the present value
35 of the local cost of implementing that measure.
- 36 (l) “Process water” means water used for producing a product
37 or product content or water used for research and development,
38 including, but not limited to, continuous manufacturing processes,
39 water used for testing and maintaining equipment used in
40 producing a product or product content, and water used in

1 *combined heat and power facilities used in producing a product*
2 *or product content. Process water does not mean incidental water*
3 *uses not related to the production of a product or product content,*
4 *including, but not limited to, water used for restrooms,*
5 *landscaping, air conditioning, heating, kitchens, and laundry.*

6 *(m) “Recycled water” means recycled water, as defined in*
7 *subdivision (n) of Section 13050, that is used to offset potable*
8 *demand, including recycled water supplied for direct use and*
9 *indirect potable reuse, that meets the following requirements,*
10 *where applicable:*

11 *(1) For groundwater recharge, including recharge through*
12 *spreading basins, water supplies that are all of the following:*

13 *(A) Metered.*

14 *(B) Developed through planned investment by the urban water*
15 *supplier or a wastewater treatment agency.*

16 *(C) Treated to a minimum tertiary level.*

17 *(D) Delivered within the service area of an urban retail water*
18 *supplier or its urban wholesale water supplier that helps an urban*
19 *retail water supplier meet its urban water use target.*

20 *(2) For reservoir augmentation, water supplies that meet the*
21 *criteria of paragraph (1) and are conveyed through a distribution*
22 *system constructed specifically for recycled water.*

23 *(n) “Regional water resources management” means sources of*
24 *supply resulting from watershed-based planning for sustainable*
25 *local water reliability or any of the following alternative sources*
26 *of water:*

27 *(1) The capture and reuse of stormwater or rainwater.*

28 *(2) The use of recycled water.*

29 *(3) The desalination of brackish groundwater.*

30 *(4) The conjunctive use of surface water and groundwater in a*
31 *manner that is consistent with the safe yield of the groundwater*
32 *basin.*

33 *(o) “Reporting period” means the years for which an urban*
34 *retail water supplier reports compliance with the urban water use*
35 *targets.*

36 *(p) “Urban retail water supplier” means a water supplier, either*
37 *publicly or privately owned, that directly provides potable*
38 *municipal water to more than 3,000 end users or that supplies*
39 *more than 3,000 acre-feet of potable water annually at retail for*
40 *municipal purposes.*

1 (q) “Urban water use target” means the urban retail water
2 supplier’s targeted future daily per capita water use.

3 (r) “Urban wholesale water supplier,” means a water supplier,
4 either publicly or privately owned, that provides more than 3,000
5 acre-feet of water annually at wholesale for potable municipal
6 purposes.

7

8

CHAPTER 3. URBAN RETAIL WATER SUPPLIERS

9

10 10608.16. (a) The state shall achieve a 20-percent reduction
11 in urban per capita water use in California on or before December
12 31, 2020.

13 (b) The state shall make incremental progress towards the state
14 target specified in subdivision (a) by reducing urban per capita
15 water use by at least 10 percent on or before December 31, 2015.

16 10608.20. (a) (1) Each urban retail water supplier shall
17 develop urban water use targets and an interim urban water use
18 target by July 1, 2011. Urban retail water suppliers may elect to
19 determine and report progress toward achieving these targets on
20 an individual or regional basis, as provided in subdivision (a) of
21 Section 10608.28, and may determine the targets on a fiscal year
22 or calendar year basis.

23 (2) It is the intent of the Legislature that the urban water use
24 targets described in subdivision (a) cumulatively result in a
25 20-percent reduction from the baseline daily per capita water use
26 by December 31, 2020.

27 (b) An urban retail water supplier shall adopt one of the
28 following methods for determining its urban water use target
29 pursuant to subdivision (a):

30 (1) Eighty percent of the urban retail water supplier’s baseline
31 per capita daily water use.

32 (2) The per capita daily water use that is estimated using the
33 sum of the following performance standards:

34 (A) For indoor residential water use, 55 gallons per capita daily
35 water use as a provisional standard. Upon completion of the
36 department’s 2016 report to the Legislature pursuant to Section
37 10608.42, this standard may be adjusted by the Legislature by
38 statute.

39 (B) For landscape irrigated through dedicated or residential
40 meters or connections, water efficiency equivalent to the standards

1 of the Model Water Efficient Landscape Ordinance set forth in
2 Chapter 2.7 (commencing with Section 490) of Division 2 of Title
3 23 of the California Code of Regulations, as in effect the later of
4 the year of the landscape's installation or 1992. An urban retail
5 water supplier using the approach specified in this subparagraph
6 shall use satellite imagery, site visits, or other best available
7 technology to develop an accurate estimate of landscaped areas.

8 (C) For commercial, industrial, and institutional uses, a
9 10-percent reduction in water use from the baseline commercial,
10 industrial, and institutional water use by 2020.

11 (3) Ninety-five percent of the applicable state hydrologic region
12 target, as set forth in the state's draft 20x2020 Water Conservation
13 Plan (dated April 30, 2009). If the service area of an urban water
14 supplier includes more than one hydrologic region, the supplier
15 shall apportion its service area to each region based on population
16 or area.

17 (4) A method that shall be identified and developed by the
18 department, through a public process, and reported to the
19 Legislature no later than December 31, 2010. The method
20 developed by the department shall identify per capita targets that
21 cumulatively result in a statewide 20 percent reduction in urban
22 daily per capita water use by December 31, 2020. In developing
23 urban daily per capita water use targets, the department shall do
24 all of the following:

25 (A) Consider climatic differences within the state.

26 (B) Consider population density differences within the state.

27 (C) Provide flexibility to communities and regions in meeting
28 the targets.

29 (D) Consider different levels of per capita water use according
30 to plant water needs in different regions.

31 (E) Consider different levels of commercial, industrial, and
32 institutional water use in different regions of the state.

33 (F) Avoid placing an undue hardship on communities that have
34 implemented conservation measures or taken actions to keep per
35 capita water use low.

36 (c) The department shall update the method described in
37 paragraph (4) of subdivision (b) and report to the Legislature by
38 December 31, 2014. An urban retail water supplier that adopted
39 the method described in paragraph (4) of subdivision (b) may

1 *adopt a new urban daily per capita water use target pursuant to*
2 *this updated method.*

3 *(d) An urban retail water supplier shall include in its urban*
4 *water management plan required pursuant to Part 2.6*
5 *(commencing with Section 10610) due in 2010 the baseline daily*
6 *per capita water use, urban water use target, interim urban water*
7 *use target, and compliance daily per capita water use, along with*
8 *the bases for determining those estimates, including references to*
9 *supporting data.*

10 *(e) When calculating per capita values for the purposes of this*
11 *chapter, an urban retail water supplier shall determine population*
12 *using federal, state, and local population reports and projections.*

13 *(f) An urban retail water supplier may update its 2020 urban*
14 *water use target in its 2015 urban water management plan required*
15 *pursuant to Part 2.6 (commencing with Section 10610).*

16 *(g) (1) The department, through a public process and in*
17 *consultation with the California Urban Water Conservation*
18 *Council, shall develop technical methodologies and criteria for*
19 *the consistent implementation of this part, including, but not limited*
20 *to, both of the following:*

21 *(A) Methodologies for calculating base daily per capita water*
22 *use, baseline commercial, industrial, and institutional water use,*
23 *compliance daily per capita water use, gross water use, service*
24 *area population, indoor residential water use, and landscaped*
25 *area water use.*

26 *(B) Criteria for adjustments pursuant to subdivisions (d) and*
27 *(e) of Section 10608.24.*

28 *(2) The department shall post the methodologies and criteria*
29 *developed pursuant to this subdivision on its Internet Web site,*
30 *and make written copies available, by October 1, 2010. An urban*
31 *retail water supplier shall use the methods developed by the*
32 *department in compliance with this part.*

33 *(h) (1) The department shall adopt regulations for*
34 *implementation of the provisions relating to process water in*
35 *accordance with subdivision (l) of Section 10608.12, subdivision*
36 *(e) of Section 10608.24, and subdivision (d) of Section 10608.26.*

37 *(2) The initial adoption of a regulation authorized by this*
38 *subdivision is deemed to address an emergency, for purposes of*
39 *Sections 11346.1 and 11349.6 of the Government Code, and the*
40 *department is hereby exempted for that purpose from the*

1 requirements of subdivision (b) of Section 11346.1 of the
2 Government Code. After the initial adoption of an emergency
3 regulation pursuant to this subdivision, the department shall not
4 request approval from the Office of Administrative Law to readopt
5 the regulation as an emergency regulation pursuant to Section
6 11346.1 of the Government Code.

7 (i) An urban retail water supplier shall be granted an extension
8 to July 1, 2011, for adoption of an urban water management plan
9 pursuant to Part 2.6 (commencing with Section 10610) due in 2010
10 to allow use of technical methodologies developed by the
11 department pursuant to paragraph (4) of subdivision (b) and
12 subdivision (g). An urban retail water supplier that adopts an
13 urban water management plan due in 2010 that does not use the
14 methodologies developed by the department pursuant to subdivision
15 (g) shall amend the plan by July 1, 2011, to comply with this part.

16 10608.22. Notwithstanding the method adopted by an urban
17 retail water supplier pursuant to Section 10608.20, an urban retail
18 water supplier's per capita daily water use reduction shall be no
19 less than 5 percent of base daily per capita water use as defined
20 in paragraph (3) of subdivision (b) of Section 10608.12. This
21 section does not apply to an urban retail water supplier with a
22 base daily per capita water use at or below 100 gallons per capita
23 per day.

24 10608.24. (a) Each urban retail water supplier shall meet its
25 interim urban water use target by December 31, 2015.

26 (b) Each urban retail water supplier shall meet its urban water
27 use target by December 31, 2020.

28 (c) An urban retail water supplier's compliance daily per capita
29 water use shall be the measure of progress toward achievement
30 of its urban water use target.

31 (d) (1) When determining compliance daily per capita water
32 use, an urban retail water supplier may consider the following
33 factors:

34 (A) Differences in evapotranspiration and rainfall in the baseline
35 period compared to the compliance reporting period.

36 (B) Substantial changes to commercial or industrial water use
37 resulting from increased business output and economic
38 development that have occurred during the reporting period.

39 (C) Substantial changes to institutional water use resulting from
40 fire suppression services or other extraordinary events, or from

1 new or expanded operations, that have occurred during the
2 reporting period.

3 (2) If the urban retail water supplier elects to adjust its estimate
4 of compliance daily per capita water use due to one or more of
5 the factors described in paragraph (1), it shall provide the basis
6 for, and data supporting, the adjustment in the report required by
7 Section 10608.40.

8 (e) When developing the urban water use target pursuant to
9 Section 10608.20, an urban retail water supplier that has a
10 substantial percentage of industrial water use in its service area,
11 may exclude process water from the calculation of gross water
12 use to avoid a disproportionate burden on another customer sector.

13 (f) (1) An urban retail water supplier that includes agricultural
14 water use in an urban water management plan pursuant to Part
15 2.6 (commencing with Section 10610) may include the agricultural
16 water use in determining gross water use. An urban retail water
17 supplier that includes agricultural water use in determining gross
18 water use and develops its urban water use target pursuant to
19 paragraph (2) of subdivision (b) of Section 10608.20 shall use a
20 water efficient standard for agricultural irrigation of 100 percent
21 of reference evapotranspiration multiplied by the crop coefficient
22 for irrigated acres.

23 (2) An urban retail water supplier, that is also an agricultural
24 water supplier, is not subject to the requirements of Chapter 4
25 (commencing with Section 10608.48), if the agricultural water use
26 is incorporated into its urban water use target pursuant to
27 paragraph (1).

28 10608.26. (a) In complying with this part, an urban retail
29 water supplier shall conduct at least one public hearing to
30 accomplish all of the following:

31 (1) Allow community input regarding the urban retail water
32 supplier's implementation plan for complying with this part.

33 (2) Consider the economic impacts of the urban retail water
34 supplier's implementation plan for complying with this part.

35 (3) Adopt a method, pursuant to subdivision (b) of Section
36 10608.20, for determining its urban water use target.

37 (b) In complying with this part, an urban retail water supplier
38 may meet its urban water use target through efficiency
39 improvements in any combination among its customer sectors. An

1 *urban retail water supplier shall avoid placing a disproportionate*
2 *burden on any customer sector.*

3 *(c) For an urban retail water supplier that supplies water to a*
4 *United States Department of Defense military installation, the*
5 *urban retail water supplier's implementation plan for complying*
6 *with this part shall consider the United States Department of*
7 *Defense military installation's requirements under federal*
8 *Executive Order 13423.*

9 *(d) (1) Any ordinance or resolution adopted by an urban retail*
10 *water supplier after the effective date of this section shall not*
11 *require existing customers as of the effective date of this section,*
12 *to undertake changes in product formulation, operations, or*
13 *equipment that would reduce process water use, but may provide*
14 *technical assistance and financial incentives to those customers*
15 *to implement efficiency measures for process water. This section*
16 *shall not limit an ordinance or resolution adopted pursuant to a*
17 *declaration of drought emergency by an urban retail water*
18 *supplier.*

19 *(2) This part shall not be construed or enforced so as to interfere*
20 *with the requirements of Chapter 4 (commencing with Section*
21 *113980) to Chapter 13 (commencing with Section 114380),*
22 *inclusive, of Part 7 of Division 104 of the Health and Safety Code,*
23 *or any requirement or standard for the protection of public health,*
24 *public safety, or worker safety established by federal, state, or*
25 *local government or recommended by recognized standard setting*
26 *organizations or trade associations.*

27 *10608.28. (a) An urban retail water supplier may meet its*
28 *urban water use target within its retail service area, or through*
29 *mutual agreement, by any of the following:*

30 *(1) Through an urban wholesale water supplier.*

31 *(2) Through a regional agency authorized to plan and implement*
32 *water conservation, including, but not limited to, an agency*
33 *established under the Bay Area Water Supply and Conservation*
34 *Agency Act (Division 31 (commencing with Section 81300)).*

35 *(3) Through a regional water management group as defined in*
36 *Section 10537.*

37 *(4) By an integrated regional water management funding area.*

38 *(5) By hydrologic region.*

39 *(6) Through other appropriate geographic scales for which*
40 *computation methods have been developed by the department.*

1 (b) A regional water management group, with the written
2 consent of its member agencies, may undertake any or all planning,
3 reporting, and implementation functions under this chapter for
4 the member agencies that consent to those activities. Any data or
5 reports shall provide information both for the regional water
6 management group and separately for each consenting urban
7 retail water supplier and urban wholesale water supplier.

8 10608.32. All costs incurred pursuant to this part by a water
9 utility regulated by the Public Utilities Commission may be
10 recoverable in rates subject to review and approval by the Public
11 Utilities Commission, and may be recorded in a memorandum
12 account and reviewed for reasonableness by the Public Utilities
13 Commission.

14 10608.36. Urban wholesale water suppliers shall include in
15 the urban water management plans required pursuant to Part 2.6
16 (commencing with Section 10610) an assessment of their present
17 and proposed future measures, programs, and policies to help
18 achieve the water use reductions required by this part.

19 10608.40. Urban water retail suppliers shall report to the
20 department on their progress in meeting their urban water use
21 targets as part of their urban water management plans submitted
22 pursuant to Section 10631. The data shall be reported using a
23 standardized form developed pursuant to Section 10608.52.

24 10608.42. The department shall review the 2015 urban water
25 management plans and report to the Legislature by December 31,
26 2016, on progress towards achieving a 20-percent reduction in
27 urban water use by December 31, 2020. The report shall include
28 recommendations on changes to water efficiency standards or
29 urban water use targets in order to achieve the 20-percent
30 reduction and to reflect updated efficiency information and
31 technology changes.

32 10608.43. The department, in conjunction with the California
33 Urban Water Conservation Council, by April 1, 2010, shall
34 convene a representative task force consisting of academic experts,
35 urban retail water suppliers, environmental organizations,
36 commercial water users, industrial water users, and institutional
37 water users to develop alternative best management practices for
38 commercial, industrial, and institutional users and an assessment
39 of the potential statewide water use efficiency improvement in the
40 commercial, industrial, and institutional sectors that would result

1 from implementation of these best management practices. The
2 taskforce, in conjunction with the department, shall submit a report
3 to the Legislature by April 1, 2012, that shall include a review of
4 multiple sectors within commercial, industrial, and institutional
5 users and that shall recommend water use efficiency standards for
6 commercial, industrial, and institutional users among various
7 sectors of water use. The report shall include, but not be limited
8 to, the following:

9 (a) Appropriate metrics for evaluating commercial, industrial,
10 and institutional water use.

11 (b) Evaluation of water demands for manufacturing processes,
12 goods, and cooling.

13 (c) Evaluation of public infrastructure necessary for delivery
14 of recycled water to the commercial, industrial, and institutional
15 sectors.

16 (d) Evaluation of institutional and economic barriers to
17 increased recycled water use within the commercial, industrial,
18 and institutional sectors.

19 (e) Identification of technical feasibility and cost of the best
20 management practices to achieve more efficient water use statewide
21 in the commercial, industrial, and institutional sectors that is
22 consistent with the public interest and reflects past investments in
23 water use efficiency.

24 10608.44. Each state agency shall reduce water use on facilities
25 it operates to support urban retail water suppliers in meeting the
26 target identified in Section 10608.16.

27

28 *CHAPTER 4. AGRICULTURAL WATER SUPPLIERS*

29

30 10608.48. (a) On or before July 31, 2012, an agricultural
31 water supplier shall implement efficient water management
32 practices pursuant to subdivisions (b) and (c).

33 (b) Agricultural water suppliers shall implement all of the
34 following critical efficient management practices:

35 (1) Measure the volume of water delivered to customers with
36 sufficient accuracy to comply with subdivision (a) of Section 531.10
37 and to implement volumetric pricing pursuant to paragraph (2).

38 (2) Adopt a pricing structure for water customers based at least
39 in part on quantity delivered.

- 1 (c) Agricultural water suppliers shall implement additional
2 efficient management practices, including, but not limited to,
3 practices to accomplish all of the following, if the measures are
4 locally cost effective and technically feasible:
- 5 (1) Facilitate alternative land use for lands with exceptionally
6 high water duties or whose irrigation contributes to significant
7 problems, including drainage.
 - 8 (2) Facilitate use of available recycled water that otherwise
9 would not be used beneficially, meets all health and safety criteria,
10 and does not harm crops or soils.
 - 11 (3) Facilitate the financing of capital improvements for on-farm
12 irrigation systems.
 - 13 (4) Implement an incentive pricing structure that promotes one
14 or more of the following goals:
 - 15 (A) More efficient water use at the farm level.
 - 16 (B) Conjunctive use of groundwater.
 - 17 (C) Appropriate increase of groundwater recharge.
 - 18 (D) Reduction in problem drainage.
 - 19 (E) Improved management of environmental resources.
 - 20 (F) Effective management of all water sources throughout the
21 year by adjusting seasonal pricing structures based on current
22 conditions.
 - 23 (5) Expand line or pipe distribution systems, and construct
24 regulatory reservoirs to increase distribution system flexibility
25 and capacity, decrease maintenance, and reduce seepage.
 - 26 (6) Increase flexibility in water ordering by, and delivery to,
27 water customers within operational limits.
 - 28 (7) Construct and operate supplier spill and tailwater recovery
29 systems.
 - 30 (8) Increase planned conjunctive use of surface water and
31 groundwater within the supplier service area.
 - 32 (9) Automate canal control structures.
 - 33 (10) Facilitate or promote customer pump testing and
34 evaluation.
 - 35 (11) Designate a water conservation coordinator who will
36 develop and implement the water management plan and prepare
37 progress reports.
 - 38 (12) Provide for the availability of water management services
39 to water users. These services may include, but are not limited to,
40 all of the following:

- 1 (A) *On-farm irrigation and drainage system evaluations.*
2 (B) *Normal year and real-time irrigation scheduling and crop*
3 *evapotranspiration information.*
4 (C) *Surface water, groundwater, and drainage water quantity*
5 *and quality data.*
6 (D) *Agricultural water management educational programs and*
7 *materials for farmers, staff, and the public.*
8 (13) *Evaluate the policies of agencies that provide the supplier*
9 *with water to identify the potential for institutional changes to*
10 *allow more flexible water deliveries and storage.*
11 (14) *Evaluate and improve the efficiencies of the supplier's*
12 *pumps.*
13 (d) *Agricultural water suppliers shall include in the agricultural*
14 *water management plans required pursuant to Part 2.8*
15 *(commencing with Section 10800) a report on which efficient water*
16 *management practices have been implemented and are planned*
17 *to be implemented, an estimate of the water use efficiency*
18 *improvements that have occurred since the last report, and an*
19 *estimate of the water use efficiency improvements estimated to*
20 *occur five and 10 years in the future. If an agricultural water*
21 *supplier determines that an efficient water management practice*
22 *is not locally cost effective or technically feasible, the supplier*
23 *shall submit information documenting that determination.*
24 (e) *The data shall be reported using a standardized form*
25 *developed pursuant to Section 10608.52.*
26 (f) *An agricultural water supplier may meet the requirements*
27 *of subdivisions (d) and (e) by submitting to the department a water*
28 *conservation plan submitted to the United States Bureau of*
29 *Reclamation that meets the requirements described in Section*
30 *10828.*
31 (g) *On or before December 31, 2013, December 31, 2016, and*
32 *December 31, 2021, the department, in consultation with the board,*
33 *shall submit to the Legislature a report on the agricultural efficient*
34 *water management practices that have been implemented and are*
35 *planned to be implemented and an assessment of the manner in*
36 *which the implementation of those efficient water management*
37 *practices has affected and will affect agricultural operations,*
38 *including estimated water use efficiency improvements, if any.*
39 (h) *The department may update the efficient water management*
40 *practices required pursuant to subdivision (c), in consultation with*

1 *the Agricultural Water Management Council, the United States*
 2 *Bureau of Reclamation, and the board. All efficient water*
 3 *management practices for agricultural water use pursuant to this*
 4 *chapter shall be adopted or revised by the department only after*
 5 *the department conducts public hearings to allow participation of*
 6 *the diverse geographical areas and interests of the state.*

7 (i) (1) *The department shall adopt regulations that provide for*
 8 *a range of options that agricultural water suppliers may use or*
 9 *implement to comply with the measurement requirement in*
 10 *paragraph (1) of subdivision (b).*

11 (2) *The initial adoption of a regulation authorized by this*
 12 *subdivision is deemed to address an emergency, for purposes of*
 13 *Sections 11346.1 and 11349.6 of the Government Code, and the*
 14 *department is hereby exempted for that purpose from the*
 15 *requirements of subdivision (b) of Section 11346.1 of the*
 16 *Government Code. After the initial adoption of an emergency*
 17 *regulation pursuant to this subdivision, the department shall not*
 18 *request approval from the Office of Administrative Law to readopt*
 19 *the regulation as an emergency regulation pursuant to Section*
 20 *11346.1 of the Government Code.*

21
 22 *CHAPTER 5. SUSTAINABLE WATER MANAGEMENT*

23
 24 10608.50. (a) *The department, in consultation with the board,*
 25 *shall promote implementation of regional water resources*
 26 *management practices through increased incentives and removal*
 27 *of barriers consistent with state and federal law. Potential changes*
 28 *may include, but are not limited to, all of the following:*

29 (1) *Revisions to the requirements for urban and agricultural*
 30 *water management plans.*

31 (2) *Revisions to the requirements for integrated regional water*
 32 *management plans.*

33 (3) *Revisions to the eligibility for state water management grants*
 34 *and loans.*

35 (4) *Revisions to state or local permitting requirements that*
 36 *increase water supply opportunities, but do not weaken water*
 37 *quality protection under state and federal law.*

38 (5) *Increased funding for research, feasibility studies, and*
 39 *project construction.*

1 (6) Expanding technical and educational support for local land
2 use and water management agencies.

3 (b) No later than January 1, 2011, and updated as part of the
4 California Water Plan, the department, in consultation with the
5 board, and with public input, shall propose new statewide targets,
6 or review and update existing statewide targets, for regional water
7 resources management practices, including, but not limited to,
8 recycled water, brackish groundwater desalination, and infiltration
9 and direct use of urban stormwater runoff.

10
11 *CHAPTER 6. STANDARDIZED DATA COLLECTION*
12

13 10608.52. (a) The department, in consultation with the board,
14 the California Bay-Delta Authority or its successor agency, the
15 State Department of Public Health, and the Public Utilities
16 Commission, shall develop a single standardized water use
17 reporting form to meet the water use information needs of each
18 agency, including the needs of urban water suppliers that elect to
19 determine and report progress toward achieving targets on a
20 regional basis as provided in subdivision (a) of Section 10608.28.

21 (b) At a minimum, the form shall be developed to accommodate
22 information sufficient to assess an urban water supplier's
23 compliance with conservation targets pursuant to Section 10608.24
24 and an agricultural water supplier's compliance with
25 implementation of efficient water management practices pursuant
26 to subdivision (a) of Section 10608.48. The form shall
27 accommodate reporting by urban water suppliers on an individual
28 or regional basis as provided in subdivision (a) of Section
29 10608.28.

30
31 *CHAPTER 7. FUNDING PROVISIONS*
32

33 10608.56. (a) On and after July 1, 2016, an urban retail water
34 supplier is not eligible for a water grant or loan awarded or
35 administered by the state unless the supplier complies with this
36 part.

37 (b) On and after July 1, 2013, an agricultural water supplier is
38 not eligible for a water grant or loan awarded or administered by
39 the state unless the supplier complies with this part.

1 (c) Notwithstanding subdivision (a), the department shall
2 determine that an urban retail water supplier is eligible for a water
3 grant or loan even though the supplier has not met the per capita
4 reductions required pursuant to Section 10608.24, if the urban
5 retail water supplier has submitted to the department for approval
6 a schedule, financing plan, and budget, to be included in the grant
7 or loan agreement, for achieving the per capita reductions. The
8 supplier may request grant or loan funds to achieve the per capita
9 reductions to the extent the request is consistent with the eligibility
10 requirements applicable to the water funds.

11 (d) Notwithstanding subdivision (b), the department shall
12 determine that an agricultural water supplier is eligible for a water
13 grant or loan even though the supplier is not implementing all of
14 the efficient water management practices described in Section
15 10608.48, if the agricultural water supplier has submitted to the
16 department for approval a schedule, financing plan, and budget,
17 to be included in the grant or loan agreement, for implementation
18 of the efficient water management practices. The supplier may
19 request grant or loan funds to implement the efficient water
20 management practices to the extent the request is consistent with
21 the eligibility requirements applicable to the water funds.

22 (e) Notwithstanding subdivision (a), the department shall
23 determine that an urban retail water supplier is eligible for a water
24 grant or loan even though the supplier has not met the per capita
25 reductions required pursuant to Section 10608.24, if the urban
26 retail water supplier has submitted to the department for approval
27 documentation demonstrating that its entire service area qualifies
28 as a disadvantaged community.

29 (f) The department shall not deny eligibility to an urban retail
30 water supplier or agricultural water supplier in compliance with
31 the requirements of this part and Part 2.8 (commencing with
32 Section 10800), that is participating in a multiagency water project,
33 or an integrated regional water management plan, developed
34 pursuant to Section 75026 of the Public Resources Code, solely
35 on the basis that one or more of the agencies participating in the
36 project or plan is not implementing all of the requirements of this
37 part or Part 2.8 (commencing with Section 10800).

38 10608.60. (a) It is the intent of the Legislature that funds made
39 available by Section 75026 of the Public Resources Code should
40 be expended, consistent with Division 43 (commencing with Section

1 75001) of the Public Resources Code and upon appropriation by
 2 the Legislature, for grants to implement this part. In the allocation
 3 of funding, it is the intent of the Legislature that the department
 4 give consideration to disadvantaged communities to assist in
 5 implementing the requirements of this part.

6 (b) It is the intent of the Legislature that funds made available
 7 by Section 75041 of the Public Resources Code, should be
 8 expended, consistent with Division 43 (commencing with Section
 9 75001) of the Public Resources Code and upon appropriation by
 10 the Legislature, for direct expenditures to implement this part.

11
 12 *CHAPTER 8. QUANTIFYING AGRICULTURAL WATER USE*
 13 *EFFICIENCY*
 14

15 10608.64. The department, in consultation with the Agricultural
 16 Water Management Council, academic experts, and other
 17 stakeholders, shall develop a methodology for quantifying the
 18 efficiency of agricultural water use. Alternatives to be assessed
 19 shall include, but not be limited to, determination of efficiency
 20 levels based on crop type or irrigation system distribution
 21 uniformity. On or before December 31, 2011, the department shall
 22 report to the Legislature on a proposed methodology and a plan
 23 for implementation. The plan shall include the estimated
 24 implementation costs and the types of data needed to support the
 25 methodology. Nothing in this section authorizes the department
 26 to implement a methodology established pursuant to this section.

27 SEC. 69. Section 10631.5 of the Water Code is amended to
 28 read:

29 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and
 30 eligibility for, a water management grant or loan made to an urban
 31 water supplier and awarded or administered by the department,
 32 state board, or California Bay-Delta Authority or its successor
 33 agency shall be conditioned on the implementation of the water
 34 demand management measures described in Section 10631, as
 35 determined by the department pursuant to subdivision (b).

36 (2) For the purposes of this section, water management grants
 37 and loans include funding for programs and projects for surface
 38 water or groundwater storage, recycling, desalination, water
 39 conservation, water supply reliability, and water supply
 40 augmentation. This section does not apply to water management

1 projects funded by the *federal* American Recovery and
2 Reinvestment Act of 2009 (Public Law 111-5).

3 (3) Notwithstanding paragraph (1), the department shall
4 determine that an urban water supplier is eligible for a water
5 management grant or loan even though the supplier is not
6 implementing all of the water demand management measures
7 described in Section 10631, if the urban water supplier has
8 submitted to the department for approval a schedule, financing
9 plan, and budget, to be included in the grant or loan agreement,
10 for implementation of the water demand management measures.
11 The supplier may request grant or loan funds to implement the
12 water demand management measures to the extent the request is
13 consistent with the eligibility requirements applicable to the water
14 management funds.

15 (4) (A) Notwithstanding paragraph (1), the department shall
16 determine that an urban water supplier is eligible for a water
17 management grant or loan even though the supplier is not
18 implementing all of the water demand management measures
19 described in Section 10631, if an urban water supplier submits to
20 the department for approval documentation demonstrating that a
21 water demand management measure is not locally cost effective.
22 If the department determines that the documentation submitted by
23 the urban water supplier fails to demonstrate that a water demand
24 management measure is not locally cost effective, the department
25 shall notify the urban water supplier and the agency administering
26 the grant or loan program within 120 days that the documentation
27 does not satisfy the requirements for an exemption, and include
28 in that notification a detailed statement to support the
29 determination.

30 (B) For purposes of this paragraph, “not locally cost effective”
31 means that the present value of the local benefits of implementing
32 a water demand management measure is less than the present value
33 of the local costs of implementing that measure.

34 (b) (1) The department, in consultation with the state board and
35 the California Bay-Delta Authority or its successor agency, and
36 after soliciting public comment regarding eligibility requirements,
37 shall develop eligibility requirements to implement the requirement
38 of paragraph (1) of subdivision (a). In establishing these eligibility
39 requirements, the department shall do both of the following:

1 (A) Consider the conservation measures described in the
2 Memorandum of Understanding Regarding Urban Water
3 Conservation in California, and alternative conservation approaches
4 that provide equal or greater water savings.

5 (B) Recognize the different legal, technical, fiscal, and practical
6 roles and responsibilities of wholesale water suppliers and retail
7 water suppliers.

8 (2) (A) For the purposes of this section, the department shall
9 determine whether an urban water supplier is implementing all of
10 the water demand management measures described in Section
11 10631 based on either, or a combination, of the following:

12 (i) Compliance on an individual basis.

13 (ii) Compliance on a regional basis. Regional compliance shall
14 require participation in a regional conservation program consisting
15 of two or more urban water suppliers that achieves the level of
16 conservation or water efficiency savings equivalent to the amount
17 of conservation or savings achieved if each of the participating
18 urban water suppliers implemented the water demand management
19 measures. The urban water supplier administering the regional
20 program shall provide participating urban water suppliers and the
21 department with data to demonstrate that the regional program is
22 consistent with this clause. The department shall review the data
23 to determine whether the urban water suppliers in the regional
24 program are meeting the eligibility requirements.

25 (B) The department may require additional information for any
26 determination pursuant to this section.

27 (3) The department shall not deny eligibility to an urban water
28 supplier in compliance with the requirements of this section that
29 is participating in a multiagency water project, or an integrated
30 regional water management plan, developed pursuant to Section
31 75026 of the Public Resources Code, solely on the basis that one
32 or more of the agencies participating in the project or plan is not
33 implementing all of the water demand management measures
34 described in Section 10631.

35 (c) In establishing guidelines pursuant to the specific funding
36 authorization for any water management grant or loan program
37 subject to this section, the agency administering the grant or loan
38 program shall include in the guidelines the eligibility requirements
39 developed by the department pursuant to subdivision (b).

1 (d) Upon receipt of a water management grant or loan
2 application by an agency administering a grant and loan program
3 subject to this section, the agency shall request an eligibility
4 determination from the department with respect to the requirements
5 of this section. The department shall respond to the request within
6 60 days of the request.

7 (e) The urban water supplier may submit to the department
8 copies of its annual reports and other relevant documents to assist
9 the department in determining whether the urban water supplier
10 is implementing or scheduling the implementation of water demand
11 management activities. In addition, for urban water suppliers that
12 are signatories to the Memorandum of Understanding Regarding
13 Urban Water Conservation in California and submit biennial reports
14 to the California Urban Water Conservation Council in accordance
15 with the memorandum, the department may use these reports to
16 assist in tracking the implementation of water demand management
17 measures.

18 (f) *This section shall remain in effect only until July 1, 2016,*
19 *and as of that date is repealed, unless a later enacted statute, that*
20 *is enacted before July 1, 2016, deletes or extends that date.*

21 *SEC. 70. Part 2.8 (commencing with Section 10800) of Division*
22 *6 of the Water Code is repealed.*

23 *SEC. 71. Part 2.8 (commencing with Section 10800) is added*
24 *to Division 6 of the Water Code, to read:*

25

26 *PART 2.8. AGRICULTURAL WATER MANAGEMENT*
27 *PLANNING*

28

29 *CHAPTER 1. GENERAL DECLARATIONS AND POLICY*

30

31 *10800. This part shall be known and may be cited as the*
32 *Agricultural Water Management Planning Act.*

33 *10801. The Legislature finds and declares all of the following:*

34 (a) *The waters of the state are a limited and renewable resource.*

35 (b) *The California Constitution requires that water in the state*
36 *be used in a reasonable and beneficial manner.*

37 (c) *Urban water districts are required to adopt water*
38 *management plans.*

39 (d) *The conservation of agricultural water supplies is of great*
40 *statewide concern.*

1 (e) *There is a great amount of reuse of delivered water, both*
2 *inside and outside the water service areas.*

3 (f) *Significant noncrop beneficial uses are associated with*
4 *agricultural water use, including streamflows and wildlife habitat.*

5 (g) *Significant opportunities exist in some areas, through*
6 *improved irrigation water management, to conserve water or to*
7 *reduce the quantity of highly saline or toxic drainage water.*

8 (h) *Changes in water management practices should be carefully*
9 *planned and implemented to minimize adverse effects on other*
10 *beneficial uses currently being served.*

11 (i) *Agricultural water suppliers that receive water from the*
12 *federal Central Valley Project are required by federal law to*
13 *prepare and implement water conservation plans.*

14 (j) *Agricultural water users applying for a permit to appropriate*
15 *water from the board are required to prepare and implement water*
16 *conservation plans.*

17 10802. *The Legislature finds and declares that all of the*
18 *following are the policies of the state:*

19 (a) *The conservation of water shall be pursued actively to*
20 *protect both the people of the state and the state's water resources.*

21 (b) *The conservation of agricultural water supplies shall be an*
22 *important criterion in public decisions with regard to water.*

23 (c) *Agricultural water suppliers shall be required to prepare*
24 *water management plans to achieve conservation of water.*

25
26 *CHAPTER 2. DEFINITIONS*
27

28 10810. *Unless the context otherwise requires, the definitions*
29 *set forth in this chapter govern the construction of this part.*

30 10811. *“Agricultural water management plan” or “plan”*
31 *means an agricultural water management plan prepared pursuant*
32 *to this part.*

33 10812. *“Agricultural water supplier” has the same meaning*
34 *as defined in Section 10608.12.*

35 10813. *“Customer” means a purchaser of water from a water*
36 *supplier who uses water for agricultural purposes.*

37 10814. *“Person” means any individual, firm, association,*
38 *organization, partnership, business, trust, corporation, company,*
39 *public agency, or any agency of that entity.*

1 10815. “Public agency” means any city, county, city and
2 county, special district, or other public entity.

3 10816. “Urban water supplier” has the same meaning as set
4 forth in Section 10617.

5 10817. “Water conservation” means the efficient management
6 of water resources for beneficial uses, preventing waste, or
7 accomplishing additional benefits with the same amount of water.

8

9 CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

10

11 Article 1. General Provisions

12

13 10820. (a) An agricultural water supplier shall prepare and
14 adopt an agricultural water management plan in the manner set
15 forth in this chapter on or before December 31, 2012, and shall
16 update that plan on December 31, 2015, and on or before
17 December 31 every five years thereafter.

18 (b) Every supplier that becomes an agricultural water supplier
19 after December 31, 2012, shall prepare and adopt an agricultural
20 water management plan within one year after the date it has
21 become an agricultural water supplier.

22 (c) A water supplier that indirectly provides water to customers
23 for agricultural purposes shall not prepare a plan pursuant to this
24 part without the consent of each agricultural water supplier that
25 directly provides that water to its customers.

26 10821. (a) An agricultural water supplier required to prepare
27 a plan pursuant to this part shall notify each city or county within
28 which the supplier provides water supplies that the agricultural
29 water supplier will be preparing the plan or reviewing the plan
30 and considering amendments or changes to the plan. The
31 agricultural water supplier may consult with, and obtain comments
32 from, each city or county that receives notice pursuant to this
33 subdivision.

34 (b) The amendments to, or changes in, the plan shall be adopted
35 and submitted in the manner set forth in Article 3 (commencing
36 with Section 10840).

Article 2. Contents of Plans

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10825. (a) *It is the intent of the Legislature in enacting this part to allow levels of water management planning commensurate with the numbers of customers served and the volume of water supplied.*

(b) *This part does not require the implementation of water conservation programs or practices that are not locally cost effective.*

10826. *An agricultural water management plan shall be adopted in accordance with this chapter. The plan shall do all of the following:*

(a) *Describe the agricultural water supplier and the service area, including all of the following:*

- (1) *Size of the service area.*
- (2) *Location of the service area and its water management facilities.*
- (3) *Terrain and soils.*
- (4) *Climate.*
- (5) *Operating rules and regulations.*
- (6) *Water delivery measurements or calculations.*
- (7) *Water rate schedules and billing.*
- (8) *Water shortage allocation policies.*

(b) *Describe the quantity and quality of water resources of the agricultural water supplier, including all of the following:*

- (1) *Surface water supply.*
- (2) *Groundwater supply.*
- (3) *Other water supplies.*
- (4) *Source water quality monitoring practices.*
- (5) *Water uses within the agricultural water supplier's service area, including all of the following:*
 - (A) *Agricultural.*
 - (B) *Environmental.*
 - (C) *Recreational.*
 - (D) *Municipal and industrial.*
 - (E) *Groundwater recharge.*
 - (F) *Transfers and exchanges.*
 - (G) *Other water uses.*
- (6) *Drainage from the water supplier's service area.*
- (7) *Water accounting, including all of the following:*

- 1 (A) *Quantifying the water supplier’s water supplies.*
- 2 (B) *Tabulating water uses.*
- 3 (C) *Overall water budget.*
- 4 (8) *Water supply reliability.*
- 5 (c) *Include an analysis, based on available information, of the*
- 6 *effect of climate change on future water supplies.*
- 7 (d) *Describe previous water management activities.*
- 8 (e) *Include in the plan the water use efficiency information*
- 9 *required pursuant to Section 10608.48.*

10 10827. *Agricultural water suppliers that are members of the*
 11 *Agricultural Water Management Council, and that submit water*
 12 *management plans to that council in accordance with the*
 13 *“Memorandum of Understanding Regarding Efficient Water*
 14 *Management Practices By Agricultural Water Suppliers In*
 15 *California,” dated January 1, 1999, may submit the water*
 16 *management plans identifying water demand management*
 17 *measures currently being implemented, or scheduled for*
 18 *implementation, to satisfy the requirements of Section 10826.*

19 10828. (a) *Agricultural water suppliers that are required to*
 20 *submit water conservation plans to the United States Bureau of*
 21 *Reclamation pursuant to either the Central Valley Project*
 22 *Improvement Act (Public Law 102-575) or the Reclamation Reform*
 23 *Act of 1982, or both, may submit those water conservation plans*
 24 *to satisfy the requirements of Section 10826, if both of the following*
 25 *apply:*

26 (1) *The agricultural water supplier has adopted and submitted*
 27 *the water conservation plan to the United States Bureau of*
 28 *Reclamation within the previous four years.*

29 (2) *The United States Bureau of Reclamation has accepted the*
 30 *water conservation plan as adequate.*

31 (b) *This part does not require agricultural water suppliers that*
 32 *are required to submit water conservation plans to the United*
 33 *States Bureau of Reclamation pursuant to either the Central Valley*
 34 *Project Improvement Act (Public Law 102-575) or the Reclamation*
 35 *Reform Act of 1982, or both, to prepare and adopt water*
 36 *conservation plans according to a schedule that is different from*
 37 *that required by the United States Bureau of Reclamation.*

38 10829. *An agricultural water supplier may satisfy the*
 39 *requirements of this part by adopting an urban water management*
 40 *plan pursuant to Part 2.6 (commencing with Section 10610) or by*

1 participation in area wide, regional, watershed, or basinwide
2 water management planning if those plans meet or exceed the
3 requirements of this part.

4

5 Article 3. Adoption and Implementation of Plans

6

7 10840. Every agricultural water supplier shall prepare its plan
8 pursuant to Article 2 (commencing with Section 10825).

9 10841. Prior to adopting a plan, the agricultural water supplier
10 shall make the proposed plan available for public inspection, and
11 shall hold a public hearing on the plan. Prior to the hearing, notice
12 of the time and place of hearing shall be published within the
13 jurisdiction of the publicly owned agricultural water supplier
14 pursuant to Section 6066 of the Government Code. A privately
15 owned agricultural water supplier shall provide an equivalent
16 notice within its service area and shall provide a reasonably
17 equivalent opportunity that would otherwise be afforded through
18 a public hearing process for interested parties to provide input on
19 the plan. After the hearing, the plan shall be adopted as prepared
20 or as modified during or after the hearing.

21 10842. An agricultural water supplier shall implement the plan
22 adopted pursuant to this chapter in accordance with the schedule
23 set forth in its plan, as determined by the governing body of the
24 agricultural water supplier.

25 10843. (a) An agricultural water supplier shall submit to the
26 entities identified in subdivision (b) a copy of its plan no later than
27 30 days after the adoption of the plan. Copies of amendments or
28 changes to the plans shall be submitted to the entities identified
29 in subdivision (b) within 30 days after the adoption of the
30 amendments or changes.

31 (b) An agricultural water supplier shall submit a copy of its
32 plan and amendments or changes to the plan to each of the
33 following entities:

34 (1) The department.

35 (2) Any city, county, or city and county within which the
36 agricultural water supplier provides water supplies.

37 (3) Any groundwater management entity within which
38 jurisdiction the agricultural water supplier extracts or provides
39 water supplies.

1 (4) Any urban water supplier within which jurisdiction the
2 agricultural water supplier provides water supplies.

3 (5) Any city or county library within which jurisdiction the
4 agricultural water supplier provides water supplies.

5 (6) The California State Library.

6 (7) Any local agency formation commission serving a county
7 within which the agricultural water supplier provides water
8 supplies.

9 10844. (a) Not later than 30 days after the date of adopting
10 its plan, the agricultural water supplier shall make the plan
11 available for public review on the agricultural water supplier's
12 Internet Web site.

13 (b) An agricultural water supplier that does not have an Internet
14 Web site shall submit to the department, not later than 30 days
15 after the date of adopting its plan, a copy of the adopted plan in
16 an electronic format. The department shall make the plan available
17 for public review on the department's Internet Web site.

18 10845. (a) The department shall prepare and submit to the
19 Legislature, on or before December 31, 2013, and thereafter in
20 the years ending in six and years ending in one, a report
21 summarizing the status of the plans adopted pursuant to this part.

22 (b) The report prepared by the department shall identify the
23 outstanding elements of any plan adopted pursuant to this part.
24 The report shall include an evaluation of the effectiveness of this
25 part in promoting efficient agricultural water management
26 practices and recommendations relating to proposed changes to
27 this part, as appropriate.

28 (c) The department shall provide a copy of the report to each
29 agricultural water supplier that has submitted its plan to the
30 department. The department shall also prepare reports and provide
31 data for any legislative hearing designed to consider the
32 effectiveness of plans submitted pursuant to this part.

33 (d) This section does not authorize the department, in preparing
34 the report, to approve, disapprove, or critique individual plans
35 submitted pursuant to this part.

36

37 CHAPTER 4. MISCELLANEOUS PROVISIONS

38

39 10850. (a) Any action or proceeding to attack, review, set
40 aside, void, or annul the acts or decisions of an agricultural water

1 *supplier on the grounds of noncompliance with this part shall be*
2 *commenced as follows:*

3 *(1) An action or proceeding alleging failure to adopt a plan*
4 *shall be commenced within 18 months after that adoption is*
5 *required by this part.*

6 *(2) Any action or proceeding alleging that a plan, or action*
7 *taken pursuant to the plan, does not comply with this part shall*
8 *be commenced within 120 days after submitting the plan or*
9 *amendments to the plan to entities in accordance with Section*
10 *10844 or the taking of that action.*

11 *(b) In an action or proceeding to attack, review, set aside, void,*
12 *or annul a plan, or an action taken pursuant to the plan by an*
13 *agricultural water supplier, on the grounds of noncompliance with*
14 *this part, the inquiry shall extend only to whether there was a*
15 *prejudicial abuse of discretion. Abuse of discretion is established*
16 *if the agricultural water supplier has not proceeded in a manner*
17 *required by law, or if the action by the agricultural water supplier*
18 *is not supported by substantial evidence.*

19 *10851. The California Environmental Quality Act (Division*
20 *13 (commencing with Section 21000) of the Public Resources*
21 *Code) does not apply to the preparation and adoption of plans*
22 *pursuant to this part. This part does not exempt projects for*
23 *implementation of the plan or for expanded or additional water*
24 *supplies from the California Environmental Quality Act.*

25 *10852. An agricultural water supplier is not eligible for a water*
26 *grant or loan awarded or administered by the state unless the*
27 *supplier complies with this part.*

28 *10853. No agricultural water supplier that provides water to*
29 *less than 25,000 irrigated acres, excluding recycled water, shall*
30 *be required to implement the requirements of this part or Part*
31 *2.55 (commencing with Section 10608) unless sufficient funding*
32 *has specifically been provided to that water supplier for these*
33 *purposes.*

34 *SEC. 72. Part 2.11 (commencing with Section 10920) is added*
35 *to Division 6 of the Water Code, to read:*

1 PART 2.11. GROUNDWATER MONITORING

2
3 CHAPTER 1. GENERAL PROVISIONS4
5 10920. (a) *It is the intent of the Legislature that on or before*
6 *January 1, 2012, groundwater elevations in all groundwater basins*
7 *and subbasins be regularly and systematically monitored locally*
8 *and that the resulting groundwater information be made readily*
9 *and widely available.*10 (b) *It is further the intent of the Legislature that the department*
11 *continue to maintain its current network of monitoring wells,*
12 *including groundwater elevation and groundwater quality*
13 *monitoring wells, and that the department continue to coordinate*
14 *monitoring with local entities.*15 10921. *This part does not require the monitoring of*
16 *groundwater elevations in an area that is not within a basin or*
17 *subbasin.*18 10922. *This part does not expand or otherwise affect the powers*
19 *or duties of the department relating to groundwater beyond those*
20 *expressly granted by this part.*21
22 CHAPTER 2. DEFINITIONS23
24 10925. *Unless the context otherwise requires, the definitions*
25 *set forth in this section govern the construction of this part.*26 (a) *“Basin” or “subbasin” means a groundwater basin or*
27 *subbasin identified and defined in the department’s Bulletin No.*
28 *118.*29 (b) *“Bulletin No. 118” means the department’s report entitled*
30 *“California’s Groundwater: Bulletin 118” updated in 2003, or as*
31 *it may be subsequently updated or revised in accordance with*
32 *Section 12924.*33 (c) *“Monitoring entity” means a party conducting or*
34 *coordinating the monitoring of groundwater elevations pursuant*
35 *to this part.*36 (d) *“Monitoring functions” and “groundwater monitoring*
37 *functions” means the monitoring of groundwater elevations, the*
38 *reporting of those elevations to the department, and other related*
39 *actions required by this part.*

1 (e) “Monitoring groundwater elevations” means monitoring
2 groundwater elevations, coordinating the monitoring of
3 groundwater elevations, or both.

4 (f) “Voluntary cooperative groundwater monitoring
5 association” means an association formed for the purposes of
6 monitoring groundwater elevations pursuant to Section 10935.

7
8 CHAPTER 3. GROUNDWATER MONITORING PROGRAM
9

10 10927. Any of the following entities may assume responsibility
11 for monitoring and reporting groundwater elevations in all or a
12 part of a basin or subbasin in accordance with this part:

13 (a) A watermaster or water management engineer appointed
14 by a court or pursuant to statute to administer a final judgment
15 determining rights to groundwater.

16 (b) (1) A groundwater management agency with statutory
17 authority to manage groundwater pursuant to its principal act that
18 is monitoring groundwater elevations in all or a part of a
19 groundwater basin or subbasin on or before January 1, 2010.

20 (2) A water replenishment district established pursuant to
21 Division 18 (commencing with Section 60000). This part does not
22 expand or otherwise affect the authority of a water replenishment
23 district relating to monitoring groundwater elevations.

24 (c) A local agency that is managing all or part of a groundwater
25 basin or subbasin pursuant to Part 2.75 (commencing with Section
26 10750) and that was monitoring groundwater elevations in all or
27 a part of a groundwater basin or subbasin on or before January
28 1, 2010, or a local agency or county that is managing all or part
29 of a groundwater basin or subbasin pursuant to any other legally
30 enforceable groundwater management plan with provisions that
31 are substantively similar to those described in that part and that
32 was monitoring groundwater elevations in all or a part of a
33 groundwater basin or subbasin on or before January 1, 2010.

34 (d) A local agency that is managing all or part of a groundwater
35 basin or subbasin pursuant to an integrated regional water
36 management plan prepared pursuant to Part 2.2 (commencing
37 with Section 10530) that includes a groundwater management
38 component that complies with the requirements of Section 10753.7.

39 (e) A county that is not managing all or a part of a groundwater
40 basin or subbasin pursuant to a legally enforceable groundwater

1 management plan with provisions that are substantively similar
2 to those described in Part 2.75 (commencing with Section 10750).

3 (f) A voluntary cooperative groundwater monitoring association
4 formed pursuant to Section 10935.

5 10928. (a) Any entity described in subdivision (a) or (b) of
6 Section 10927 that seeks to assume groundwater monitoring
7 functions in accordance with this part shall notify the department,
8 in writing, on or before January 1, 2011. The notification shall
9 include all of the following information:

10 (1) The entity’s name, address, telephone number, and any other
11 relevant contact information.

12 (2) The specific authority described in Section 10927 pursuant
13 to which the entity qualifies to assume the groundwater monitoring
14 functions.

15 (3) A map showing the area for which the entity is requesting
16 to perform the groundwater monitoring functions.

17 (4) A statement that the entity will comply with all of the
18 requirements of this part.

19 (b) Any entity described in subdivision (c), (d), (e), or (f) of
20 Section 10927 that seeks to assume groundwater monitoring
21 functions in accordance with this part shall notify the department,
22 in writing, by January 1, 2011. The information provided in the
23 notification shall include all of the following:

24 (1) The entity’s name, address, telephone number, and any other
25 relevant contact information.

26 (2) The specific authority described in Section 10927 pursuant
27 to which the entity qualifies to assume the groundwater monitoring
28 functions.

29 (3) For entities that seek to qualify pursuant to subdivision (c)
30 or (d) of Section 10927, the notification shall also include a copy
31 of the current groundwater management plan or the groundwater
32 component of the integrated regional water management plan, as
33 appropriate.

34 (4) For entities that seek to qualify pursuant to subdivision (f)
35 of Section 10927, the notification shall include a statement of
36 intention to meet the requirements of Section 10935.

37 (5) A map showing the area for which the entity is proposing
38 to perform the groundwater monitoring functions.

39 (6) A statement that the entity will comply with all of the
40 requirements of this part.

1 (7) A statement describing the ability and qualifications of the
2 entity to conduct the groundwater monitoring functions required
3 by this part.

4 (c) The department may request additional information that it
5 deems necessary for the purposes of determining the area that is
6 proposed to be monitored or the qualifications of the entity to
7 perform the groundwater monitoring functions.

8 10929. (a) (1) The department shall review all notifications
9 received pursuant to Section 10928.

10 (2) Upon the receipt of a notification pursuant to subdivision
11 (a) of Section 10928, the department shall verify that the notifying
12 entity has the appropriate authority under subdivision (a) or (b)
13 of Section 10927.

14 (3) Upon the receipt of a notification pursuant to subdivision
15 (b) of Section 10928, the department shall do both of the following:

16 (A) Verify that each notification is complete.

17 (B) Assess the qualifications of the notifying party.

18 (b) If the department has questions about the completeness or
19 accuracy of a notification, or the qualifications of a party, the
20 department shall contact the party to resolve any deficiencies. If
21 the department is unable to resolve the deficiencies, the department
22 shall notify the party in writing that the notification will not be
23 considered further until the deficiencies are corrected.

24 (c) If the department determines that more than one party seeks
25 to become the monitoring entity for the same portion of a basin or
26 subbasin, the department shall consult with the interested parties
27 to determine which party will perform the monitoring functions.
28 In determining which party will perform the monitoring functions
29 under this part, the department shall follow the order in which
30 entities are identified in Section 10927.

31 (d) The department shall advise each party on the status of its
32 notification within three months of receiving the notification.

33 10930. Upon completion of each review pursuant to Section
34 10929, the department shall do both of the following if it determines
35 that a party will perform monitoring functions under this part:

36 (a) Notify the party in writing that it is a monitoring entity and
37 the specific portion of the basin or subbasin for which it shall
38 assume groundwater monitoring functions.

1 (b) Post on the department's Internet Web site information that
2 identifies the monitoring entity and the portion of the basin or
3 subbasin for which the monitoring entity will be responsible.

4 10931. (a) The department shall work cooperatively with each
5 monitoring entity to determine the manner in which groundwater
6 elevation information should be reported to the department
7 pursuant to this part. In determining what information should be
8 reported to the department, the department shall defer to existing
9 monitoring programs if those programs result in information that
10 demonstrates seasonal and long-term trends in groundwater
11 elevations. The department shall collaborate with the State
12 Department of Public Health to ensure that the information
13 reported to the department will not result in the inappropriate
14 disclosure of the physical address or geographical location of
15 drinking water sources, storage facilities, pumping operational
16 data, or treatment facilities.

17 (b) (1) For the purposes of this part, the department may
18 recommend improvements to an existing monitoring program,
19 including recommendations for additional monitoring wells.

20 (2) The department may not require additional monitoring wells
21 unless funds are provided for that purpose.

22 10932. Monitoring entities shall commence monitoring and
23 reporting groundwater elevations pursuant to this part on or before
24 January 1, 2012.

25 10933. (a) On or before January 1, 2012, the department shall
26 commence to identify the extent of monitoring of groundwater
27 elevations that is being undertaken within each basin and subbasin.

28 (b) The department shall prioritize groundwater basins and
29 subbasins for the purpose of implementing this section. In
30 prioritizing the basins and subbasins, the department shall, to the
31 extent data are available, consider all of the following:

32 (1) The population overlying the basin or subbasin.

33 (2) The rate of current and projected growth of the population
34 overlying the basin or subbasin.

35 (3) The number of public supply wells that draw from the basin
36 or subbasin.

37 (4) The total number of wells that draw from the basin or
38 subbasin.

39 (5) The irrigated acreage overlying the basin or subbasin.

1 (6) *The degree to which persons overlying the basin or subbasin*
2 *rely on groundwater as their primary source of water.*

3 (7) *Any documented impacts on the groundwater within the*
4 *basin or subbasin, including overdraft, subsidence, saline intrusion,*
5 *and other water quality degradation.*

6 (8) *Any other information determined to be relevant by the*
7 *department.*

8 (c) *If the department determines that all or part of a basin or*
9 *subbasin is not being monitored pursuant to this part, the*
10 *department shall do all of the following:*

11 (1) *Attempt to contact all well owners within the area not being*
12 *monitored.*

13 (2) *Determine if there is an interest in establishing any of the*
14 *following:*

15 (A) *A groundwater management plan pursuant to Part 2.75*
16 *(commencing with Section 10750).*

17 (B) *An integrated regional water management plan pursuant*
18 *to Part 2.2 (commencing with Section 10530) that includes a*
19 *groundwater management component that complies with the*
20 *requirements of Section 10753.7.*

21 (C) *A voluntary groundwater monitoring association pursuant*
22 *to Section 10935.*

23 (d) *If the department determines that there is sufficient interest*
24 *in establishing a plan or association described in paragraph (2)*
25 *of subdivision (c), or if the county agrees to perform the*
26 *groundwater monitoring functions in accordance with this part,*
27 *the department shall work cooperatively with the interested parties*
28 *to comply with the requirements of this part within two years.*

29 (e) *If the department determines, with regard to a basin or*
30 *subbasin, that there is insufficient interest in establishing a plan*
31 *or association described in paragraph (2) of subdivision (c), and*
32 *if the county decides not to perform the groundwater monitoring*
33 *and reporting functions of this part, the department shall do all*
34 *of the following:*

35 (1) *Identify any existing monitoring wells that overlie the basin*
36 *or subbasin that are owned or operated by the department or any*
37 *other state or federal agency.*

38 (2) *Determine whether the monitoring wells identified pursuant*
39 *to paragraph (1) provide sufficient information to demonstrate*
40 *seasonal and long-term trends in groundwater elevations.*

1 (3) If the department determines that the monitoring wells
2 identified pursuant to paragraph (1) provide sufficient information
3 to demonstrate seasonal and long-term trends in groundwater
4 elevations, the department shall not perform groundwater
5 monitoring functions pursuant to Section 10934.

6 (4) If the department determines that the monitoring wells
7 identified pursuant to paragraph (1) provide insufficient
8 information to demonstrate seasonal and long-term trends in
9 groundwater elevations, and the State Mining and Geology Board
10 concurs with that determination, the department shall perform
11 groundwater monitoring functions pursuant to Section 10934.

12 10933.5. (a) Consistent with Section 10933, the department
13 shall perform the groundwater monitoring functions for those
14 portions of a basin or subbasin for which no monitoring entity has
15 agreed to perform the groundwater monitoring functions.

16 (b) Upon determining that it is required to perform groundwater
17 monitoring functions, the department shall notify both of the
18 following entities that it is forming the groundwater monitoring
19 district:

20 (1) Each well owner within the affected area.

21 (2) Each county that contains all or a part of the affected area.

22 (c) The department shall impose a charge on each well owner
23 for its share of the costs of the department to perform the
24 groundwater monitoring required under this part.

25 (d) The department shall not assess a fee or charge to recover
26 the costs for carrying out its power and duties under this part
27 except as provided in subdivision (c).

28 (e) The department may establish regulations to implement this
29 section.

30 10933.7. (a) If the department is required to perform
31 groundwater monitoring functions pursuant to Section 10933.5,
32 the county and the entities described in subdivisions (a) to (d),
33 inclusive, of Section 10927 shall not be eligible for a water grant
34 or loan awarded or administered by the state.

35 (b) Notwithstanding subdivision (a), the department shall
36 determine that an entity described in subdivision (a) is eligible for
37 a water grant or loan under the circumstances described in
38 subdivision (a) if the entity has submitted to the department for
39 approval documentation demonstrating that its entire service area
40 qualifies as a disadvantaged community.

1 10934. For purposes of this part, neither any entity described
2 in Section 10927, nor the department, shall have the authority to
3 do either of the following:

4 (a) To enter private property without the consent of the property
5 owner.

6 (b) To require a private property owner to submit groundwater
7 monitoring information to the entity.

8 10935. (a) A voluntary cooperative groundwater monitoring
9 association may be formed for the purposes of monitoring
10 groundwater elevations in accordance with this part. The
11 association may be established by contract, a joint powers
12 agreement, a memorandum of agreement, or other form of
13 agreement deemed acceptable by the department.

14 (b) Upon notification to the department by one or more entities
15 that seek to form a voluntary cooperative groundwater monitoring
16 association, the department shall work cooperatively with the
17 interested parties to facilitate the formation of the association.

18 (c) The contract or agreement shall include all of the following:

19 (1) The names of the participants.

20 (2) The boundaries of the area covered by the agreement.

21 (3) The name or names of the parties responsible for meeting
22 the requirements of this part.

23 (4) The method of recovering the costs associated with meeting
24 the requirements of this part.

25 (5) Other provisions that may be required by the department.

26 10936. Costs incurred by the department pursuant to this
27 chapter may be funded from unallocated bond revenues pursuant
28 to paragraph (12) of subdivision (a) of Section 75027 of the Public
29 Resources Code, to the extent those funds are available for those
30 purposes.

31 SEC. 73. Section 12924 of the Water Code is repealed.

32 ~~12924. (a) The department shall, in conjunction with other~~
33 ~~public agencies, conduct an investigation of the state's groundwater~~
34 ~~basins. The department shall identify the state's groundwater basins~~
35 ~~on the basis of geological and hydrological conditions and~~
36 ~~consideration of political boundary lines whenever practical. The~~
37 ~~department shall also investigate existing general patterns of~~
38 ~~groundwater pumping and groundwater recharge within such basins~~
39 ~~to the extent necessary to identify basins which are subject to~~
40 ~~critical conditions of overdraft.~~

1 ~~(b) The department shall report its findings to the Governor and~~
 2 ~~the Legislature not later than January 1, 1980.~~

3 *SEC. 74. Section 12924 is added to the Water Code, to read:*

4 *12924. (a) The department, in conjunction with other public*
 5 *agencies, shall conduct an investigation of the state's groundwater*
 6 *basins. The department shall identify the state's groundwater*
 7 *basins on the basis of geological and hydrological conditions and*
 8 *consideration of political boundary lines whenever practical. The*
 9 *department shall also investigate existing general patterns of*
 10 *groundwater pumping and groundwater recharge within those*
 11 *basins to the extent necessary to identify basins that are subject*
 12 *to critical conditions of overdraft.*

13 *(b) The department shall report its findings to the Governor*
 14 *and the Legislature not later than January 1, 2012, and thereafter*
 15 *in years ending in 5 or 0.*

16 *SEC. 75. Division 26.4 (commencing with Section 79400) of*
 17 *the Water Code is repealed.*

18 *SEC. 76. Division 35 (commencing with Section 85000) is*
 19 *added to the Water Code, to read:*

20
 21 *DIVISION 35. SACRAMENTO-SAN JOAQUIN DELTA*
 22 *REFORM ACT OF 2009*

23
 24 *PART 1. GENERAL PROVISIONS*

25
 26 *CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS*

27
 28 *85000. This division shall be known, and may be cited, as the*
 29 *Sacramento-San Joaquin Delta Reform Act of 2009.*

30 *85001. The Legislature finds and declares all of the following:*

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

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

1 *for a Delta Vision to the Governor and the Legislature on January*
2 *3, 2009.*

3 *(c) By enacting this division, it is the intent of the Legislature*
4 *to provide for the sustainable management of the Sacramento-San*
5 *Joaquin Delta ecosystem, to provide for a more reliable water*
6 *supply for the state, to protect and enhance the quality of water*
7 *supply from the Delta, and to establish a governance structure*
8 *that will direct efforts across state agencies to develop a legally*
9 *enforceable Delta Plan.*

10 *85002. The Legislature finds and declares that the*
11 *Sacramento-San Joaquin Delta, referred to as “the Delta” in this*
12 *division, is a critically important natural resource for California*
13 *and the nation. It serves Californians concurrently as both the hub*
14 *of the California water system and the most valuable estuary and*
15 *wetland ecosystem on the west coast of North and South America.*

16 *85003. The Legislature finds and declares all of the following:*

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

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

32 *(c) In 1933, the Legislature approved the California Central*
33 *Valley Project Act, which relied upon the transfer of Sacramento*
34 *River water south through the Delta and maintenance of a more*
35 *constant salinity regime by using upstream reservoir releases of*
36 *freshwater to create a hydraulic salinity barrier. As a result of the*
37 *operations of state and federal water projects, the natural salinity*
38 *variations in the Delta have been altered. Restoring a healthy*
39 *estuarine ecosystem in the Delta may require developing a more*
40 *natural salinity regime in parts of the Delta.*

1 85004. *The Legislature finds and declares all of the following:*

2 (a) *The economies of major regions of the state depend on the*
 3 *ability to use water within the Delta watershed or to import water*
 4 *from the Delta watershed. More than two-thirds of the residents*
 5 *of the state and more than two million acres of highly productive*
 6 *farm land receive water exported from the Delta watershed.*

7 (b) *Providing a more reliable water supply for the state involves*
 8 *implementation of water use efficiency and conservation projects,*
 9 *wastewater reclamation projects, desalination, and new and*
 10 *improved infrastructure, including water storage and Delta*
 11 *conveyance facilities.*

12

13 *CHAPTER 2. DELTA POLICY*

14

15 85020. *The policy of the State of California is to achieve the*
 16 *following objectives that the Legislature declares are inherent in*
 17 *the coequal goals for management of the Delta:*

18 (a) *Manage the Delta's water and environmental resources and*
 19 *the water resources of the state over the long term.*

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

22 (c) *Restore the Delta ecosystem, including its fisheries and*
 23 *wildlife, as the heart of a healthy estuary and wetland ecosystem.*

24 (d) *Promote statewide water conservation, water use efficiency,*
 25 *and sustainable water use.*

26 (e) *Improve water quality to protect human health and the*
 27 *environment consistent with achieving water quality objectives in*
 28 *the Delta.*

29 (f) *Improve the water conveyance system and expand statewide*
 30 *water storage.*

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

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

37 85021. *The policy of the State of California is to reduce*
 38 *reliance on the Delta in meeting California's future water supply*
 39 *needs through a statewide strategy of investing in improved*
 40 *regional supplies, conservation, and water use efficiency. Each*

1 region that depends on water from the Delta watershed shall
2 improve its regional self-reliance for water through investment in
3 water use efficiency, water recycling, advanced water technologies,
4 local and regional water supply projects, and improved regional
5 coordination of local and regional water supply efforts.

6 85022. (a) It is the intent of the Legislature that state and local
7 land use actions identified as “covered actions” pursuant to
8 Section 85058.5 be consistent with the Delta Plan. This section’s
9 findings, policies, and goals apply to Delta land use planning and
10 development.

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

15 (c) The Legislature finds and declares all of the following:

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

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

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

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

33 (d) The fundamental goals for managing land use in the Delta
34 are to do all of the following:

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

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

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

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

9 (5) Develop new or improved aquatic and terrestrial habitat
 10 and protect existing habitats to advance the goal of restoring and
 11 enhancing the Delta ecosystem.

12 (6) Improve water quality to protect human health and the
 13 environment consistent with achieving water quality objectives in
 14 the Delta.

15 85023. The longstanding constitutional principle of reasonable
 16 use and the public trust doctrine shall be the foundation of state
 17 water management policy and are particularly important and
 18 applicable to the Delta.

19
 20 CHAPTER 3. MISCELLANEOUS PROVISIONS
 21

22 85031. (a) This division does not diminish, impair, or
 23 otherwise affect in any manner whatsoever any area of origin,
 24 watershed of origin, county of origin, or any other water rights
 25 protections, including, but not limited to, rights to water
 26 appropriated prior to December 19, 1914, provided under the law.
 27 This division does not limit or otherwise affect the application of
 28 Article 1.7 (commencing with Section 1215) of Chapter 1 of Part
 29 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461,
 30 11462, and 11463, and Sections 12200 to 12220, inclusive.

31 (b) Nothing in this division supersedes, limits, or otherwise
 32 modifies the applicability of Chapter 10 (commencing with Section
 33 1700) of Part 2 of Division 2, including petitions related to any
 34 new conveyance constructed or operated in accordance with
 35 Chapter 2 (commencing with Section 85320) of Part 4.

36 (c) Unless otherwise expressly provided, nothing in this division
 37 supersedes, reduces, or otherwise affects existing legal protections,
 38 both procedural and substantive, relating to the board's regulation
 39 of diversion and use of water, including, but not limited to, the
 40 protection provided to municipal interests by Sections 106 and

1 106.5, and changes in water rights. Nothing in this division
2 expands or otherwise alters the board's existing authority to
3 regulate the diversion and use of water or the courts' existing
4 concurrent jurisdiction over California water rights.

5 85032. This division does not affect any of the following:

6 (a) The Natural Community Conservation Planning Act (Chapter
7 10 (commencing with Section 2800) of Division 3 of the Fish and
8 Game Code).

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

12 (c) The Fish and Game Code.

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

15 (e) Chapter 8 (commencing with Section 12930) of Part 6 of
16 Division 6.

17 (f) The California Environmental Quality Act (Division 13
18 (commencing with Section 21000) of the Public Resources Code).

19 (g) Section 1702.

20 (h) The application of the public trust doctrine.

21 (i) Any water right.

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

24 85034. (a) (1) The council shall administer all contracts,
25 grants, easements, and agreements made or entered into by the
26 California Bay-Delta Authority under Division 26.4 (commencing
27 with Section 79400), as that division read on December 31, 2009.

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

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

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

38 (c) The council shall have possession and control of all records,
39 papers, equipment, supplies, contracts, leases, agreements, and
40 other property, real or personal, connected with the administration

1 of Division 26.4 (commencing with Section 79400), as that division
 2 read on December 31, 2009, or held for the benefit or use of the
 3 California Bay-Delta Authority.

4 (d) The council shall assume from the California Bay-Delta
 5 Authority all responsibility to manage, in accordance with Chapter
 6 5 (commencing with Section 85280) of Part 3, the science program
 7 element that was required to be undertaken by Division 26.4
 8 (commencing with Section 79400).

9 (e) Consistent with the responsibilities and duties assumed by
 10 the council pursuant to this section, all staff, resources, and funding
 11 within the Natural Resources Agency and the Department of
 12 Forestry and Fire Protection for the support of the CALFED
 13 Bay-Delta Program are hereby transferred to, and may be
 14 expended for the purposes of, the council. The executive officer of
 15 the council shall confer with the Director of Fish and Game, the
 16 director of the department, and the executive director of the board
 17 regarding possible reallocation of the staff and resources. The
 18 status, position, and rights of any officer or employee shall not be
 19 affected by this transfer and all officers and employees shall be
 20 retained pursuant to the State Civil Service Act (Part 2
 21 (commencing with Section 18500) of Division 5 of Title 2 of the
 22 Government Code).

23 24 CHAPTER 4. DEFINITIONS

25
26 85050. Unless the context otherwise requires, the definitions
 27 set forth in this chapter govern the construction of this division.

28 85051. “Acquisition” means the acquisition of a fee interest
 29 or any other interest, including easements, leases, and development
 30 rights.

31 85052. “Adaptive management” means a framework and
 32 flexible decisionmaking process for ongoing knowledge acquisition,
 33 monitoring, and evaluation leading to continuous improvement in
 34 management planning and implementation of a project to achieve
 35 specified objectives.

36 85053. “Bay Delta Conservation Plan” or “BDCP” means a
 37 multispecies conservation plan.

38 85054. “Coequal goals” means the two goals of providing a
 39 more reliable water supply for California and protecting, restoring,
 40 and enhancing the Delta ecosystem. The coequal goals shall be

1 *achieved in a manner that protects and enhances the unique*
2 *cultural, recreational, natural resource, and agricultural values*
3 *of the Delta as an evolving place.*

4 85055. “Commission” means the Delta Protection Commission
5 established in Division 19.5 (commencing with Section 29700) of
6 the Public Resources Code.

7 85056. “Conservancy” means the Sacramento-San Joaquin
8 Delta Conservancy established in Section 32320 of the Public
9 Resources Code.

10 85057. “Council” means the Delta Stewardship Council
11 established in Section 85200.

12 85057.5. (a) “Covered action” means a plan, program,
13 project, or activity that meets all of the following conditions:

14 (1) Will occur, in whole or in part, within the boundaries of the
15 Delta or Suisun Marsh.

16 (2) Will be carried out, approved, or funded by the state or a
17 local public agency.

18 (3) Is covered by one or more provisions of the Delta Plan.

19 (4) Will have a significant impact on achievement of one or both
20 of the coequal goals or the implementation of
21 government-sponsored flood control programs to reduce risks to
22 people, property, and state interests in the Delta.

23 (b) “Covered action” does not include any of the following:

24 (1) A regulatory action of a state agency.

25 (2) Routine maintenance and operation of the State Water
26 Project or the federal Central Valley Project.

27 (3) Regional transportation plans prepared pursuant to Section
28 65080 of the Government Code.

29 (4) Any plan, program, project, or activity within the secondary
30 zone of the Delta that the applicable metropolitan planning
31 organization under Section 65080 of the Government Code has
32 determined is consistent with either a sustainable communities
33 strategy or an alternative planning strategy that the State Air
34 Resources Board has determined would, if implemented, achieve
35 the greenhouse gas emission reduction targets established by that
36 board pursuant to subparagraph (A) of paragraph (2) of
37 subdivision (b) of Section 65080 of the Government Code. For
38 purposes of this paragraph, “consistent with” means consistent
39 with the use designation, density, building intensity, transportation
40 plan, and applicable policies specified for the area in the

1 *sustainable communities strategy or the alternative planning*
2 *strategy, as applicable, and any infrastructure necessary to support*
3 *the plan, program, project, or activity.*

4 (5) *Routine maintenance and operation of any facility located,*
5 *in whole or in part, in the Delta, that is owned or operated by a*
6 *local public agency.*

7 (6) *Any plan, program, project, or activity that occurs, in whole*
8 *or in part, in the Delta, if both of the following conditions are met:*

9 (A) *The plan, program, project, or activity is undertaken by a*
10 *local public agency that is located, in whole or in part, in the Delta.*

11 (B) *Either a notice of determination is filed, pursuant to Section*
12 *21152 of the Public Resources Code, for the plan, program,*
13 *project, or activity by, or the plan, program, project, or activity is*
14 *fully permitted by, September 30, 2009.*

15 85058. *“Delta” means the Sacramento-San Joaquin Delta as*
16 *defined in Section 12220 and the Suisun Marsh, as defined in*
17 *Section 29101 of the Public Resources Code.*

18 85059. *“Delta Plan” means the comprehensive, long-term*
19 *management plan for the Delta as adopted by the council in*
20 *accordance with this division.*

21 85060. *“Delta watershed” means the Sacramento River*
22 *Hydrologic Region and the San Joaquin River Hydrologic Region*
23 *as described in the department’s Bulletin No. 160-05.*

24 85064. *“Public water agency” means a public entity, as defined*
25 *in Section 514, that provides water service, as defined in Section*
26 *515.*

27 85066. *“Restoration” means the application of ecological*
28 *principles to restore a degraded or fragmented ecosystem and*
29 *return it to a condition in which its biological and structural*
30 *components achieve a close approximation of its natural potential,*
31 *taking into consideration the physical changes that have occurred*
32 *in the past and the future impact of climate change and sea level*
33 *rise.*

34 85067. *“Strategic Plan” means both the “Delta Vision*
35 *Strategic Plan” issued by the Delta Vision Blue Ribbon Task Force*
36 *on October 17, 2008, and the “Delta Vision Implementation*
37 *Report” adopted by the Delta Vision Committee and dated*
38 *December 31, 2008.*

PART 2. EARLY ACTIONS

85080. *The council shall appoint a Delta Independent Science Board in accordance with Section 85280.*

85082. *The council shall develop and implement a strategy to appropriately engage participation of the federal agencies with responsibilities in the Delta. This strategy shall include engaging these federal agencies to develop 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.*

85084. *The council shall develop an interim plan that includes recommendations for early actions, projects, and programs.*

85084.5. *The Department of Fish and Game, in consultation with the United States Fish and Wildlife Service and the National Marine Fisheries Service and based on the best available science, shall develop and recommend to the board Delta flow criteria and quantifiable biological objectives for aquatic and terrestrial species of concern dependent on the Delta. The recommendations shall be developed no later than 12 months after the date of enactment of this division.*

85085. *The department shall do all of the following:*

(a) *Coordinate with the Department of Fish and Game, the board, the California regional water quality control boards, and the State Lands Commission efforts to cooperate with the United States Bureau of Reclamation to construct and implement the Two-Gates Fish Protection Demonstration Project by December 1, 2010.*

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

(c) *Expediently move ahead with other near term actions as identified in the Strategic Plan.*

(d) *Assist in implementing early action ecosystem restoration projects, including, but not limited to, Dutch Slough tidal marsh restoration and Meins Island tidal marsh restoration.*

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 for the*

1 *purposes of facilitating the planning decisions that are required*
2 *to achieve the objectives of the Delta Plan.*

3 *(c) (1) For the purpose of informing planning decisions for the*
4 *Delta Plan and the Bay Delta Conservation Plan, the board shall,*
5 *pursuant to its public trust obligations, develop new flow criteria*
6 *for the Delta ecosystem necessary to protect public trust resources.*
7 *In carrying out this section, the board shall review existing water*
8 *quality objectives and use the best available scientific information.*
9 *The flow criteria for the Delta ecosystem shall include the volume,*
10 *quality, and timing of water necessary for the Delta ecosystem*
11 *under different conditions. The flow criteria shall be developed in*
12 *a public process by the board within nine months of the enactment*
13 *of this division. The public process shall be in the form of an*
14 *informational proceeding conducted pursuant to Article 3*
15 *(commencing with Section 649) of Chapter 1.5 of Division 3 of*
16 *Title 23 of the California Code of Regulations, including an*
17 *opportunity for all interested persons to participate. The flow*
18 *criteria shall not be considered predecisional with regard to any*
19 *subsequent board consideration of a permit, including any permit*
20 *in connection with a final BDCP.*

21 *(2) Any order approving a change in the point of diversion of*
22 *the State Water Project or the federal Central Valley Project from*
23 *the southern Delta to a point on the Sacramento River shall include*
24 *appropriate Delta flow criteria and shall be informed by the*
25 *analysis conducted pursuant to this section. The flow criteria shall*
26 *be subject to modification over time based on a science-based*
27 *adaptive management program that integrates scientific and*
28 *monitoring results, including the contribution of habitat and other*
29 *conservation measures, into ongoing Delta water management.*

30 *(3) Nothing in this section amends or otherwise affects the*
31 *application of the board's authority under Part 2 (commencing*
32 *with Section 1200) of Division 2 to include terms and conditions*
33 *in permits that in its judgment will best develop, conserve, and*
34 *utilize in the public interest the water sought to be appropriated.*

35 *(d) The board shall enter into an agreement with the State Water*
36 *Project contractors and the federal Central Valley Project*
37 *contractors, who rely on water exported from the Sacramento*
38 *River watershed, or a joint powers authority comprised of those*
39 *contractors, for reimbursement of the costs of the analysis*
40 *conducted pursuant to this section.*

1 (e) The board shall submit its flow criteria determinations
2 pursuant to this section to the council for its information within
3 30 days of completing the determinations.

4 85087. The board, by December 31, 2010, shall submit to the
5 Legislature a prioritized schedule and estimate of costs to complete
6 instream flow studies for the Delta and for high priority rivers and
7 streams in the Delta watershed, not otherwise covered by Section
8 85086, by 2012, and for all major rivers and streams outside the
9 Sacramento River watershed by 2018. In developing this schedule,
10 the board shall consult with the Department of Fish and Game as
11 to the timing of its submission of recommendations for instream
12 flow needs.

13 85088. Until the board issues an order approving a change in
14 the point of diversion of the State Water Project and the federal
15 Central Valley Project from the southern Delta to a point on the
16 Sacramento River as specified in subdivision (c) of Section 85086,
17 the department shall not commence construction of any diversion,
18 conveyance, or other facility necessary to divert and convey water
19 pursuant to the change in point of diversion.

20 85089. Construction of a new Delta conveyance facility shall
21 not be initiated until the persons or entities that contract to receive
22 water from the State Water Project and the federal Central Valley
23 Project or a joint powers authority representing those entities have
24 made arrangements or entered into contracts to pay for both of
25 the following:

26 (a) The costs of the environmental review, planning, design,
27 construction, mitigation, including mitigation required pursuant
28 to Division 13 (commencing with Section 21000 of the Public
29 Resources Code) required but for the construction, operation, and
30 maintenance of any new Delta water conveyance facility.

31 (b) Full mitigation of property tax or assessments levied by
32 local governments or special districts for land used in the
33 construction, location, mitigation, or operation of new Delta
34 conveyance facilities.

PART 3. DELTA GOVERNANCE

CHAPTER 1. DELTA STEWARDSHIP COUNCIL

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

(b) (1) *The council shall consist of seven voting 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) *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 one or two years may be immediately appointed to a subsequent full four-year term.*

(c) (1) (A) *The initial terms of two of the four members appointed by the Governor shall be four years:*

(B) *The initial terms of two of the four members appointed by the Governor shall be six years.*

(C) *The initial terms of the members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall be four years.*

(D) *Upon the expiration of each term described in subparagraphs (A), (B), or (C), the term of each succeeding member shall be four years.*

(2) *The Chairperson of the Delta Protection Commission shall serve as a member of the council for the period during which he or she holds the position as commission chairperson*

(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 their members, who shall serve for not more than four years in that capacity.*

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

4 85201. (a) *The chairperson shall serve full time. Other*
5 *members shall serve one-third time. The council may select a vice*
6 *chairperson and other officers determined to be necessary.*

7 (b) *Each member of the council shall receive the salary provided*
8 *for in Section 11564 of the Government Code.*

9 (c) *The members of the council shall be reimbursed for expenses*
10 *necessarily incurred in the performance of official duties.*

11 (d) *The council shall appoint an executive officer who shall*
12 *serve full time at the pleasure of the council.*

13 (e) *The executive officer shall hire employees necessary to carry*
14 *out council functions.*

15 (f) *The number of employees and qualifications of those*
16 *employees shall be determined by the council, subject to the*
17 *availability of funds.*

18 (g) *The salary of each employee of the council shall be*
19 *determined by the State Personnel Board, and shall reflect the*
20 *duties and responsibilities of the position.*

21 (h) *All persons employed by the council are state employees,*
22 *subject to the duties, responsibilities, limitations, and benefits of*
23 *the state.*

24 85202. *Council members shall possess diverse expertise and*
25 *reflect a statewide perspective.*

26 85203. *The headquarters of the council shall be located in*
27 *Sacramento.*

28 85204. *The council shall establish and oversee a committee of*
29 *agencies responsible for implementing the Delta Plan. Each agency*
30 *shall coordinate its actions pursuant to the Delta Plan with the*
31 *council and the other relevant agencies.*

32

33 *CHAPTER 2. MISSION, DUTIES, AND RESPONSIBILITIES OF THE*
34 *COUNCIL*

35

36 85210. *The council has all of the following powers:*

37 (a) *To sue or be sued.*

38 (b) *To enter into contracts.*

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

1 (d) To delegate administrative functions to council staff.

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

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

9 (g) To disburse funds through grants, public assistance, loans,
10 and contracts.

11 (h) To request reports from state, federal, and local
12 governmental agencies on issues related to the implementation of
13 the Delta Plan.

14 (i) To adopt regulations or guidelines as needed to carry out
15 the powers and duties identified in this division.

16 (j) To comment on state agency environmental impact reports
17 for projects outside the Delta that the council determines will have
18 a significant impact on the Delta.

19 (k) To hold hearings in all parts of the state necessary to carry
20 out the powers vested in it, and for those purposes has the powers
21 conferred upon the heads of state departments pursuant to Article
22 2 (commencing with Section 11180) of Chapter 2 of Part 1 of
23 Division 3 of Title 2 of the Government Code. Any hearing by the
24 council may be conducted by any member of the council, or other
25 designee, upon authorization of the council, and he or she shall
26 have the powers granted to the council by this section, provided
27 that any final action of the council shall be taken by a majority of
28 the membership of the council at a meeting duly called and held.

29 85210.5. A majority of the voting members of the council shall
30 constitute a quorum for the transaction of the business of the
31 council. A majority vote of the voting membership shall be required
32 to take action with respect to any matter unless otherwise specified
33 in this division. The vote of each member shall be individually
34 recorded.

35 85211. The Delta Plan shall include performance
36 measurements that will enable the council to track progress in
37 meeting the objectives of the Delta Plan. The performance
38 measurements shall include, but need not be limited to, quantitative
39 or otherwise measurable assessments of the status and trends in
40 all of the following:

1 (a) *The health of the Delta’s estuary and wetland ecosystem for*
2 *supporting viable populations of aquatic and terrestrial species,*
3 *habitats, and processes, including viable populations of Delta*
4 *fisheries and other aquatic organisms.*

5 (b) *The reliability of California water supply imported from the*
6 *Sacramento River or the San Joaquin River watershed.*

7 85212. *The council shall review and provide timely advice to*
8 *local and regional planning agencies regarding the consistency*
9 *of local and regional planning documents, including sustainable*
10 *communities strategies and alternative planning strategies*
11 *prepared pursuant to Section 65080 of the Government Code, with*
12 *the Delta Plan. The council’s input shall include, but not be limited*
13 *to, reviewing the consistency of local and regional planning*
14 *documents with the ecosystem restoration needs of the Delta and*
15 *reviewing whether the lands set aside for natural resource*
16 *protection are sufficient to meet the Delta’s ecosystem needs. A*
17 *metropolitan planning organization preparing a regional*
18 *transportation plan under Section 65080 of the Government Code*
19 *that includes land within the primary or secondary zones of the*
20 *Delta shall consult with the council early in the planning process*
21 *regarding the issues and policy choices relating to the council’s*
22 *advice. No later than 60 days prior to the adoption of a final*
23 *regional transportation plan, the metropolitan planning*
24 *organization shall provide the council with a draft sustainable*
25 *communities strategy and an alternative planning strategy, if any.*
26 *Concurrently, the metropolitan planning organization shall provide*
27 *notice of its submission to the council in the same manner in which*
28 *agencies file a certificate of consistency pursuant to Section 85225.*
29 *If the council concludes that the draft sustainable communities*
30 *strategy or alternative planning strategy is inconsistent with the*
31 *Delta Plan, the council shall provide written notice of the claimed*
32 *inconsistency to the metropolitan planning organization no later*
33 *than 30 days prior to the adoption of the final regional*
34 *transportation plan. If the council provides timely notice of a*
35 *claimed inconsistency, the metropolitan planning organization’s*
36 *adoption of the final regional transportation plan shall include a*
37 *detailed response to the council’s notice.*

1 *an appealable issue. The council shall make its decision on the*
2 *appeal within 60 days of hearing the appeal.*

3 85225.25. *After a hearing on an appealed action, the council*
4 *shall make specific written findings either denying the appeal or*
5 *remanding the matter to the state or local public agency for*
6 *reconsideration of the covered action based on the finding that*
7 *the certification of consistency is not supported by substantial*
8 *evidence in the record before the state or local public agency that*
9 *filed the certification. Upon remand, the state or local agency may*
10 *determine whether to proceed with the covered action. If the agency*
11 *decides to proceed with the action or with the action as modified*
12 *to respond to the findings of the council, the agency shall, prior*
13 *to proceeding with the action, file a revised certification of*
14 *consistency that addresses each of the findings made by the council*
15 *and file that revised certification with the council.*

16 85225.30. *The council shall adopt administrative procedures*
17 *governing appeals, which shall be exempt from Chapter 3.5*
18 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
19 *2 of the Government Code.*

20

21 *CHAPTER 4. DELTA WATERMASTER*

22

23 85230. (a) *The board, in consultation with the council, shall*
24 *appoint, for a term of four years, a special master for the Delta,*
25 *whose title shall be “the Delta Watermaster.”*

26 (b) *The board shall adopt internal procedures delegating*
27 *authority to the Delta Watermaster. The Delta Watermaster shall*
28 *exercise the board’s authority to provide timely monitoring and*
29 *enforcement of board orders and license and permit terms and*
30 *conditions. The Delta Watermaster’s delegated authority shall*
31 *include authority to require monitoring and reporting, authority*
32 *for approvals delegated to an officer or employee of the board by*
33 *the terms of a water right permit or license, authority to approve*
34 *temporary urgency changes pursuant to Chapter 6.6 (commencing*
35 *with Section 1435) of Part 2 of Division 2, and authority to issue*
36 *a notice of proposed cease and desist order or administrative civil*
37 *liability complaint. The Delta Watermaster’s authority shall be*
38 *limited to diversions in the Delta and the monitoring and*
39 *enforcement of the board’s orders and license and permit terms*
40 *and conditions that apply to conditions in the Delta.*

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

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

13
 14 *CHAPTER 5. DELTA INDEPENDENT SCIENCE BOARD AND DELTA*
 15 *SCIENCE PROGRAM*
 16

17 85280. (a) *The Delta Independent Science Board is hereby*
 18 *established in state government.*

19 (1) *The Delta Independent Science Board shall consist of no*
 20 *more than 10 members appointed by the council. The term of office*
 21 *for members of the Delta Independent Science Board shall be five*
 22 *years. A member may serve no more than two terms.*

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

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

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

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

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

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

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

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

14 (D) Have the capability to guide the application of an adaptive
15 management process to resource management policy decisions in
16 the Delta.

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

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

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

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

1 PART 4. COMPREHENSIVE DELTA PLANNING

2
3 CHAPTER 1. THE DELTA PLAN
4

5 85300. (a) On or before January 1, 2012, the council shall
6 develop, adopt, and commence implementation of the Delta Plan
7 pursuant to this part that furthers the coequal goals. The Delta
8 Plan shall include subgoals and strategies to assist in guiding
9 state and local agency actions related to the Delta. In developing
10 the Delta Plan, the council shall consider each of the strategies
11 and actions set forth in the Strategic Plan and may include any of
12 those strategies or actions in the Delta Plan. The Delta Plan may
13 also identify specific actions that state or local agencies may take
14 to implement the subgoals and strategies.

15 (b) In developing the Delta Plan, the council shall consult with
16 federal, state, and local agencies with responsibilities in the Delta.
17 All state agencies with responsibilities in the Delta shall cooperate
18 with the council in developing the Delta Plan, upon request of the
19 council.

20 (c) The council shall review the Delta Plan at least once every
21 five years and may revise it as the council deems appropriate. The
22 council may request any state agency with responsibilities in the
23 Delta to make recommendations with respect to revision of the
24 Delta Plan.

25 (d) (1) The council shall develop the Delta Plan consistent with
26 all of the following:

27 (A) The federal Coastal Zone Management Act of 1972 (16
28 U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism.

29 (B) Section 8 of the federal Reclamation Act of 1902.

30 (C) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

31 (2) If the council adopts a Delta Plan pursuant to the federal
32 Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et
33 seq.), the council shall submit the Delta Plan for approval to the
34 United States Secretary of Commerce pursuant to that act, or to
35 any other federal official assigned responsibility for the Delta
36 pursuant to a federal statute enacted after January 1, 2010.

37 (e) The council shall report to the Legislature no later than
38 March 31, 2012, as to its adoption of the Delta Plan.

39 85301. (a) The commission shall develop, for consideration
40 and incorporation into the Delta Plan by the council, a proposal

1 to protect, enhance, and sustain the unique cultural, historical,
2 recreational, agricultural, and economic values of the Delta as
3 an evolving place, in a manner consistent with the coequal goals.
4 For the purpose of carrying out this subdivision, the commission
5 may include in the proposal the relevant strategies described in
6 the Strategic Plan.

7 (b) (1) The commission shall include in the proposal a plan to
8 establish state and federal designation of the Delta as a place of
9 special significance, which may include application for a federal
10 designation of the Delta as a National Heritage Area.

11 (2) The commission shall include in the proposal a regional
12 economic plan to support increased investment in agriculture,
13 recreation, tourism, and other resilient land uses in the Delta. The
14 regional economic plan shall include detailed recommendations
15 for the administration of the Delta Investment Fund created by
16 Section 29778.5 of the Public Resources Code.

17 (c) For the purposes of assisting the commission in its
18 preparation of the proposal, both of the following actions shall be
19 undertaken:

20 (1) The Department of Parks and Recreation shall prepare a
21 proposal, for submission to the commission, to expand within the
22 Delta the network of state recreation areas, combining existing
23 and newly designated areas. The proposal may incorporate
24 appropriate aspects of any existing plans, including the Central
25 Valley Vision Implementation Plan adopted by the Department of
26 Parks and Recreation.

27 (2) The Department of Food and Agriculture shall prepare a
28 proposal, for submission to the commission, to establish market
29 incentives and infrastructure to protect and enhance the economic
30 and public values of Delta agriculture.

31 (d) The commission shall submit the proposal developed
32 pursuant to subdivision (a) to the council. The council shall
33 consider the proposal and may include any portion of the proposal
34 in the Delta Plan if the council, in its discretion, determines that
35 the portion of the proposal is feasible and consistent with the
36 objectives of the Delta Plan and the purposes of this division.

37 85302. (a) The implementation of the Delta Plan shall further
38 the restoration of the Delta ecosystem and a reliable water supply.

39 (b) The geographic scope of the ecosystem restoration projects
40 and programs identified in the Delta Plan shall be the Delta, except

1 *that the Delta Plan may include recommended ecosystem projects*
2 *outside the Delta that will contribute to achievement of the coequal*
3 *goals.*

4 *(c) The Delta Plan shall include measures that promote all of*
5 *the following characteristics of a healthy Delta ecosystem:*

6 *(1) Viable populations of native resident and migratory species.*

7 *(2) Functional corridors for migratory species.*

8 *(3) Diverse and biologically appropriate habitats and ecosystem*
9 *processes.*

10 *(4) Reduced threats and stresses on the Delta ecosystem.*

11 *(5) Conditions conducive to meeting or exceeding the goals in*
12 *existing species recovery plans and state and federal goals with*
13 *respect to doubling salmon populations.*

14 *(d) The Delta Plan shall include measures to promote a more*
15 *reliable water supply that address all of the following:*

16 *(1) Meeting the needs for reasonable and beneficial uses of*
17 *water.*

18 *(2) Sustaining the economic vitality of the state.*

19 *(3) Improving water quality to protect human health and the*
20 *environment.*

21 *(e) The following subgoals and strategies for restoring a healthy*
22 *ecosystem shall be included in the Delta Plan:*

23 *(1) Restore large areas of interconnected habitats within the*
24 *Delta and its watershed by 2100.*

25 *(2) Establish migratory corridors for fish, birds, and other*
26 *animals along selected Delta river channels.*

27 *(3) Promote self-sustaining, diverse populations of native and*
28 *valued species by reducing the risk of take and harm from invasive*
29 *species.*

30 *(4) Restore Delta flows and channels to support a healthy*
31 *estuary and other ecosystems.*

32 *(5) Improve water quality to meet drinking water, agriculture,*
33 *and ecosystem long-term goals.*

34 *(6) Restore habitat necessary to avoid a net loss of migratory*
35 *bird habitat and, where feasible, increase migratory bird habitat*
36 *to promote viable populations of migratory birds.*

37 *(f) The council shall consider, for incorporation into the Delta*
38 *Plan, actions designed to implement the subgoals and strategies*
39 *described in subdivision (e).*

1 (g) *In carrying out this section, the council shall make use of*
2 *the best available science.*

3 (h) *The Delta Plan shall include recommendations regarding*
4 *state agency management of lands in the Delta.*

5 85303. *The Delta Plan shall promote statewide water*
6 *conservation, water use efficiency, and sustainable use of water.*

7 85304. *The Delta Plan shall promote options for new and*
8 *improved infrastructure relating to the water conveyance in the*
9 *Delta, storage systems, and for the operation of both to achieve*
10 *the coequal goals.*

11 85305. (a) *The Delta Plan shall attempt to reduce risks to*
12 *people, property, and state interests in the Delta by promoting*
13 *effective emergency preparedness, appropriate land uses, and*
14 *strategic levee investments.*

15 (b) *The council may incorporate into the Delta Plan the*
16 *emergency preparedness and response strategies for the Delta*
17 *developed by the California Emergency Management Agency*
18 *pursuant to Section 12994.5.*

19 85306. *The council, in consultation with the Central Valley*
20 *Flood Protection Board, shall recommend in the Delta Plan*
21 *priorities for state investments in levee operation, maintenance,*
22 *and improvements in the Delta, including both levees that are a*
23 *part of the State Plan of Flood Control and nonproject levees.*

24 85307. (a) *The Delta Plan may identify actions to be taken*
25 *outside of the Delta, if those actions are determined to significantly*
26 *reduce flood risks in the Delta.*

27 (b) *The Delta Plan may include local plans of flood protection.*

28 (c) *The council, in consultation with the Department of*
29 *Transportation, may address in the Delta Plan the effects of climate*
30 *change and sea level rise on the three state highways that cross*
31 *the Delta.*

32 (d) *The council, in consultation with the State Energy Resources*
33 *Conservation and Development Commission and the Public*
34 *Utilities Commission, may incorporate into the Delta Plan*
35 *additional actions to address the needs of Delta energy*
36 *development, energy storage, and energy distribution.*

37 85308. *The Delta Plan shall meet all of the following*
38 *requirements:*

1 (a) Be based on the best available scientific information and
2 the independent science advice provided by the Delta Independent
3 Science Board.

4 (b) Include quantified or otherwise measurable targets
5 associated with achieving the objectives of the Delta Plan.

6 (c) Where appropriate, utilize monitoring, data collection, and
7 analysis of actions sufficient to determine progress toward meeting
8 the quantified targets.

9 (d) Describe the methods by which the council shall measure
10 progress toward achieving the coequal goals.

11 (e) Where appropriate, recommend integration of scientific and
12 monitoring results into ongoing Delta water management.

13 (f) Include a science-based, transparent, and formal adaptive
14 management strategy for ongoing ecosystem restoration and water
15 management decisions.

16 85309. The department, in consultation with the United States
17 Army Corps of Engineers and the Central Valley Flood Protection
18 Board, shall prepare a proposal to coordinate flood and water
19 supply operations of the State Water Project and the federal
20 Central Valley Project, and submit the proposal to the council for
21 consideration for incorporation into the Delta Plan. In drafting
22 the proposal, the department shall consider all related actions set
23 forth in the Strategic Plan.

24

25

CHAPTER 2. BAY DELTA CONSERVATION PLAN

26

27 85320. (a) The Bay Delta Conservation Plan (BDCP) shall
28 be considered for inclusion in the Delta Plan in accordance with
29 this chapter.

30 (b) The BDCP shall not be incorporated into the Delta Plan
31 and the public benefits associated with the BDCP shall not be
32 eligible for state funding, unless the BDCP does all of the
33 following:

34 (1) Complies with Chapter 10 (commencing with Section 2800)
35 of Division 3 of the Fish and Game Code.

36 (2) Complies with Division 13 (commencing with Section 21000)
37 of the Public Resources Code, including a comprehensive review
38 and analysis of all of the following:

39 (A) A reasonable range of flow criteria, rates of diversion, and
40 other operational criteria required to satisfy the criteria for

1 approval of a natural community conservation plan as provided
2 in subdivision (a) of Section 2820 of the Fish and Game Code, and
3 other operational requirements and flows necessary for recovering
4 the Delta ecosystem and restoring fisheries under a reasonable
5 range of hydrologic conditions, which will identify the remaining
6 water available for export and other beneficial uses.

7 (B) A reasonable range of Delta conveyance alternatives,
8 including through-Delta, dual conveyance, and isolated conveyance
9 alternatives and including further capacity and design options of
10 a lined canal, an unlined canal, and pipelines.

11 (C) The potential effects of climate change, possible sea level
12 rise up to 55 inches, and possible changes in total precipitation
13 and runoff patterns on the conveyance alternatives and habitat
14 restoration activities considered in the environmental impact
15 report.

16 (D) The potential effects on migratory fish and aquatic
17 resources.

18 (E) The potential effects on Sacramento River and San Joaquin
19 River flood management.

20 (F) The resilience and recovery of Delta conveyance alternatives
21 in the event of catastrophic loss caused by earthquake or flood or
22 other natural disaster.

23 (G) The potential effects of each Delta conveyance alternative
24 on Delta water quality.

25 (c) The department shall consult with the council and the Delta
26 Independent Science Board during the development of the BDCP.
27 The council shall be a responsible agency in the development of
28 the environmental impact report. The Delta Independent Science
29 Board shall review the draft environmental impact report and
30 submit its comments to the council and the Department of Fish
31 and Game.

32 (d) If the Department of Fish and Game approves the BDCP as
33 a natural community conservation plan pursuant to Chapter 10
34 (commencing with Section 2800) of Division 3 of the Fish and
35 Game Code, the council shall have at least one public hearing
36 concerning the incorporation of the BDCP into the Delta Plan.

37 (e) If the Department of Fish and Game approves the BDCP as
38 a natural community conservation plan pursuant to Chapter 10
39 (commencing with Section 2800) of Division 3 of the Fish and
40 Game Code and determines that the BDCP meets the requirements

1 of this section, and the BDCP has been approved as a habitat
2 conservation plan pursuant to the federal Endangered Species Act
3 (16 U.S.C. Section 1531 et seq.), the council shall incorporate the
4 BDCP into the Delta Plan. The Department of Fish and Game's
5 determination that the BDCP has met the requirements of this
6 section may be appealed to the council.

7 (f) The department, in coordination with the Department of Fish
8 and Game, or any successor agencies charged with BDCP
9 implementation, shall report to the council on the implementation
10 of the BDCP at least once a year, including the status of monitoring
11 programs and adaptive management.

12 (g) The council may make recommendations to BDCP
13 implementing agencies regarding the implementation of the BDCP.
14 BDCP implementing agencies shall consult with the council on
15 these recommendations. These recommendations shall not change
16 the terms and conditions of the permits issued by state and federal
17 regulatory agencies.

18 85321. The BDCP shall include a transparent, real-time
19 operational decisionmaking process in which fishery agencies
20 ensure that applicable biological performance measures are
21 achieved in a timely manner with respect to water system
22 operations.

23 85322. This chapter does not amend, or create any additional
24 legal obligation or cause of action under, Chapter 10 (commencing
25 with Section 2800) of Division 3 of the Fish and Game Code or
26 Division 13 (commencing with Section 21000) of the Public
27 Resources Code.

28
29 *CHAPTER 3. OTHER PLANS FOR THE DELTA*

30
31 85350. The council may incorporate other completed plans
32 related to the Delta into the Delta Plan to the extent that the other
33 plans promote the coequal goals.

34 SEC. 77. (a) Pursuant to Section 75026 of the Public
35 Resources Code, the sum of twenty-eight million dollars
36 (\$28,000,000) is hereby appropriated to the Department of Water
37 Resources for expenditure by that department pursuant to
38 paragraph (12) of subdivision (a) of Section 75027 of the Public
39 Resources Code for the Two-Gates Fish Protection Demonstration
40 Program managed by the United States Bureau of Reclamation.

1 *The Department of Water Resources shall expend such funds only*
2 *consistent with the requirements of Sections 75026 and 75027 of*
3 *the Public Resources Code.*

4 *(b) It is the intent of the Legislature to finance the activities of*
5 *the Delta Stewardship Council and the Sacramento-San Joaquin*
6 *Delta Conservancy from funds made available pursuant to the*
7 *Disaster Preparedness and Flood Prevention Bond Act of 2006*
8 *(Chapter 1.699 (commencing with Section 5096.800) of Division*
9 *5 of the Public Resources Code) and the Safe Drinking Water,*
10 *Water Quality and Supply, Flood Control, River and Coastal*
11 *Protection Bond Act of 2006 (Division 43 (commencing with*
12 *Section 75001) of the Public Resources Code).*

13 *SEC. 78. Item 3940-001-0439 of Section 2.00 of the Budget*
14 *Act of 2009 is amended to read:*

15		
16	3940-001-0439—For support of State Water Resources Control	
17	Board.....	238,113,000
18	Schedule:	
19	(1) 10-Water Quality.....	439,650,000
20	(2) 20-Water Rights.....	11,658,000
21		15,408,000
22	(3) 30.01-Administration.....	20,886,000
23		21,059,000
24	(4) 30.02-Distributed Administration.....	-20,886,000
25		-21,059,000
26	(5) Reimbursements.....	-8,932,000
27	(6) Amount payable from the General	
28	Fund (Item 3940-001-0001).....	-40,575,000
29	(7) Amount payable from the Unified Pro-	
30	gram Account (Item 3940-001-0028)....	-621,000
31	(8) Amount payable from the Waste Dis-	
32	charge Permit Fund (Item 3940-001-	
33	0193).....	-78,768,000
34	(9) Amount payable from the Marine Inva-	
35	sive Species Control Fund (Item 3940-	
36	001-0212).....	-103,000
37	(10) Amount payable from the Public Re-	
38	sources Account, Cigarette and Tobacco	
39	Products Surtax Fund (Item 3940-001-	
40	0235).....	-2,039,000

1	(11) Amount payable from the Integrated	
2	Waste Management Account, Integrated	
3	Waste Management Fund (Item 3940-	
4	001-0387).....	-6,757,000
5	(12) Amount payable from the Water Recy-	
6	cling Subaccount (Item 3940-001-	
7	0419).....	-1,150,000
8	(13) Amount payable from the Drainage	
9	Management Subaccount (Item 3940-	
10	001-0422).....	-515,000
11	(14) Amount payable from the Seawater In-	
12	trusion Control Subaccount (Item 3940-	
13	001-0424).....	-222,000
14	(15) Amount payable from the Underground	
15	Storage Tank Tester Account (Item	
16	3940-001-0436).....	-64,000
17	(16) Amount payable from the 1984 State	
18	Clean Water Bond Fund (Item 3940-	
19	001-0740).....	-322,000
20	(17) Amount payable from the Federal	
21	Trust Fund (Item 3940-001-0890).....	-51,353,000
22	(18) Amount payable from the Water	
23	Rights Fund (Item 3940-001-3058)....	-7,447,000
24		-11,197,000
25	(19) Amount payable from the Watershed	
26	Protection Subaccount (Item 3940-001-	
27	6013).....	-250,000
28	(20) Amount payable from the Santa Ana	
29	River Watershed Subaccount (Item	
30	3940-001-6016).....	-250,000
31	(21) Amount payable from the Lake Elsinore	
32	and San Jacinto Watershed Subaccount	
33	(Item 3940-001-6017).....	-150,000
34	(22) Amount payable from the Nonpoint	
35	Source Pollution Control Subaccount	
36	(Item 3940-001-6019).....	-200,000
37	(23) Amount payable from the State Revolv-	
38	ing Fund Loan Subaccount (Item 3940-	
39	001-6020).....	-81,000

1	(24) Amount payable from the Wastewater	
2	Construction Grant Subaccount (Item	
3	3940-001-6021).....	-23,000
4	(25) Amount payable from the Coastal	
5	Nonpoint Source Control Subaccount	
6	(Item 3940-001-6022).....	-150,000
7	(26) Amount payable from the Water Secu-	
8	rity, Clean Drinking Water, Coastal and	
9	Beach Protection Fund of 2002 (Item	
10	3940-001-6031).....	-3,000,000
11	(27) Amount payable from the Safe Drinking	
12	Water, Water Quality and Supply,	
13	Flood Control, River and Coastal Pro-	
14	tection Fund of 2006 (Item 3940-001-	
15	6051).....	-4,073,000
16	(28) Amount payable from the Petroleum	
17	Underground Storage Tank Financing	
18	Account (Item 3940-001-8026).....	-618,000
19	(29) Amount payable from the State Water	
20	Pollution Control Revolving Fund Ad-	
21	ministration Fund (Item 3940-001-	
22	9739).....	-5,532,000

Provisions:

1. Notwithstanding any other provision of law, upon approval and order of the Director of Finance, the State Water Resources Control Board may borrow sufficient funds for cash purposes from special funds that otherwise provide support for the board. Any such loans are to be repaid with interest at the rate earned in the Pooled Money Investment Account.
2. *Of the amount contained in Schedule (2), \$3,750,000 shall be used to fund 25.0 permanent positions in support of water rights enforcement.*

SEC. 79. Item 3940-001-3058 of Section 2.00 of the Budget Act of 2009 is amended to read:

1	3940-001-3058—For support of State Water Resources Control	
2	Board, for payment to Item 3940-001-0439, payable from	
3	the Water Rights Fund.....	7,447,000
4		11,197,000

5 Provisions:

- 6 1. The increase in appropriation in this item shall be
- 7 paid only from the fee revenue in the Water Rights
- 8 Fund.

10 SEC. 80. Commencing with the 2010–11 fiscal year, and
 11 notwithstanding Section 13340 of the Government Code, three
 12 million seven hundred fifty thousand dollars (\$3,750,000) is hereby
 13 continuously appropriated, without regard to fiscal years, on an
 14 annual basis, only from the fee revenue in the Water Rights Fund
 15 to the State Water Resources Control Board for the purposes of
 16 funding 25.0 permanent water right enforcement positions, as
 17 provided in Schedule (2) of Item 3940-001-0439 of Section 2.00
 18 of the Budget Act of 2009, as amended by this act.

19 SEC. 81. If the Commission on State Mandates determines that
 20 this act contains costs mandated by the state, reimbursement to
 21 local agencies and school districts for those costs shall be made
 22 pursuant to Part 7 (commencing with Section 17500) of Division
 23 4 of Title 2 of the Government Code.

24

25

26 **All matter omitted in this version of the bill**

27 **appears in the bill as amended in Senate,**

28 **October 29, 2009 (JR11)**

29