

Proposed Conference Report No. 1
September 9, 2009

AMENDED IN SENATE JULY 9, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 39

Introduced by Assembly Member Huffman

December 1, 2008

~~An act relating to the Sacramento-San Joaquin Delta.~~ *An act to add Part 4 (commencing with Section 85300) to Division 35 of the Water Code, relating to the Sacramento-San Joaquin Delta.*

LEGISLATIVE COUNSEL'S DIGEST

AB 39, as amended, Huffman. Sacramento-San Joaquin ~~Delta~~: *Delta: Delta Plan.*

Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. 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 require the Delta Stewardship Council, created pursuant to SB 12 of the 2009–10 Regular Session, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements.

The provisions of the bill would only become operative if AB 49, SB 12, SB 229, and SB 458 of the 2009–10 Regular Session of the Legislature, relating to water use and resource management, are enacted and become effective on or before January 1, 2010.

~~Existing law requires various state agencies to carry out programs, projects, and activities on behalf of the Sacramento-San Joaquin Delta and Suisun Marsh. 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, a Strategic Vision for a Sustainable Sacramento-San Joaquin Delta with specified components.~~

~~This bill would state the intent of the Legislature to enact legislation to establish a Sacramento-San Joaquin Delta Plan.~~

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

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

1 SECTION 1. Part 4 (commencing with Section 85300) is added
2 to Division 35 of the Water Code, to read:

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4 PART 4. COMPREHENSIVE DELTA PLANNING

5

6 Chapter 1. The Delta Plan

7

8 85300. (a) *On or before January 1, 2012, the council shall*
9 *develop, adopt, and commence implementation of the Delta Plan*
10 *pursuant to this part that furthers the coequal goals. The Delta*
11 *Plan shall include subgoals and strategies to assist in guiding*
12 *state and local agency actions related to the Delta. In developing*
13 *the Delta Plan, the council shall consider each of the strategies*
14 *and actions set forth in the Strategic Plan and may include any of*
15 *those strategies or actions in the Delta Plan. The Delta Plan may*
16 *also identify specific actions that state or local agencies may take*
17 *to implement the subgoals and strategies.*

18 (b) *In developing the Delta Plan, the council shall consult with*
19 *federal, state, and local agencies with responsibilities in the Delta.*
20 *All state agencies with responsibilities in the Delta shall cooperate*
21 *with the council in developing the Delta Plan, upon request of the*
22 *council.*

1 (c) *The council shall review the Delta Plan at least once every*
2 *five years and may revise it as the council deems appropriate. The*
3 *council may request any state agency with responsibilities in the*
4 *Delta to make recommendations with respect to revision of the*
5 *Delta Plan.*

6 (d) (1) *The council shall develop the Delta Plan consistent with*
7 *all of the following:*

8 (A) *The federal Coastal Zone Management Act of 1972 (16*
9 *U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism.*

10 (B) *Section 8 of the federal Reclamation Act of 1902.*

11 (C) *The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).*

12 (2) *If the council adopts a Delta Plan pursuant to the federal*
13 *Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et*
14 *seq.), the council shall submit the Delta Plan for approval to the*
15 *United States Secretary of Commerce pursuant to that act, or to*
16 *any other federal official assigned responsibility for the Delta*
17 *pursuant to a federal statute enacted after January 1, 2010.*

18 (e) *The council shall report to the Legislature no later than*
19 *March 31, 2012, as to its adoption of the Delta Plan.*

20 85301. (a) *The commission shall develop, for consideration*
21 *and incorporation into the Delta Plan by the council, a proposal*
22 *to protect, enhance, and sustain the unique cultural, historical,*
23 *recreational, agricultural, and economic values of the Delta as*
24 *an evolving place, in a manner consistent with the coequal goals.*
25 *For the purpose of carrying out this subdivision, the commission*
26 *may include in the proposal the relevant strategies described in*
27 *the Strategic Plan.*

28 (b) (1) *The commission shall include in the proposal a plan to*
29 *establish state and federal designation of the Delta as a place of*
30 *special significance, which may include application for a federal*
31 *designation of the Delta as a National Heritage Area.*

32 (2) *The commission shall include in the proposal a regional*
33 *economic plan to support increased investment in agriculture,*
34 *recreation, tourism, and other resilient land uses in the Delta. The*
35 *regional economic plan shall include detailed recommendations*
36 *for the administration of the Delta Investment Fund created by*
37 *Section 29778.5 of the Public Resources Code.*

38 (c) *For the purposes of assisting the commission in its*
39 *preparation of the proposal, both of the following actions shall be*
40 *undertaken:*

1 (1) *The Department of Parks and Recreation shall prepare a*
2 *proposal, for submission to the commission, to expand within the*
3 *Delta the network of state recreation areas, combining existing*
4 *and newly designated areas. The proposal may incorporate*
5 *appropriate aspects of any existing plans, including the Central*
6 *Valley Vision Implementation Plan adopted by the Department of*
7 *Parks and Recreation.*

8 (2) *The Department of Food and Agriculture shall prepare a*
9 *proposal, for submission to the commission, to establish market*
10 *incentives and infrastructure to protect and enhance the economic*
11 *and public values of Delta agriculture.*

12 (d) *The commission shall submit the proposal developed*
13 *pursuant to subdivision (a) to the council. The council shall*
14 *consider the proposal and may include any portion of the proposal*
15 *in the Delta Plan as it deems appropriate, to the extent that the*
16 *proposal furthers the coequal goals.*

17 85302. (a) *Implementation of the Delta Plan shall further the*
18 *restoration of the Delta ecosystem and a reliable water supply.*

19 (b) *The geographic scope of the ecosystem restoration projects*
20 *and programs identified in the Delta Plan shall be the Delta, except*
21 *that the Delta Plan may include recommended ecosystem projects*
22 *outside the Delta that will contribute to achievement of the coequal*
23 *goals.*

24 (c) *The Delta Plan shall include measures that promote all of*
25 *the following characteristics of a healthy Delta ecosystem:*

26 (1) *Viable populations of native resident and migratory species.*

27 (2) *Functional corridors for migratory species.*

28 (3) *Diverse and biologically appropriate habitats and ecosystem*
29 *processes.*

30 (4) *Reduced threats and stresses on the Delta ecosystem.*

31 (5) *Conditions conducive to meeting or exceeding the goals in*
32 *existing species recovery plans and state and federal goals with*
33 *respect to doubling salmon populations.*

34 (d) *The Delta Plan shall include measures to promote a more*
35 *reliable water supply that do all of the following:*

36 (1) *Assist in meeting the needs for reasonable and beneficial*
37 *uses of water.*

38 (2) *Sustain the economic vitality of the state.*

39 (3) *Improve water quality to protect human health and the*
40 *environment.*

1 (e) *The following subgoals and strategies for restoring a healthy*
2 *ecosystem shall be included in the Delta Plan:*

3 (1) *Restore large areas of interconnected habitats within the*
4 *Delta and its watershed by 2100.*

5 (2) *Establish migratory corridors for fish, birds, and other*
6 *animals along selected Delta river channels.*

7 (3) *Promote self-sustaining, diverse populations of native and*
8 *valued species by reducing the risk of take and harm from invasive*
9 *species.*

10 (4) *Restore Delta flows and channels to support a healthy*
11 *estuary and other ecosystems.*

12 (5) *Improve water quality to meet drinking water, agriculture,*
13 *and ecosystem long-term goals.*

14 (6) *Restore habitat necessary to avoid a net-loss of migratory*
15 *bird habitat.*

16 (f) *The council shall consider, for incorporation into the Delta*
17 *Plan, actions designed to implement the subgoals and strategies*
18 *described in subdivision (e).*

19 (g) *In carrying out this section, the council shall make use of*
20 *the best available science.*

21 (h) *The Delta Plan shall include recommendations regarding*
22 *state agency management of lands in the Delta.*

23 85303. *The Delta Plan shall promote statewide water*
24 *conservation, water use efficiency, and sustainable use of water.*

25 85304. *The Delta Plan shall promote options for new and*
26 *improved infrastructure relating to the water conveyance and*
27 *storage systems and for the operation of both to achieve the*
28 *coequal goals.*

29 85305. (a) *The Delta Plan shall attempt to reduce risks to*
30 *people, property, and state interests in the Delta by promoting*
31 *effective emergency preparedness, appropriate land uses, and*
32 *strategic levee investments.*

33 (b) *The council may incorporate into the Delta Plan the*
34 *emergency preparedness and response strategies for the Delta*
35 *developed by the California Emergency Management Agency*
36 *pursuant to Section 12994.5.*

37 85306. *The council, in consultation with the Central Valley*
38 *Flood Protection Board, shall recommend in the Delta Plan*
39 *priorities for state investments in levee operation, maintenance,*

1 *and improvements in the Delta, including both levees that are a*
2 *part of the State Plan of Flood Control and nonproject levees.*

3 85307. (a) *The Delta Plan may identify actions to be taken*
4 *outside of the Delta, if those actions are determined to significantly*
5 *reduce flood risks in the Delta.*

6 (b) *The Delta Plan may include local plans of flood protection.*

7 (c) *The council, in consultation with the Department of*
8 *Transportation, may address in the Delta Plan the effects of climate*
9 *change and sea level rise on the three state highways that cross*
10 *the Delta.*

11 (d) *The council, in consultation with the State Energy Resources*
12 *Conservation and Development Commission and the Public*
13 *Utilities Commission, may incorporate into the Delta Plan*
14 *additional actions to address the needs of Delta energy*
15 *development, energy storage, and energy distribution.*

16 85308. *The Delta Plan shall meet all of the following*
17 *requirements:*

18 (a) *Be based on the best available scientific information and*
19 *the independent science advice provided by the Delta Independent*
20 *Science Board.*

21 (b) *Include quantified or otherwise measurable targets*
22 *associated with achieving the objectives of the Delta Plan.*

23 (c) *Where appropriate, utilize monitoring, data collection, and*
24 *analysis of actions sufficient to determine progress toward meeting*
25 *the quantified targets.*

26 (d) *Describe the methods by which the council shall measure*
27 *progress toward achieving the coequal goals.*

28 (e) *Where appropriate, recommend integration of scientific and*
29 *monitoring results into ongoing Delta water management.*

30 (f) *Include a science-based, transparent, and formal adaptive*
31 *management strategy for ongoing ecosystem restoration and water*
32 *management decisions.*

33 85309. *The department, in consultation with the United States*
34 *Army Corps of Engineers and the Central Valley Flood Protection*
35 *Board, shall prepare a proposal to coordinate flood and water*
36 *supply operations of the State Water Project and the federal*
37 *Central Valley Project, and submit the proposal to the council for*
38 *consideration for incorporation into the Delta Plan. In drafting*
39 *the proposal, the department shall consider all related actions set*
40 *forth in the Strategic Plan.*

Chapter 3. Other Plans for the Delta

85350. The council may incorporate other completed plans related to the Delta into the Delta Plan to the extent that the other plans promote the coequal goals.

SEC. 2. This act shall only become operative if AB 49, SB 12, SB 229, and SB 458 of the 2009–10 Regular Session of the Legislature, relating to water use and resource management, are enacted and become effective on or before January 1, 2010.

~~SECTION 1. It is the intent of the Legislature to enact legislation to establish a Sacramento-San Joaquin Delta Plan.~~

CORRECTIONS:

Heading—Amended date.

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