



Agenda

LEGISLATION COMMITTEE

November 2, 2009

10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Susan A. Bonilla, District IV, Chair
Supervisor Mary N. Piepho, District III, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. **Introductions**
2. **Public comment on any item under the jurisdiction of the Committee and not on this agenda.**
(Speakers may be limited to three minutes.)
3. **Record of Action:** September 1, 2009
4. **Delta Water Legislation Update**—Presenters: Lara DeLaney, Cathy Christian
5. **Draft 2010 State Legislative Platform**—Presenters: Lara DeLaney, Cathy Christian
6. **Draft 2010 Federal Legislative Platform**—Presenters: Lara DeLaney, Paul Schlesinger
7. **Status of 2009 State and Federal Legislation**—Presenters: Lara DeLaney, Cathy Christian
8. **Adjourn to the next regular meeting scheduled for Monday, December 7 at 10:30 a.m.**

☺ *The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting. Access a telecommunications device for the deaf by calling 1-800-735-2929 and asking the relay service operator for (925) 335-1240.*

📁 *Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 11th floor, during normal business hours.*

✉ *Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.*

For Additional Information Contact:

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Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB	Assembly Bill	HIPAA	Health Insurance Portability and Accountability Act
ABAG	Association of Bay Area Governments	HIV	Human Immunodeficiency Syndrome
ACA	Assembly Constitutional Amendment	HOV	High Occupancy Vehicle
ADA	Americans with Disabilities Act of 1990	HR	Human Resources
AFSCME	American Federation of State County and Municipal Employees	HUD	United States Department of Housing and Urban Development
AICP	American Institute of Certified Planners	Inc.	Incorporated
AIDS	Acquired Immunodeficiency Syndrome	IOC	Internal Operations Committee
ALUC	Airport Land Use Commission	ISO	Industrial Safety Ordinance
AOD	Alcohol and Other Drugs	JPA	Joint (exercise of) Powers Authority or Agreement
BAAQMD	Bay Area Air Quality Management District	Lamorinda	Lafayette-Moraga-Orinda Area
BART	Bay Area Rapid Transit District	LAFCo	Local Agency Formation Commission
BCDC	Bay Conservation & Development Commission	LLC	Limited Liability Company
BGO	Better Government Ordinance	LLP	Limited Liability Partnership
BOS	Board of Supervisors	Local 1	Public Employees Union Local 1
CALTRANS	California Department of Transportation	LVN	Licensed Vocational Nurse
CalWIN	California Works Information Network	MAC	Municipal Advisory Council
CalWORKS	California Work Opportunity and Responsibility to Kids	MBE	Minority Business Enterprise
CAER	Community Awareness Emergency Response	M.D.	Medical Doctor
CAO	County Administrative Officer or Office	M.F.T.	Marriage and Family Therapist
CCHP	Contra Costa Health Plan	MIS	Management Information System
CCTA	Contra Costa Transportation Authority	MOE	Maintenance of Effort
CDBG	Community Development Block Grant	MOU	Memorandum of Understanding
CEQA	California Environmental Quality Act	MTC	Metropolitan Transportation Commission
CIO	Chief Information Officer	NACo	National Association of Counties
COLA	Cost of living adjustment	OB-GYN	Obstetrics and Gynecology
ConFire	Contra Costa Consolidated Fire District	O.D.	Doctor of Optometry
CPA	Certified Public Accountant	OES-EOC	Office of Emergency Services-Emergency Operations Center
CPI	Consumer Price Index	OSHA	Occupational Safety and Health Administration
CSA	County Service Area	Psy.D.	Doctor of Psychology
CSAC	California State Association of Counties	RDA	Redevelopment Agency
CTC	California Transportation Commission	RFI	Request For Information
dba	doing business as	RFP	Request For Proposal
EBMUD	East Bay Municipal Utility District	RFQ	Request For Qualifications
EIR	Environmental Impact Report	RN	Registered Nurse
EIS	Environmental Impact Statement	SB	Senate Bill
EMCC	Emergency Medical Care Committee	SBE	Small Business Enterprise
EMS	Emergency Medical Services	SWAT	Southwest Area Transportation Committee
EPSDT	State Early Periodic Screening, Diagnosis and treatment Program (Mental Health)	TRANSPAC	Transportation Partnership & Cooperation (Central)
et al.	et ali (and others)	TRANSPLAN	Transportation Planning Committee (East County)
FAA	Federal Aviation Administration	TRE or TTE	Trustee
FEMA	Federal Emergency Management Agency	TWIC	Transportation, Water and Infrastructure Committee
F&HS	Family and Human Services Committee	UCC	Urban Counties Caucus
First 5	First Five Children and Families Commission (Proposition 10)	VA	Department of Veterans Affairs
FTE	Full Time Equivalent	vs.	versus (against)
FY	Fiscal Year	WAN	Wide Area Network
GHAD	Geologic Hazard Abatement District	WBE	Women Business Enterprise
GIS	Geographic Information System	WCCTAC	West Contra Costa Transportation Advisory Committee
HCD	(State Dept of) Housing & Community Development		
HHS	Department of Health and Human Services		

Schedule of Upcoming BOS Meetings

Nov. 10, 2009

Dec. 1, 2009

Dec. 8, 2009

Legislation Committee
Supervisor Susan A. Bonilla, Chair
Supervisor Mary N. Piepho, Vice Chair

Record of Actions

September 1, 2009, 10:30 a.m.
Room 108, 651 Pine Street, Martinez

1. Introductions

The meeting was called to order by Vice Chair Piepho. Chair Bonilla arrived thereafter. Cathy Christian, state advocate, was on-line via conference call. Staff and the public introduced themselves.

2. Public Comment: None.

3. Record of Action of August 3, 2009 Meeting

Approved with no changes.

4. State Budget Update Report

Staff provided a brief update, highlighting aspects of the Corrections Package, the California Forward proposal, and the status of the Tax Reform Commission's work.

5. Delta Water Legislation Update

Cathy Christian reported that the commitment remains strong for the Delta Counties Coalition to work out our differences. Senator Wolk has been unyielding in her commitment to the Delta counties. The latest version of legislation has the Delta Protection Commission reconstituted to be local government-focused. The Chair would sit on the Stewardship Council.

The Conference Committee is to meet at 3:00 today. Cathy did not know who the Assembly Democrats on the Committee would be at that time. Balls still in the air include: surface storage, dam construction, governance on bodies, oversight of BDCP. Should be getting Conference Committee language today. There is a need for additional coordination amount the DCC members to hold together. There are to be 14 members of the Conference Committee, which needs 8 votes to get a bill approved. Expecting a bill by Tuesday, September 8, and it cannot be amended when it comes out of Conference Committee—either voted up or down.

Supervisor Piepho expressed her concern that the DCC has not been rigid or adamant, but the few assurances we have asked for are being ignored or extricated from the bill. She contended that relatively nothing the DCC has asked for is included. We are trying to be

good partners, staying in partnership. Apparently Secretary Christmas doesn't see the DCC role in the BDCP and the Stewardship Council as critically as we do. We have been invited back today or meet with Resources Agency staff to talk about legislative language.

Supervisor Bonilla asked a question about when do we become irrelevant in the process and what are the cost implications? Discussion followed about whether an emergency meeting of the Board of Supervisors was needed to discuss whatever legislation emerges from the Conference Committee. Our legislative delegation is in lock-step with Senator Wolk, which is appreciated. But what happens next is unknown. The BDCP is still marching forward. Opposition can be a powerful position, Supervisor Bonilla stated, especially when collaboration has not been all that successful. However, she was concerned that we keep Labor's position on legislation in mind. Need to make sure we are still talking about the needed funding and the construction of levee improvements. Cathy says they haven't played a central role in negotiations, but they are generally supportive of the construction of a canal and the BDCP process.

Cathy suggested we may want to consider a 5-county press release about the lack of representation on the Conference Committee, and a 5-county letter on the package of legislation. Supervisor Bonilla said the article in the packet about the costs of a water bill needs to get traction. What is the public benefit of a bond that everyone pays for? It should be "beneficiary pays." Our delegation needs tools. We don't want to kill legislation; we just don't want bad legislation. A special session on Water issues may be called, if a bill is not passed by the end of the regular session.

6. Update on Status of 2009 State and Federal Legislation

Ms. DeLaney provided the Committee with a brief update of various pieces of state and federal legislation. The Committee did not have sufficient information on SB 250 to make a recommendation on a position to the full Board.

7. Federal Health Care Reform

Ms. DeLaney provided the Committee with information about federal efforts to pass a healthcare reform bill. Supervisor Bonilla noted that Congressman Miller's office had distributed a helpful handout that described the impacts on the district.

8. Williamson Act Program Update

Patrick Roche provided the Committee with an update on the status on funding for the Williamson Act and its impact on Contra Costa County. The Committee requested that his report be forwarded to the full Board and supported a letter opposing the funding reductions.

9. Adjourned to Next Meeting Scheduled for October 5, 2009

(Meeting subsequently cancelled.)

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Susan A. Bonilla, Chair
Supervisor Mary N. Piepho, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: October 28, 2009

SUBJECT: **Agenda Item #4: Delta Water Legislation Update**

RECOMMENDATION

RECEIVE the report and discuss impacts to and response from Contra Costa County.

REPORT

A revised version of the Delta Legislative Package was released October 24, 2009 as SB 7X-1. (See Attachment A).

A joint informational hearing of the Assembly Water, Parks and Wildlife and Senate Natural Resources and Water Committees took place on Monday, October 26. (See Attachment B.) This was followed by a second joint hearing on Wednesday, October 28 to address proposed water bond and financing language. (The accompanying, roughly \$9-billion bond proposal sets aside money for new storage, but does not dedicate money for any specific dams or reservoirs. Senator Steinberg and Senator Cogdill each introduced a bond bill in the 7th Extraordinary Session on Wednesday, October 27, in the afternoon. These bills are SB X7-2 and SB X7-3)

The revised Steinberg bill, SB X7-1, follows SB 68 which failed to pass the Legislature on September 11, the last day of regular session.

This comprehensive package of legislation sets the stage for major decisions that will affect water supply reliability for many years into the future. The bill contains a definition of co-equal goals, respecting the need for water supply reliability and ecosystem restoration. It also includes provisions for a process to make final decisions for Delta conveyance facilities.

The package also defines a governance structure for the Delta, which is a key concern of the Delta Counties Coalition because the structure of the 7-member Stewardship Council,

which provides for one permanent seat for the Delta Protection Commission chair, is not sufficiently representative of the Delta Counties.

The legislation does not, however, contain what are perhaps the most controversial proposals in the debate over water. One is whether a canal should be built to skirt the periphery of the Delta. The second is whether new reservoirs should be built. The capital projects are separate issues - indeed, the canal could be authorized under existing law, according to some - and will be negotiated separately.

The revised bill, SB 7X-1, contains the following modifications. Delta policy provisions of the bill language have been modified regarding protection of area of origin and other water rights. A fourth option has been added to the water conservation provision to augment the existing three options, providing water agencies with greater flexibility in meeting the 20% reduction by 2020 goal. The bill's provisions related to water rights enforcement were modified deleting the interim relief sections contained in SB 68.

In addition, SB 7X-1 creates for the first time fee-making authority for the State Water Resources Control Board to cover costs of administering water rights and calls for the addition of 25 full-time staff. Fees would be levied on all water rights holders in the system.

SB 7X-1 is supported by the Metropolitan Water District of Southern California, Westlands Water District, San Francisco PUC, Contra Costa Water District, Natural Resources Defense Council, The Bay Institute, The Nature Conservancy, Environmental Defense Fund, the Southern California Water Committee, REAL Coalition and the Los Angeles Chamber of Commerce.

Some agencies continue to have concerns with SB X7-1 and are seeking amendments to the amount of flexibility provided in the conservation provisions and with some of the remaining water rights enforcement provisions.

Apparently, the Contra Costa Water District (CCWD) opposes SB X7-2 and SB X7-3 because they make changes to fundamental water rights. These bills, if unchanged, would force CCWD to change its position on SB X7-1 from support to oppose, because they unravel some of the water right protection that was affirmed in SB X7-1. The language (79713 in both bills as well as 13170.3 in SB X7-2) apparently adversely affects Delta interests and implementation of protections currently afforded the Delta and its ecosystem and would remove the water right protections affirmed in SB X7-1. CCWD opposes these bills for this reason.

One recently amended section in SB X 7-1 regarding groundwater monitoring has attracted the attention of counties. It would assign counties with new responsibilities regarding groundwater monitoring if no other entity in a groundwater basin or sub-basin expresses an interest in developing a groundwater management plan, integrated regional water management plan, or a voluntary groundwater monitoring association. In other words, counties would become the "backstop" groundwater monitor. This proposal would give total responsibility to counties without any authority or funding to become the monitor, of a

voluntary compliance program, yet the county receives the penalty for non-compliance. On this basis alone, the Delta Counties Coalition would object to the bill.

Another concern to counties is a provision that relates to reviewing the consistency of local land use decisions with the Delta Plan. The Delta Counties Coalition supports the idea that the Delta Plan should rely on the Delta Protection Commission's (DPC) "Resource Management Plan" process. The DPC is the forum for coordinating local land use policies to protect the Delta, and this forum should not be superceded by the Delta Stewardship Council.

Some Bay Area Democrats, who could be expected to back a leadership proposal, have withheld support over Delta provisions they fear could ultimately cost local districts water. Republicans, fiercely fighting some of the fine-print details, introduced their own version of the bill Tuesday, AB 1 7X, frustrating Democrats who say they have already compromised enough. AB 1 7X eliminates most of the Pavley water conservation and groundwater monitoring provisions, which may not be very good for the Delta counties because the more conservation, the less demand on the Delta.

The endorsement of some of the biggest players in Delta and water politics has not assured passage of SB 7X-1. In some ways, the split over the bill represents two competing philosophies.

One philosophy believes California can build its way out of its water troubles with a Delta re-plumbing and new dams and reservoirs. The other camp, represented largely by Democrats, argues that the answer is more sweeping than infrastructure: The state should start monitoring groundwater use, do a better job of enforcing water rights and crack down on illegal water diversions in the all-important Delta watershed. It needs to mandate urban water conservation and force agriculture -- the state's biggest user of water -- to do a better job of measuring and pricing its supplies to promote efficient irrigation.

The conservation provision in the bill, which requires the state to cut urban per capita water use by 20% overall, exemplifies the word-by-word back-and-forth that has bogged down talks.

Republicans want to insert language protecting districts that fail to comply with the conservation targets so they could not be sued under the California Constitution's prohibition on waste and unreasonable water use. But adding that line would undermine a century-old pillar of state water doctrine, insist Democrats and environmentalists.

There is a similar fight over the bill's call for the state to determine how much water the Delta needs to regain some ecological health.

Regarding the bond bills, unless there is tough "beneficiaries pay" language contained in bill, the Stewardship Council could attempt to spread the costs of this package to try to lessen the burden to agriculture and any other community that does not want to pay for the benefits they will receive. Spreading these costs to everyone would be akin to establishing

a state water tax. Staff has seen no detailed “beneficiaries pay” language to assess its integrity and clarity. This “beneficiaries pay” language is critical to ensure that these costs are fairly imposed.

In addition, the massive scope of change proposed for the Delta will require ongoing revenue to the Delta, including ensuring that Delta communities and residents – from agricultural enterprises to recreational facilities – can thrive. It must be stipulated clearly that the Bay Delta Conservation Plan must pay for itself, including mitigation for the broad array of impacts it will cause, and BDCP mitigation must be completely separate from public funding for the Delta.

The Delta Counties Coalition is fully engaged in meetings and hearings to seek further modifications to the package consistent with the principles of the Coalition. For example, the bill currently does not provide for significant oversight over the BDCP process, which is considered by many to be the environmental clearance process for a Peripheral Canal. The new Stewardship Council for the Delta will create a Delta Plan and there are thresholds that BDCP must meet to be determined consistent with it, but there is no mechanism for the public or Delta Counties to participate in development of the Delta Plan. Moreover, there are no assurances that the water supply and water quality needs of the Delta itself will be met.

On the federal front, the Delta Counties Coalition recently sent a letter to the heads of the federal agencies who recently signed an MOU, California Bay-Delta *Memorandum of Understanding Among Federal Agencies*, dated September 29, 2009 (MOU), requesting that the Delta Counties be included in the work under the MOU and assuring the agencies of our willingness to work constructively on solutions. The Delta Counties Coalition is in the process of arranging a trip to Washington D.C. to lobby for our interests.

On October 23, Congressman Jerry McNerney (CA-11) sent a letter to Governor Arnold Schwarzenegger regarding potential changes to the state’s water policy that may be considered by the California legislature.

The letter urges the Governor to take into account input from the families, farmers and businesses that live in the communities surrounding the San Joaquin Delta as these changes as considered. It also reiterates the Congressman’s plan to closely monitor initiatives that require federal participation and his concern about any proposals that lay groundwork for a peripheral canal.

This letter to the Governor also comes on the heels of Congressman McNerney calling on Secretary of the Interior Ken Salazar to actively solicit input from the residents who live in the San Joaquin Delta area and ensure their seat at the table as any federal proposals on the Delta are considered.

OFFICE COPY

Prepared By _____

Approved By _____

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 375, 1052, 1055, 1055.2, 1120, 1525, 1535, 1538, 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, 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.

DRAFT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

(a)

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

~~(b) Assure~~

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

~~(e)~~

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

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

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

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

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

SEC. 5. Section 29722.5 is added to the Public Resources Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A city council member appointed pursuant to this subdivision may select a designee for purposes of paragraph (1).

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

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

subdivision may select a designee for this purpose. For the purposes of this section, each reclamation district shall have one vote. Reclamation district members shall consist of the following:

~~(A) Two members~~

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

~~(B)~~

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

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

~~(D)~~

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

~~(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. The member may select a designee for this~~

~~purpose. For purposes of this section, each reclamation district shall have one vote.~~

~~The north delta area shall conduct separate votes to select each of its two members.~~

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

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

~~(f)~~

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

~~(g)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29741. The time and place of the first meeting of the commission, on and after January 1, 2010, shall be prescribed by the Governor, but in no event shall it be

scheduled for a date later than January 31, ~~1993~~ 2010. All meetings after the first meeting shall be held in a city within the ~~delta~~ Delta.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Public safety recommendations, such as flood protection recommendations.
- (2) The economic goals, policies, and objectives in local general plans and other local economic efforts, including recommendations on continued socioeconomic sustainability of agriculture and its infrastructure and legacy communities in the Delta.
- (3) Comments and recommendations to the Department of Water Resources concerning its periodic update of the flood management plan for the Delta.
- (4) Identification of ways to encourage recreational investment along the key river corridors, as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 33. Section 29764 is added to the Public Resources Code, to read:

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

SEC. 34. Section 29771 of the Public Resources Code is amended to read:

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

SEC. 35. Section 29773 is added to the Public Resources Code, to read:

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

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

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

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

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

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

SEC. 36. Section 29773.5 is added to the Public Resources Code, to read:

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

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

SEC. 37. Section 29778.5 is added to the Public Resources Code, to read:

29778.5. The Delta Investment Fund is hereby created in the State Treasury. Any funds within the Delta Investment Fund shall be available, upon appropriation by the Legislature, to the commission for the implementation of the regional economic sustainability plan, developed pursuant to Section 29759, for the purposes of enhancing

Delta communities. The Delta Investment Fund may receive funds from federal, state, local, and private sources.

SEC. 38. Section 29780 of the Public Resources Code is amended to read:

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

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

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

- (1) Determining the consistency of local general plans with the Delta Plan.
 - (2) Outcomes of appealed local land use decisions pursuant to Sections 29770 and 29771.
 - (3) Outcomes of reviews initiated by the commission.
 - (4) Facilitating regional economic sustainability.
 - (5) Supporting other regional activities for the enhancement of Delta communities.
- (b) An update of the ~~resource management~~ economic sustainability plan, using baseline conditions set forth in the original ~~resource management economic sustainability~~ sustainability plan.

SEC. 39. Division 22.3 (commencing with Section 32300) is added to the Public Resources Code, to read:

DIVISION 22.3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS

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

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

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

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

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

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

(e) The Delta and Suisun Marsh provide numerous opportunities for recreation, such as boating, kayaking, fishing, hiking, birding, and hunting. Navigable waterways

in the Delta are available for public access and currently make up the majority of recreational opportunities. There is a need for land-based recreational access points including parks, picnic areas, and campgrounds.

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

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

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

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

- (1) Protect and enhance habitat and habitat restoration.
- (2) Protect and preserve Delta agriculture and working landscapes.
- (3) Provide increased opportunities for tourism and recreation.
- (4) Promote Delta legacy communities and economic vitality in the Delta in coordination with the Delta Protection Commission.

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

(6) Protect and improve water quality.

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

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

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

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

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

(12) Promote environmental education.

CHAPTER 2. DEFINITIONS

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

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

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

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

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

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

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

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

CHAPTER 3. SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY

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

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

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

- (1) Protect and enhance habitat and habitat restoration.
- (2) Protect and preserve Delta agriculture and working landscapes.
- (3) Provide increased opportunities for tourism and recreation in the Delta.
- (4) Promote Delta legacy communities and economic vitality in the Delta, in coordination with the Delta Protection Commission.
- (5) Increase the resilience of the Delta to the effects of natural disasters such as floods and earthquakes, in coordination with the Delta Protection Commission.
- (6) Protect and improve water quality.
- (7) Assist the Delta regional economy through the operation of the conservancy's program.
- (8) Identify priority projects and initiatives for which funding is needed.
- (9) Protect, conserve, and restore the region's physical, agricultural, cultural, historical, and living resources.
- (10) Assist local entities in the implementation of their habitat conservation plans (HCPs) and natural community conservation plans (NCCPs).
- (11) Facilitate take protection and safe harbor agreements under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code) for adjacent landowners and local public agencies.

(12) Promote environmental education through grant funding.

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

CHAPTER 4. GOVERNING BOARD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A designee of the Yolo Basin Foundation.

(10) A designee of the Delta Protection Commission.

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

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

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

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

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

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

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

the board requires an affirmative vote of six of the voting members, and the vote is binding with respect to all matters acted on by the conservancy.

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

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

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

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

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

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

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

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

CHAPTER 5. POWERS, DUTIES, AND LIMITATIONS

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

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

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

(3) Funds may be allocated to a separate program for economic sustainability in the Delta. The conservancy shall develop this program, in conjunction with the Delta Protection Commission, the Delta counties, and other interested parties. Funds provided to the conservancy to implement ecosystem restoration projects pursuant to the Bay Delta Conservation Plan shall only be used for ecosystem restoration purposes.

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

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

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

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

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

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

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

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

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

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

applicant, or urgency of the project. The conservancy may waive cost-share requirements.

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

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

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

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

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

(1) The intended use of the property.

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

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

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

32365. The conservancy may sue and be sued.

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

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

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

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

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

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

(c) The conservancy may create and manage endowments.

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

32376. Within two years of hiring an executive officer, the board shall prepare and adopt a strategic plan to achieve the goals of the conservancy. The plan shall describe its interaction with local, regional, state, and federal land use, recreation, water and flood management, and habitat conservation and protection efforts within and adjacent to the Delta. The strategic plan shall establish priorities and criteria for projects and programs, based upon an assessment of program requirements, institutional

capabilities, and funding needs throughout the Delta. The strategic plan shall be consistent with the Delta Plan, the Delta Protection Commission's resources management plan, the Central Valley Flood Protection Plan, the Suisun Marsh Preservation Act of 1977 (Division 19 (commencing with Section 29000)), and the Habitat Management, Preservation and Restoration Plan for the Suisun Marsh.

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

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

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

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

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

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

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

SEC. 40. Chapter 2.7 (commencing with Section 348) is added to Division 1 of the Water Code, to read:

CHAPTER 2.7. WATER DIVERSION AND USE REPORTS

348. (a) The department or the board may adopt emergency regulations providing for the electronic filing of reports of water diversion or use required to be filed with the department or board under this code, including, but not limited to, any report required to be filed under Part 5.1 (commencing with Section 5100) of Division 2 and any report required to be filed by a water right permittee or licensee.

(b) Emergency regulations adopted pursuant to this section, or any amendments thereto, shall be adopted by the department or the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations or amendments to those regulations adopted under this section shall remain in effect until revised by the department or the board that adopted the regulations or amendments.

SEC. 40.5. Section 375 of the Water Code is amended to read:

375. (a) Notwithstanding any other provision of the law, any public entity which supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water

conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

(b) With regard to water delivered for other than agricultural uses, the ordinance or resolution may specifically require the installation of water-saving devices ~~which~~ that are designed to reduce water consumption. The ordinance or resolution may also encourage water conservation through rate structure design.

(c) With regard to water delivered for “process water” users, as that term is defined in subdivision (l) of Section 10608.12, an ordinance or resolution adopted on or after January 1, 2010, shall be consistent with the requirements of paragraph (1) of subdivision (d) of Section 10608.26.

(e)

(d) For the purposes of this section, “public entity” means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state.

SEC. 41. Section 1051.1 is added to the Water Code, to read:

1051.1. (a) In conducting any investigation or proceeding specified in Section 275 or 1051, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, the board may order any person or entity that diverts or uses water to prepare, under penalty of perjury, and to submit to the board, any technical or monitoring program reports related to that person’s or entity’s diversion or use of water as the board may specify. The costs incurred by the person or entity in the preparation of those reports shall bear a reasonable relationship to the need for the report and the benefit to be

obtained from the report. If the preparation of individual reports would result in a duplication of effort, or if the reports are necessary to evaluate the cumulative effect of several diversions or uses of water, the board may order any person or entity subject to this subdivision to pay a reasonable share of the cost of preparing reports.

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

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

(d) In conducting any investigation or proceeding specified in Section 275 or 1051, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, the board may inspect the facilities of any person or entity to ascertain whether the purposes of Section 100 and this division are being met and to ascertain compliance with any permit, license, certification, registration, decision, order, or regulation issued under Section 275, this division, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7. Except in the event of an emergency affecting the public health or safety, the inspection shall be made with the consent of the owner or possessor of the

facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure.

SEC. 42. Section 1052 of the Water Code is amended to read:

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

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

(e)

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

(d)

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

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

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

(2) Civil liability may be imposed by the superior court for no more than three years preceding the filing of the complaint.

(3) The Attorney General, upon request of the board, shall petition the superior court to impose, assess, and recover any sums pursuant to this subdivision. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(4) Civil liability may be imposed by the board pursuant to Section 1055.

(e)

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

(f)

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

SEC. 43. Section 1055 of the Water Code is amended to read:

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

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

the date the party was served. The hearing shall be before the board, or a member of the board ~~as it may specify~~ in accordance with Section 183.

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

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

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

SEC. 44. Section 1055.2 of the Water Code is amended to read:

1055.2. No person or entity shall be subject to both civil liability imposed under Section 1055 and civil liability imposed by the superior court under ~~subdivision (d) of Section 1052, Section 1536, or Section 1845, or 1846~~ for the same act or failure to act.

SEC. 45. Section 1120 of the Water Code is amended to read:

1120. This chapter applies to any decision or order issued under this part or Section 275, Part 2 (commencing with Section 1200), Part 2 (commencing with Section 10500) of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, Section 85230, or the public trust doctrine.

SEC. 46. Section 1240.5 is added to the Water Code, to read:

1240.5. In any proceeding before the board in which it is alleged that a right to appropriate water has ceased or is subject to forfeiture or revocation for nonuse, there shall be a rebuttable presumption that no use occurred unless that use is included in a statement submitted pursuant to any reporting or monitoring requirement established under any permit, license, certificate, registration, decision or order, or regulation issued by the board pursuant to this division, Section 275, Article 7 (commencing with Section 13550) of Division 7, or the public trust doctrine under this part, and the statement is submitted within six months after it is required to be filed with the board. This section does not apply to any diversion or use that occurred before January 1, 2009.

SEC. 47. Section 1525 of the Water Code is amended to read:

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

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

- (1) An application for a permit to appropriate water.
- (2) A registration of appropriation for a small domestic use or livestock stockpond use.
- (3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.

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

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

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

~~(6)~~

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

~~(7)~~

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

~~(8)~~

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

~~(9)~~

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

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

(c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in connection with the issuance, administration, review,

monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, statements of diversion and use, and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, statements of diversion and use, petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing the public trust doctrine, Section 275, the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division, the requirements under Part 5.1 (commencing with Section 5100) for filing statements of diversion and use, and the administrative costs incurred in connection with carrying out these actions.

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

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

(3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the revenue levels set forth

in the annual Budget Act for this activity. The board shall review and revise the fees each fiscal year as necessary to conform with the revenue levels set forth in the annual Budget Act. If the board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the annual Budget Act, the board may further adjust the annual fees to compensate for the over or under collection of revenue.

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

SEC. 48. Section 1535 of the Water Code is amended to read:

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

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

SEC. 49. Section 1538 of the Water Code is amended to read:

1538. (a) In any proceeding pursuant to Section 1052 in which it is determined that there has been a violation of the prohibition against the unauthorized diversion or use of water subject to this division, the board or court, as the case may be, may impose an additional liability in the amount of 150 percent of any annual fees that would have

been required under this division if the diversion or use had been authorized by a permit or license to appropriate water.

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

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

SEC. 50. Section 1551 of the Water Code is amended to read:

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

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

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

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

SEC. 51. Section 1825 of the Water Code is amended to read:

1825. It is the intent of the Legislature that the state should take vigorous action to enforce the terms and conditions of permits, licenses, certifications, and registrations

to appropriate water, to enforce state board orders and decisions, ~~and~~ to prevent the unlawful diversion of water, and to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, and to enforce reporting and monitoring requirements.

SEC. 52. Section 1845 of the Water Code is amended to read:

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

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

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

(B) The highest market value of the water.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums. Civil liability may be imposed by the superior court for no more than three years preceding the filing of the complaint.

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

(c) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

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

SEC. 53. Section 1846 is added to the Water Code, to read:

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

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

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

(d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not

limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

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

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

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

(3) This section does not provide a basis for imposing liability on a watermaster who is subject to reporting or monitoring requirements but does not divert or use the water subject to those requirements.

SEC. 54. Section 1847 is added to the Water Code, to read:

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

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

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

(d) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

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

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

SEC. 55. Section 2525 of the Water Code is amended to read:

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

SEC. 56. Section 2526 of the Water Code is amended to read:

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

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

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

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

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

SEC. 57. Section 2550 of the Water Code is amended to read:

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

SEC. 58. Section 2763.5 of the Water Code is amended to read:

2763.5. (a) No exception to the order of determination shall be considered, except in the court's discretion for good cause shown, unless the matter of the exception was presented to the board in the form of an objection. Good cause includes, but is not limited to, the existence of newly discovered relevant evidence which, in the exercise

of reasonable diligence, could not have been presented to the board during the board's proceedings.

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

SEC. 59. Section 5100 of the Water Code is amended to read:

5100. As used in this part:

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

(b) "Best professional practices" means practices attaining and maintaining the accuracy of measurement and reporting devices and methods.

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

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

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

SEC. 60. Section 5101 of the Water Code is amended to read:

5101. Each person who, after December 31, 1965, diverts water shall file with the board, prior to July 1 of the succeeding year, a statement of his or her diversion and use; ~~provided, however, that no statement need, except that a statement is not required to~~ be filed if the diversion is any of the following:

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

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

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

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

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

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

~~(g)~~

(e) Included in annual reports filed with a court or the board by a watermaster appointed by a court or pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have diverted water and give

the general place of use and the quantity of water ~~which~~ that has been diverted from each source.

~~(h)~~

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

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

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

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

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

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

SEC. 61. Section 5103 of the Water Code is amended to read:

5103. Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:

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

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

(c) ~~The place of diversion. If a public land survey has been made, location of~~
The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision. If not, it shall be described by reference to nearest local landmarks or other recorded surveys and the assessor's parcel number shall also be provided.

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

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

~~(2) Paragraph (1) 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.~~

~~(3)~~

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

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

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

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

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

~~(f) For persons not subject to paragraph (1) of subdivision (e), a description of the acreage of each crop irrigated, the average number of people served with water, the average number of stock watered, and the nature and extent of any other use during the preceding calendar year, or other equivalent information that indicates the quantity of water used as may be prescribed by the board. Those who maintain water measuring devices and keep monthly records of water diversions shall state the quantity of water diverted by months during the preceding calendar year.~~

~~(g)~~

~~(f)~~ The purpose of use.

~~(h)~~

~~(g) A general description of the area in which the water was used. If the water was used on an area within the $\frac{1}{46}$ section containing the point of diversion, a statement to that effect will suffice; otherwise a description or sketch of the general area of use~~

shall be given. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.

(i)

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

SEC. 62. Section 5106 of the Water Code is amended to read:

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

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

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

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

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

(c) In any proceeding before the board to determine whether an application for a permit to appropriate water should be approved, any statement submitted under this part or determination by the board pursuant to Section 5105 is evidence of the facts stated therein.

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

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

SEC. 63. Section 5107 of the Water Code is amended to read:

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

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

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

(1) For failure to file a statement, one thousand dollars (\$1,000), plus five hundred dollars (\$500) per day for each additional day on which the violation continues if the

person fails to file a statement within 30 days after the board has called the violation to the attention of that person.

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

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

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

(d) When an additional penalty may be imposed under subdivision (c) for failure to correct a violation or correct or repair a malfunctioning measuring device within a specified period after the violation has been called to a person's attention by the board, the board, for good cause, may provide for a longer period for correction of the problem,

and the additional penalty shall not apply if the violation is corrected within the period specified by the board.

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

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

- (1) The extent of harm caused by the violation.
- (2) The nature and persistence of the violation.
- (3) The length of time over which the violation occurs.
- (4) Any corrective action undertaken by the violator.

~~(d)~~

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

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

SEC. 64. Section 5108 of the Water Code is repealed.

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

SEC. 65. Part 2.55 (commencing with Section 10608) is added to Division 6 of the Water Code, to read:

PART 2.55. SUSTAINABLE WATER USE AND DEMAND REDUCTION

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Advance regional water resources management.

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

(2) An urban retail water supplier's failure to meet the per capita targets established in Section 10608.20 _____. This paragraph does not limit the use of data reported to the department or the board in litigation or an administrative proceeding.

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

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

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

(d) The requirements of this part do not apply to an agricultural water supplier that is a party to the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, during the period within which the Quantification Settlement Agreement remains in effect. After the expiration of the Quantification Settlement Agreement, to the extent conservation water projects implemented as part of the Quantification Settlement Agreement remain in effect, the conserved water created as part of those projects shall be credited against the obligations of the agricultural water supplier pursuant to this part.

CHAPTER 2. DEFINITIONS

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

(a) “Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers.

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

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

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

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

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

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

(e) “Compliance daily per capita water use” means the gross water use during the final year of the reporting period, reported in gallons per capita per day.

(f) “Disadvantaged community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(g) “Gross water use” means the total volume of water, whether treated or untreated, entering the distribution system of an urban retail water supplier, excluding all of the following:

(1) Recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier.

(2) The net volume of water that the urban retail water supplier places into long-term storage.

(3) The volume of water the urban retail water supplier conveys for use by another urban water supplier.

(4) The volume of water delivered for agricultural use, except as otherwise provided in subdivision (f) of Section 10608.24.

(h) “Industrial water user” means a water user that is primarily a manufacturer or processor of materials as defined by the North American Industry Classification System code sectors 31 to 33, inclusive.

(i) “Institutional water user” means a water user dedicated to public service. This type of user includes, among other users, higher education institutions, schools, courts, churches, hospitals, and government facilities.

(j) “Interim urban water use target” means the midpoint between the urban retail water supplier’s base daily per capita water use and the urban retail water supplier’s urban water use target for 2020.

(k) “Locally cost effective” means that the present value of the local benefits of implementing an agricultural efficiency water management practice is greater than or equal to the present value of the local cost of implementing that measure.

(l) “Process water” means water used for producing a product or product content, including, but not limited to, continuous manufacturing processes. Process water uses include, but are not limited to, water used for testing and maintaining equipment used in producing a product or product content, and water used in combined heat and power facilities used in producing a product or product content. Process water does not mean incidental water uses not related to the production of a product or product content, including, but not limited to, water used for restrooms, landscaping, air conditioning, heating, kitchens, and laundry.

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

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

(A) Metered.

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

(C) Treated to a minimum tertiary level.

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

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

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

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

(2) The use of recycled water.

(3) The desalination of brackish groundwater.

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

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

(p) “Urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000

end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

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

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

CHAPTER 3. URBAN RETAIL WATER SUPPLIERS

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

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

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

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

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

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

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

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

(B) For landscape irrigated through dedicated or residential meters or connections, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using the approach specified in this subparagraph shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.

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

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

(4) A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20 percent reduction in urban daily per capita water use by December 31, 2020. If the department does not adopt a method pursuant to this paragraph, the urban retail water supplier shall adopt a method described in paragraph (1), (2), or (3). In developing urban daily per capita water use targets, the department shall do all of the following:

- (A) Consider climatic differences within the state.
- (B) Consider population density differences within the state.
- (C) Provide flexibility to communities and regions in meeting the targets.
- (D) Consider different levels of per capita water use according to plant water needs in different regions.
- (E) Consider different levels of commercial, industrial, and institutional water use in different regions of the state.
- (F) Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.

(c) The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.

(d) An urban retail water supplier shall include in its urban water management plan required pursuant to Part 2.6 (commencing with Section 10610) due in 2010 the

baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

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

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

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

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

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

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

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

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

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

10608.22. Notwithstanding the method adopted by an urban retail water supplier pursuant to Section 10608.20, an urban retail water supplier's per capita daily water use reduction shall be no less than 5 percent of base daily per capita water use as defined in paragraph (3) of subdivision (b) of Section 10608.12. This section does not apply

to an urban retail water supplier with a base daily per capita water use at or below 100 gallons per capita per day.

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

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

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

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

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

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

(C) Substantial changes to institutional water use resulting from fire suppression services or other extraordinary events, or from new or expanded operations, that have occurred during the reporting period.

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

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

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

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

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

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

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

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

(b) In complying with this part, an urban retail water supplier may meet its urban water use target through efficiency improvements in any combination among its customer sectors. An urban retail water supplier shall avoid placing a disproportionate burden on any customer sector.

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

(d) (1) An urban retail water supplier shall not require customers existing on January 1, 2010, to undertake changes in product formulation, operations, or equipment that would reduce process water use, but may provide technical assistance and financial incentives to those customers to implement efficiency measures for process water.

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

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

(1) Through an urban wholesale water supplier.

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

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

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

(5) By hydrologic region.

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

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

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

10608.36. Urban wholesale water suppliers shall include in the urban water management plans required pursuant to Part 2.6 (commencing with Section 10610) an

assessment of their present and proposed future measures, programs, and policies to help achieve the water use reductions required by this part.

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

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

10608.43. The department, in conjunction with the California Urban Water Conservation Council, by April 1, 2010, shall convene a representative task force consisting of academic experts, urban retail water suppliers, environmental organizations, commercial water users, industrial water users, and institutional water users to develop alternative best management practices for commercial, industrial, and institutional users and an assessment of the potential statewide water use efficiency improvement in the commercial, industrial, and institutional sectors that would result from implementation of these best management practices. The taskforce, in conjunction with the department, shall submit a report to the Legislature by April 1, 2012, that shall include a review of multiple sectors within commercial, industrial, and institutional users and that shall recommend water use efficiency standards for commercial,

industrial, and institutional users among various sectors of water use. The report shall include, but not be limited to, the following:

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

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

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

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

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

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

CHAPTER 4. AGRICULTURAL WATER SUPPLIERS

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

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

(1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10.

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

(c) Agricultural water suppliers shall implement additional efficient management practices, including, but not limited to, practices to accomplish all of the following, if the measures are locally cost effective and technically feasible:

(1) Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

(2) Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

(3) Facilitate the financing of capital improvements for on-farm irrigation systems.

(4) Implement an incentive pricing structure that promotes one or more of the following goals:

(A) More efficient water use at the farm level.

(B) Conjunctive use of groundwater.

(C) Appropriate increase of groundwater recharge.

(D) Reduction in problem drainage.

(E) Improved management of environmental resources.

(F) Effective management of all water sources throughout the year by adjusting seasonal pricing structures based on current conditions.

(5) Expand line or pipe distribution systems, and construct regulatory reservoirs to increase distribution system flexibility and capacity, decrease maintenance, and reduce seepage.

(6) Increase flexibility in water ordering by, and delivery to, water customers within operational limits.

(7) Construct and operate supplier spill and tailwater recovery systems.

(8) Increase planned conjunctive use of surface water and groundwater within the supplier service area.

(9) Automate canal control structures.

(10) Facilitate or promote customer pump testing and evaluation.

(11) Designate a water conservation coordinator who will develop and implement the water management plan and prepare progress reports.

(12) Provide for the availability of water management services to water users.

These services may include, but are not limited to, all of the following:

(A) On-farm irrigation and drainage system evaluations.

(B) Normal year and real-time irrigation scheduling and crop evapotranspiration information.

(C) Surface water, groundwater, and drainage water quantity and quality data.

(D) Agricultural water management educational programs and materials for farmers, staff, and the public.

(13) Evaluate the policies of agencies that provide the supplier with water to identify the potential for institutional changes to allow more flexible water deliveries and storage.

(14) Evaluate and improve the efficiencies of the supplier's pumps.

(d) Agricultural water suppliers shall include in the agricultural water management plans required pursuant to Part 2.8 (commencing with Section 10800) a report on which efficient water management practices have been implemented and are planned to be implemented, an estimate of the water use efficiency improvements that have occurred since the last report, and an estimate of the water use efficiency improvements estimated to occur five and 10 years in the future. If an agricultural water supplier determines that an efficient water management practice is not locally cost effective or technically feasible, the supplier shall submit information documenting that determination.

(e) The data shall be reported using a standardized form developed pursuant to Section 10608.52.

(f) An agricultural water supplier may meet the requirements of subdivisions (d) and (e) by submitting to the department a water conservation plan submitted to the United States Bureau of Reclamation that meets the requirements described in Section 10828.

(g) On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the board, shall submit to the Legislature a report on the agricultural efficient water management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those efficient water management practices has affected and will affect agricultural operations, including estimated water use efficiency improvements, if any.

(h) The department may update the efficient water management practices required pursuant to subdivision (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the board. All efficient water management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

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

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

CHAPTER 5. SUSTAINABLE WATER MANAGEMENT

10608.50. (a) The department, in consultation with the board, shall promote implementation of regional water resources management practices through increased

incentives and removal of barriers consistent with state and federal law. Potential changes may include, but are not limited to, all of the following:

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

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

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

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

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

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

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

CHAPTER 6. STANDARDIZED DATA COLLECTION

10608.52. (a) The department, in consultation with the board, the California Bay-Delta Authority or its successor agency, the State Department of Public Health,

and the Public Utilities Commission, shall develop a single standardized water use reporting form to meet the water use information needs of each agency, including the needs of urban water suppliers that elect to determine and report progress toward achieving targets on a regional basis as provided in subdivision (a) of Section 10608.28.

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

CHAPTER 7. FUNDING PROVISIONS

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

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

(c) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water grant or loan even though the supplier has not met the per capita reductions required pursuant to Section 10608.24, if the urban retail water supplier has submitted to the department for approval a schedule, financing

plan, and budget, to be included in the grant or loan agreement, for achieving the per capita reductions. The supplier may request grant or loan funds to achieve the per capita reductions to the extent the request is consistent with the eligibility requirements applicable to the water funds.

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

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

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

participating in the project or plan is not implementing all of the requirements of this part or Part 2.8 (commencing with Section 10800).

10608.60. (a) It is the intent of the Legislature that funds made available by Section 75026 of the Public Resources Code should be expended, consistent with Division 43 (commencing with Section 75001) of the Public Resources Code and upon appropriation by the Legislature, for grants to implement this part. In the allocation of funding, it is the intent of the Legislature that the department give consideration to disadvantaged communities to assist in implementing the requirements of this part.

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

CHAPTER 8. QUANTIFYING AGRICULTURAL WATER USE EFFICIENCY

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

authorizes the department to implement a methodology established pursuant to this section.

SEC. 66. Section 10631.5 of the Water Code is amended to read:

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

(2) For the purposes of this section, water management grants and loans include funding for programs and projects for surface water or groundwater storage, recycling, desalination, water conservation, water supply reliability, and water supply augmentation. This section does not apply to water management projects funded by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

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

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

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

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

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

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

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

(i) Compliance on an individual basis.

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

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

(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more

of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.

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

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

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

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

SEC. 67. Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code is repealed.

SEC. 68. Part 2.8 (commencing with Section 10800) is added to Division 6 of the Water Code, to read:

PART 2.8. AGRICULTURAL WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

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

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

- (a) The waters of the state are a limited and renewable resource.
- (b) The California Constitution requires that water in the state be used in a reasonable and beneficial manner.
- (c) Urban water districts are required to adopt water management plans.
- (d) The conservation of agricultural water supplies is of great statewide concern.
- (e) There is a great amount of reuse of delivered water, both inside and outside the water service areas.
- (f) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.
- (g) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.

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

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

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

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

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

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

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

CHAPTER 2. DEFINITIONS

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

10811. "Agricultural water management plan" or "plan" means an agricultural water management plan prepared pursuant to this part.

10812. "Agricultural water supplier" has the same meaning as defined in Section 10608.12.

10813. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. "Public agency" means any city, county, city and county, special district, or other public entity.

10816. "Urban water supplier" has the same meaning as set forth in Section 10617.

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

CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

Article 1. General Provisions

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

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

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

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

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

Article 2. Contents of Plans

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

10827. Agricultural water suppliers that are members of the Agricultural Water Management Council, and that submit water management plans to that council in accordance with the "Memorandum of Understanding Regarding Efficient Water Management Practices By Agricultural Water Suppliers In California," dated January 1, 1999, may submit the water management plans identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of Section 10826.

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

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

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

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

10829. An agricultural water supplier may satisfy the requirements of this part by adopting an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) or by participation in area wide, regional, watershed, or basinwide water management planning if those plans meet or exceed the requirements of this part.

Article 3. Adoption and Implementation of Plans

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

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

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

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

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

(1) The department.

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

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

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

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

(6) The California State Library.

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

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

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

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

(b) The report prepared by the department shall identify the outstanding elements of any plan adopted pursuant to this part. The report shall include an evaluation of the

effectiveness of this part in promoting efficient agricultural water management practices and recommendations relating to proposed changes to this part, as appropriate.

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

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

CHAPTER 4. MISCELLANEOUS PROVISIONS

10850. (a) Any action or proceeding to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier on the grounds of noncompliance with this part shall be commenced as follows:

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

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

(b) In an action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an agricultural water supplier, on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a

prejudicial abuse of discretion. Abuse of discretion is established if the agricultural water supplier has not proceeded in a manner required by law, or if the action by the agricultural water supplier is not supported by substantial evidence.

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

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

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

SEC. 69. Part 2.11 (commencing with Section 10920) is added to Division 6 of the Water Code, to read:

PART 2.11. GROUNDWATER MONITORING

CHAPTER 1. GENERAL PROVISIONS

10920. (a) It is the intent of the Legislature that on or before January 1, 2012, groundwater elevations in all groundwater basins and subbasins be regularly and

systematically monitored locally and that the resulting groundwater information be made readily and widely available.

(b) It is further the intent of the Legislature that the department continue to maintain its current network of monitoring wells, including groundwater elevation and groundwater quality monitoring wells, and that the department continue to coordinate monitoring with local entities.

10921. This part does not require the monitoring of groundwater elevations in an area that is not within a basin or subbasin.

10922. This part does not expand or otherwise affect the powers or duties of the department relating to groundwater beyond those expressly granted by this part.

CHAPTER 2. DEFINITIONS

10925. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this part.

(a) “Basin” or “subbasin” means a groundwater basin or subbasin identified and defined in the department’s Bulletin No. 118.

(b) “Bulletin No. 118” means the department’s report entitled “California’s Groundwater: Bulletin 118” updated in 2003, or as it may be subsequently updated or revised in accordance with Section 12924.

(c) “Monitoring entity” means a party conducting or coordinating the monitoring of groundwater elevations pursuant to this part.

(d) “Monitoring functions” and “groundwater monitoring functions” means the monitoring of groundwater elevations, the reporting of those elevations to the department, and other related actions required by this part.

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

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

CHAPTER 3. GROUNDWATER MONITORING PROGRAM

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

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

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

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

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

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

(e) A county that is not managing all or a part of a groundwater basin or subbasin pursuant to a legally enforceable groundwater management plan with provisions that are substantively similar to those described in Part 2.75 (commencing with Section 10750).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Upon the receipt of a notification pursuant to subdivision (b) of Section 10928, the department shall do both of the following:

(A) Verify that each notification is complete.

(B) Assess the qualifications of the notifying party.

(b) If the department has questions about the completeness or accuracy of a notification, or the qualifications of a party, the department shall contact the party to resolve any deficiencies. If the department is unable to resolve the deficiencies, the department shall notify the party in writing that the notification will not be considered further until the deficiencies are corrected.

(c) If the department determines that more than one party seeks to become the monitoring entity for the same portion of a basin or subbasin, the department shall consult with the interested parties to determine which party will perform the monitoring functions. In determining which party will perform the monitoring functions under this part, the department shall follow the order in which entities are identified in Section 10927.

(d) The department shall advise each party on the status of its notification within three months of receiving the notification.

10930. Upon completion of each review pursuant to Section 10929, the department shall do both of the following if it determines that a party will perform monitoring functions under this part:

(a) Notify the party in writing that it is a monitoring entity and the specific portion of the basin or subbasin for which it shall assume groundwater monitoring functions.

(b) Post on the department's Internet Web site information that identifies the monitoring entity and the portion of the basin or subbasin for which the monitoring entity will be responsible.

10931. (a) The department shall work cooperatively with each monitoring entity to determine the manner in which groundwater elevation information should be reported to the department pursuant to this part. In determining what information should be reported to the department, the department shall defer to existing monitoring programs if those programs result in information that demonstrates seasonal and long-term trends in groundwater elevations. The department shall collaborate with the State Department of Public Health to ensure that the information reported to the department will not

result in the inappropriate disclosure of the physical address or geographical location of drinking water sources, storage facilities, pumping operational data, or treatment facilities.

(b) (1) For the purposes of this part, the department may recommend improvements to an existing monitoring program, including recommendations for additional monitoring wells.

(2) The department may not require additional monitoring wells unless funds are provided for that purpose.

10932. Monitoring entities shall commence monitoring and reporting groundwater elevations pursuant to this part on or before January 1, 2012.

10933. (a) On or before January 1, 2012, the department shall commence to identify the extent of monitoring of groundwater elevations that is being undertaken within each basin and subbasin.

(b) The department shall prioritize groundwater basins and subbasins for the purpose of implementing this section. In prioritizing the basins and subbasins, the department shall, to the extent data are available, consider all of the following:

- (1) The population overlying the basin or subbasin.
- (2) The rate of current and projected growth of the population overlying the basin or subbasin.
- (3) The number of public supply wells that draw from the basin or subbasin.
- (4) The total number of wells that draw from the basin or subbasin.
- (5) The irrigated acreage overlying the basin or subbasin.

(6) The degree to which persons overlying the basin or subbasin rely on groundwater as their primary source of water.

(7) Any documented impacts on the groundwater within the basin or subbasin, including overdraft, subsidence, saline intrusion, and other water quality degradation.

(8) Any other information determined to be relevant by the department.

(c) If the department determines that all or part of a basin or subbasin is not being monitored pursuant to this part, the department shall do all of the following:

(1) Attempt to contact all well owners within the area not being monitored.

(2) Determine if there is an interest in establishing any of the following:

(A) A groundwater management plan pursuant to Part 2.75 (commencing with Section 10750).

(B) An integrated regional water management plan pursuant to Part 2.2 (commencing with Section 10530) that includes a groundwater management component that complies with the requirements of Section 10753.7.

(C) A voluntary groundwater monitoring association pursuant to Section 10935.

(d) If the department determines that there is sufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c), or if the county agrees to perform the groundwater monitoring functions in accordance with this part, the department shall work cooperatively with the interested parties to comply with the requirements of this part within two years.

(e) (1) If the department determines, with regard to a basin or subbasin, that there is insufficient interest in establishing a plan or association described in paragraph (2)

of subdivision (c), the department shall notify the county or counties within which the basin or subbasin is located, in whole or in part, of that determination.

(2) Any county notified by the department pursuant to paragraph (1) that there is insufficient interest in establishing a plan or association described in paragraph (2) of subdivision (c) shall, within two years of notification by the department, do one of the following:

(A) Form or facilitate the formation of a plan or association described in paragraph (2) of subdivision (c) to perform the groundwater monitoring functions in accordance with this part.

(B) Perform the groundwater monitoring functions in accordance with this part.

10933.5. If a county is notified pursuant to subdivision (e) of Section 10933 and fails to undertake one of the two actions described in paragraph (2) of subdivision (e) of Section 10933, the county and the entities described in subdivisions (a) to (d), inclusive, of Section 10927 shall not be eligible for a water grant or loan awarded or administered by the state until either of the following occurs:

(a) The county complies with paragraph (2) of subdivision (e) of Section 10933.

(b) One of the entities described in Section 10927, with regard to that basin or subbasin, agrees to perform groundwater monitoring functions in accordance with this part.

10934. Nothing in this part provides any new or additional authority to any entity described in Section 10927 to do either of the following:

(a) To enter private property without the consent of the property owner.

(b) To require a private property owner to submit groundwater monitoring information to the entity.

10935. (a) A voluntary cooperative groundwater monitoring association may be formed for the purposes of monitoring groundwater elevations in accordance with this part. The association may be established by contract, a joint powers agreement, a memorandum of agreement, or other form of agreement deemed acceptable by the department.

(b) Upon notification to the department by one or more entities that seek to form a voluntary cooperative groundwater monitoring association, the department shall work cooperatively with the interested parties to facilitate the formation of the association.

(c) The contract or agreement shall include all of the following:

- (1) The names of the participants.
- (2) The boundaries of the area covered by the agreement.
- (3) The name or names of the parties responsible for meeting the requirements of this part.
- (4) The method of recovering the costs associated with meeting the requirements of this part.
- (5) Other provisions that may be required by the department.

10936. Costs incurred by the department pursuant to this chapter may be funded from unallocated bond revenues pursuant to paragraph (12) of subdivision (a) of Section 75027 of the Public Resources Code, to the extent those funds are available for those purposes.

SEC. 70. Section 12924 of the Water Code is repealed.

~~12924. (a) The department shall, in conjunction with other public agencies, conduct an investigation of the state's groundwater basins. The department shall identify the state's groundwater basins on the basis of geological and hydrological conditions and consideration of political boundary lines whenever practical. The department shall also investigate existing general patterns of groundwater pumping and groundwater recharge within such basins to the extent necessary to identify basins which are subject to critical conditions of overdraft.~~

~~(b) The department shall report its findings to the Governor and the Legislature not later than January 1, 1980.~~

SEC. 71. Section 12924 is added to the Water Code, to read:

12924. (a) The department, in conjunction with other public agencies, shall conduct an investigation of the state's groundwater basins. The department shall identify the state's groundwater basins on the basis of geological and hydrological conditions and consideration of political boundary lines whenever practical. The department shall also investigate existing general patterns of groundwater pumping and groundwater recharge within those basins to the extent necessary to identify basins that are subject to critical conditions of overdraft.

(b) The department shall report its findings to the Governor and the Legislature not later than January 1, 2012, and thereafter in years ending in 5 or 0.

SEC. 72. Division 26.4 (commencing with Section 79400) of the Water Code is repealed.

SEC. 73. Division 35 (commencing with Section 85000) is added to the Water Code, to read:

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

PART 1. GENERAL PROVISIONS

CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

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

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

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

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

(c) By enacting this division, it is the intent of the Legislature to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta, and to establish a governance structure that will direct efforts across state agencies to develop a legally enforceable Delta Plan.

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

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

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

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

(c) In 1933, the Legislature approved the California Central Valley Project Act, which relied upon the transfer of Sacramento River water south through the Delta and maintenance of a more constant salinity regime by using upstream reservoir releases of freshwater to create a hydraulic salinity barrier. As a result of the operations of state and federal water projects, the natural salinity variations in the Delta have been altered.

Restoring a healthy estuarine ecosystem in the Delta may require developing a more natural salinity regime in parts of the Delta.

85004. The Legislature finds and declares all of the following:

(a) The economies of major regions of the state depend on the ability to use water within the Delta watershed or to import water from the Delta watershed. More than two-thirds of the residents of the state and more than two million acres of highly productive farm land receive water exported from the Delta watershed.

(b) Providing a more reliable water supply for the state involves implementation of water use efficiency and conservation projects, wastewater reclamation projects, desalination, and new and improved infrastructure, including water storage and Delta conveyance facilities.

CHAPTER 2. DELTA POLICY

85020. The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta:

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

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

(c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.

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

(e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

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

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

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

85021. The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

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

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

(c) The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

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

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

(5) Develop new or improved aquatic and terrestrial habitat and protect existing habitats to advance the goal of restoring and enhancing the Delta ecosystem.

(6) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

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

CHAPTER 3. MISCELLANEOUS PROVISIONS

85031. (a) This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, rights to water appropriated prior to December 19, 1914, provided under the law. This division does not limit or otherwise affect the application of Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

(b) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2,

including petitions related to any new conveyance constructed or operated in accordance with Chapter 2 (commencing with Section 85320) of Part 4.

(c) Unless otherwise expressly provided, nothing in this division supersedes, reduces, or otherwise affects existing legal protections, both procedural and substantive, relating to the board's regulation of diversion and use of water, including, but not limited to, the protection provided to municipal interests by Sections 106 and 106.5, and changes in water rights. Nothing in this division expands or otherwise alters the board's existing authority to regulate the diversion and use of water or the courts' existing concurrent jurisdiction over California water rights.

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

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

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

(c) The Fish and Game Code.

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

(e) Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

(f) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(g) Section 1702.

(h) The application of the public trust doctrine.

(i) Any water right.

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

85034. (a) (1) The council shall administer all contracts, grants, easements, and agreements made or entered into by the California Bay-Delta Authority under Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009.

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

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

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

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

(d) The council shall assume from the California Bay-Delta Authority all responsibility to manage, in accordance with Chapter 5 (commencing with Section 85280) of Part 3, the science program element that was required to be undertaken by Division 26.4 (commencing with Section 79400).

(e) Consistent with the responsibilities and duties assumed by the council pursuant to this section, all staff, resources, and funding within the Natural Resources Agency

and the Department of Forestry and Fire Protection for the support of the CALFED Bay-Delta Program are hereby transferred to, and may be expended for the purposes of, the council. The executive officer of the council shall confer with the Director of Fish and Game, the director of the department, and the executive director of the board regarding possible reallocation of the staff and resources. The status, position, and rights of any officer or employee shall not be affected by this transfer and all officers and employees shall be retained pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

CHAPTER 4. DEFINITIONS

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

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

85052. “Adaptive management” means a framework and flexible decisionmaking process for ongoing knowledge acquisition, monitoring, and evaluation leading to continuous improvement in management planning and implementation of a project to achieve specified objectives.

85053. “Bay Delta Conservation Plan” or “BDCP” means a multispecies conservation plan.

85054. “Coequal goals” means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.

The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

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

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

85057. "Council" means the Delta Stewardship Council established in Section 85200.

85057.5. (a) "Covered action" means a plan, program, project, or activity that meets all of the following conditions:

(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.

(2) Will be carried out, approved, or funded by the state or a local public agency.

(3) Is covered by one or more provisions of the Delta Plan.

(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.

(b) "Covered action" does not include any of the following:

(1) A regulatory action of a state agency.

(2) Routine maintenance and operation of the State Water Project or the federal Central Valley Project.

(3) Regional transportation plans prepared pursuant to Section 65080 of the Government Code.

(4) Any plan, program, project, or activity within the secondary zone of the Delta that the applicable metropolitan planning organization under Section 65080 of the Government Code has determined is consistent with either a sustainable communities strategy or an alternative planning strategy that the State Air Resources Board has determined would, if implemented, achieve the greenhouse gas emission reduction targets established by that board pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code. For purposes of this section, “consistent with” means consistent with the use designation, density, building intensity, transportation plan, and applicable policies specified for the area in the sustainable communities strategy or the alternative planning strategy, as applicable, and any infrastructure necessary to support the plan, program, project, or activity.

(5) Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency.

(6) Any plan, program, project, or activity that occurs, in whole or in part, in the Delta, if both of the following conditions are met:

(A) The plan, program, project, or activity is undertaken by a local public agency that is located, in whole or in part, in the Delta.

(B) Either a notice of determination is filed, pursuant to Section 21152 of the Public Resources Code, for the plan, program, project, or activity by, or the plan, program, project, or activity is fully permitted by, September 30, 2009.

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

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

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

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

85066. “Restoration” means the application of ecological principles to restore a degraded or fragmented ecosystem and return it to a condition in which its biological and structural components achieve a close approximation of its natural potential, taking into consideration the physical changes that have occurred in the past and the future impact of climate change and sea level rise.

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

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) Expeditiously 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 purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan.

(c) (1) For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall, pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions. The flow criteria shall be developed in a public process by the board within nine months of the enactment of this division. The public process shall be in the form of an informational proceeding conducted pursuant to Article 3 (commencing with Section 649) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations, and shall provide an opportunity for all interested persons to participate. The board shall provide an opportunity for all

interested persons to participate in the informational proceeding. The flow criteria shall not be considered predecisional with regard to any subsequent board consideration of a permit, including any permit in connection with a final BDCP.

(2) Any order approving a change in the point of diversion of the State Water Project or the federal Central Valley Project from the southern Delta to a point on the Sacramento River shall include appropriate Delta flow criteria and shall be informed by the analysis conducted pursuant to this section. The flow criteria shall be subject to modification over time based on a science-based adaptive management program that integrates scientific and monitoring results, including the contribution of habitat and other conservation measures, into ongoing Delta water management.

(3) Nothing in this section amends or otherwise affects the application of the board's authority under Part 2 (commencing with Section 1200) of Division 2 to include terms and conditions in permits that in its judgment will best develop, conserve, and utilize in the public interest the water sought to be appropriated.

(d) The board shall enter into an agreement with the State Water Project contractors and the federal Central Valley Project contractors, who rely on water exported from the Sacramento River watershed, or a joint powers authority comprised of those contractors, for reimbursement of the costs of the analysis conducted pursuant to this section.

(e) The board shall submit its flow criteria determinations pursuant to this section to the council for its information within 30 days of completing the determinations.

85087. The board, by December 31, 2010, shall submit to the Legislature a prioritized schedule and estimate of costs to complete instream flow studies for the

Delta and for high priority rivers and streams in the Delta watershed, not otherwise covered by Section 85086, by 2012, and for all major rivers and streams outside the Sacramento River watershed by 2018. In developing this schedule, the board shall consult with the Department of Fish and Game as to the timing of its submission of recommendations for instream flow needs.

85088. Until the board issues an order approving a change in the point of diversion of the State Water Project and the federal Central Valley Project from the southern Delta to a point on the Sacramento River as specified in subdivision (c) of Section 85086, the department shall not commence construction of any diversion, conveyance, or other facility necessary to divert and convey water pursuant to the change in point of diversion.

85089. Construction of a new Delta conveyance facility shall not be initiated until the persons or entities that contract to receive water from the State Water Project and the federal Central Valley Project or a joint powers authority representing those entities have made arrangements or entered into contracts to pay for both of the following:

(a) The costs of the environmental review, planning, design, construction, mitigation, and operation and maintenance of any new Delta water conveyance facility. The costs of mitigation include the costs of mitigation pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code in connection with the construction, operation, and maintenance of any new Delta water conveyance facility.

(b) Full mitigation of property tax or assessments levied by local governments or special districts for land used in the construction, location, mitigation, or operation of new Delta conveyance facilities.

PART 3. DELTA GOVERNANCE

CHAPTER 1. DELTA STEWARDSHIP COUNCIL

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

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

(2) 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 an ex officio member.

(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.

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

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

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

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

(c) The council shall appoint an executive officer who shall serve full time at the pleasure of the council.

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

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

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

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

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

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

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

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

85210. The council has all of the following powers:

(a) To sue or be sued.

(b) To enter into contracts.

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

- (d) To delegate administrative functions to council staff.
- (e) To employ its own legal staff or contract with other state or federal agencies for legal services, or both. The council may employ special legal counsel with the approval of the Attorney General.
- (f) To receive funds, including funds from private and local governmental sources, contributions from public and private sources, as well as state and federal appropriations.
- (g) To disburse funds through grants, public assistance, loans, and contracts.
- (h) To request reports from state, federal, and local governmental agencies on issues related to the implementation of the Delta Plan.
- (i) To adopt regulations or guidelines as needed to carry out the powers and duties identified in this division.
- (j) To comment on state agency environmental impact reports for projects outside the Delta that the council determines will have a significant impact on the Delta.
- (k) To hold hearings in all parts of the state necessary to carry out the powers vested in it, and for those purposes has the powers conferred upon the heads of state departments pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. Any hearing by the council may be conducted by any member of the council, or other designee, upon authorization of the council, and he or she shall have the powers granted to the council by this section, provided that any final action of the council shall be taken by a majority of the members of the council at a meeting duly called and held.

85211. The Delta Plan shall include performance measurements that will enable the council to track progress in meeting the objectives of the Delta Plan. The

performance measurements shall include, but need not be limited to, quantitative or otherwise measurable assessments of the status and trends in all of the following:

(a) The health of the Delta's estuary and wetland ecosystem for supporting viable populations of aquatic and terrestrial species, habitats, and processes, including viable populations of Delta fisheries and other aquatic organisms.

(b) The reliability of California water supply imported from the Sacramento River or the San Joaquin River watershed.

CHAPTER 3. CONSISTENCY OF STATE AND LOCAL PUBLIC AGENCY ACTIONS

85225. A state or local public agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, shall prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the council.

85225.5. To assist state and local public agencies in preparing the required certification, the council shall develop procedures for early consultation with the council on the proposed covered action.

85225.10. (a) Any person who claims that a proposed covered action is inconsistent with the Delta Plan and, as a result of that inconsistency, the action will have a significant adverse impact on the achievement of one or both of the coequal goals or implementation of government-sponsored flood control programs to reduce risks to people and property in the Delta, may file an appeal with regard to a certification of consistency submitted to the council.

(b) The appeal shall clearly and specifically set forth the basis for the claim, including specific factual allegations, that the covered action is inconsistent with the Delta Plan. The council may request from the appellant additional information necessary to clarify, amplify, correct, or otherwise supplement the information submitted with the appeal, within a reasonable period.

(c) The council, or by delegation the executive officer, may dismiss the appeal for failure of the appellant to provide information requested by the council within the period provided, if the information requested is in the possession or under the control of the appellant.

85225.15. The appeal shall be filed no later than 30 days after the submission of the certification of consistency. If no person appeals the certification of consistency, the state or local public agency may proceed to implement the covered action.

85225.20. The appeal shall be heard by the council within 60 days of the date of the filing of the appeal, unless the council, or by delegation the executive officer, determines that the issue raised on appeal is not within the council's jurisdiction or does not raise an appealable issue. The council shall make its decision on the appeal within 60 days of hearing the appeal.

85225.25. After a hearing on an appealed action, the council shall make specific written findings either denying the appeal or remanding the matter to the state or local public agency for reconsideration of the covered action based on the finding that the certification of consistency is not supported by substantial evidence in the record before the state or local public agency that filed the certification. Upon remand, the state or local agency may determine whether to proceed with the covered action. If the agency

decides to proceed with the action or with the action as modified to respond to the findings of the council, the agency shall, prior to proceeding with the action, file a revised certification of consistency that addresses each of the findings made by the council and file that revised certification with the council.

85225.30. The council shall adopt administrative procedures governing appeals, which shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 4. DELTA WATERMASTER

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

(b) The board shall adopt internal procedures delegating authority to the Delta Watermaster. The Delta Watermaster shall exercise the board’s authority to provide timely monitoring and enforcement of board orders and permit terms and conditions. The Delta Watermaster’s delegated authority shall include authority to require monitoring and reporting, authority for approvals delegated to an officer or employee of the board by the terms of a water right permit or license, authority to approve temporary urgency changes pursuant to Chapter 6.6 (commencing with section 1435) of Part 2 of Division 2, and authority to issue a notice of proposed cease and desist order or administrative civil liability complaint. The Delta Watermaster’s authority

shall be limited to diversions in the Delta and the application and enforcement of the board's requirements that apply to conditions in the Delta.

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

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

CHAPTER 5. DELTA INDEPENDENT SCIENCE BOARD AND DELTA SCIENCE PROGRAM

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

(1) The Delta Independent Science Board shall consist of no more than 10 members appointed by the council. The term of office for members of the Delta Independent Science Board shall be five years. A member may serve no more than two terms.

(2) Members of the Delta Independent Science Board shall be nationally or internationally prominent scientists with appropriate expertise to evaluate the broad range of scientific programs that support adaptive management of the Delta. The

members shall not be directly affiliated with a program or agency subject to the review activities of the Delta Independent Science Board.

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

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

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

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

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

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

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

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

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

The lead scientist may serve no more than two terms.

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

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

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

PART 4. COMPREHENSIVE DELTA PLANNING

CHAPTER 1. THE DELTA PLAN

85300. (a) On or before January 1, 2012, the council shall develop, adopt, and commence implementation of the Delta Plan pursuant to this part that furthers the coequal goals. The Delta Plan shall include subgoals and strategies to assist in guiding state and local agency actions related to the Delta. In developing the Delta Plan, the council shall consider each of the strategies and actions set forth in the Strategic Plan

and may include any of those strategies or actions in the Delta Plan. The Delta Plan may also identify specific actions that state or local agencies may take to implement the subgoals and strategies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The commission shall submit the proposal developed pursuant to subdivision (a) to the council. The council shall consider the proposal and may include any portion of the proposal in the Delta Plan if the council, in its discretion, determines that the portion of the proposal is feasible and consistent with the objectives of the Delta Plan and the purposes of this division.

85302. (a) The implementation of the Delta Plan shall further the restoration of the Delta ecosystem and a reliable water supply.

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

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

- (1) Viable populations of native resident and migratory species.
- (2) Functional corridors for migratory species.
- (3) Diverse and biologically appropriate habitats and ecosystem processes.
- (4) Reduced threats and stresses on the Delta ecosystem.
- (5) Conditions conducive to meeting or exceeding the goals in existing species recovery plans and state and federal goals with respect to doubling salmon populations.

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

- (1) Meeting the needs for reasonable and beneficial uses of water.
- (2) Sustaining the economic vitality of the state.
- (3) Improving water quality to protect human health and the environment.

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

- (1) Restore large areas of interconnected habitats within the Delta and its watershed by 2100.
- (2) Establish migratory corridors for fish, birds, and other animals along selected Delta river channels.
- (3) Promote self-sustaining, diverse populations of native and valued species by reducing the risk of take and harm from invasive species.
- (4) Restore Delta flows and channels to support a healthy estuary and other ecosystems.
- (5) Improve water quality to meet drinking water, agriculture, and ecosystem long-term goals.
- (6) Restore habitat necessary to avoid a net loss of migratory bird habitat and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds.

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

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

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

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

85304. The Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals.

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

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

85306. The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and nonproject levees.

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

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

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

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

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

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

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

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

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

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

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

85309. The department, in consultation with the United States Army Corps of Engineers and the Central Valley Flood Protection Board, shall prepare a proposal to coordinate flood and water supply operations of the State Water Project and the federal

Central Valley Project, and submit the proposal to the council for consideration for incorporation into the Delta Plan. In drafting the proposal, the department shall consider all related actions set forth in the Strategic Plan.

CHAPTER 2. BAY DELTA CONSERVATION PLAN

85320. (a) The Bay Delta Conservation Plan (BDCP) shall be considered for inclusion in the Delta Plan in accordance with this chapter.

(b) The BDCP shall not be incorporated into the Delta Plan and the public benefits associated with the BDCP shall not be eligible for state funding, unless the BDCP does all of the following:

(1) Complies with Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code.

(2) Complies with Division 13 (commencing with Section 21000) of the Public Resources Code, including a comprehensive review and analysis of all of the following:

(A) A reasonable range of flow criteria, rates of diversion, and other operational criteria required to satisfy the criteria for approval of a natural community conservation plan as provided in subdivision (a) of Section 2820 of the Fish and Game Code, and other operational requirements and flows necessary for recovering the Delta ecosystem and restoring fisheries under a reasonable range of hydrologic conditions, which will identify the remaining water available for export and other beneficial uses.

(B) A reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines.

(C) The potential effects of climate change, possible sea level rise up to 55 inches, and possible changes in total precipitation and runoff patterns on the conveyance alternatives and habitat restoration activities considered in the environmental impact report.

(D) The potential effects on migratory fish and aquatic resources.

(E) The potential effects on Sacramento River and San Joaquin River flood management.

(F) The resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster.

(G) The potential effects of each Delta conveyance alternative on Delta water quality.

(c) The department shall consult with the council and the Delta Independent Science Board during the development of the BDCP. The council shall be a responsible agency in the development of the environmental impact report. The Delta Independent Science Board shall review the draft environmental impact report and submit its comments to the council and the Department of Fish and Game.

(d) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, the council shall have at least one public hearing concerning the incorporation of the BDCP into the Delta Plan.

(e) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code and determines that the BDCP meets the requirements of this section, and the BDCP has been approved as a habitat conservation plan pursuant to the federal Endangered Species Act (16 U.S.C. Section 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan. The Department of Fish and Game's determination that the BDCP has met the requirements of this section may be appealed to the council.

(f) The department, in coordination with the Department of Fish and Game, or any successor agencies charged with BDCP implementation, shall report to the council on the implementation of the BDCP at least once a year, including the status of monitoring programs and adaptive management.

(g) The council may make recommendations to BDCP implementing agencies regarding the implementation of the BDCP. BDCP implementing agencies shall consult with the council on these recommendations. These recommendations shall not change the terms and conditions of the permits issued by state and federal regulatory agencies.

85321. The BDCP shall include a transparent, real-time operational decisionmaking process in which fishery agencies ensure that applicable biological performance measures are achieved in a timely manner with respect to water system operations.

85322. This chapter does not amend, or create any additional legal obligation or cause of action under, Chapter 10 (commencing with Section 2800) of Division 3

of the Fish and Game Code or Division 13 (commencing with Section 21000) of the Public Resources Code.

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. 74. (a) Pursuant to Section 75026 of the Public Resources Code, the sum of twenty-eight million dollars (\$28,000,000) is hereby appropriated to the Department of Water Resources for expenditure by that department pursuant to paragraph (12) of subdivision (a) of Section 75027 of the Public Resources Code for the Two-Gates Fish Protection Demonstration Program managed by the United States Bureau of Reclamation. The Department of Water Resources shall expend such funds only consistent with the requirements of Sections 75026 and 75027 of the Public Resources Code.

(b) It is the intent of the Legislature 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 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).

SEC. 75. Item 3940-001-0439 of Section 2.00 of the Budget Act of 2009 is amended to read:

3940-001-0439—For support of State Water Resources Control Board.....	238,113,000
Schedule:	
(1) 10-Water Quality.....	439,650,000
(2) 20-Water Rights.....	11,658,000
	<u>15,408,000</u>
(3) 30.01-Administration.....	20,886,000
	<u>21,059,000</u>
(4) 30.02-Distributed Administration.....	-20,886,000
	<u>-21,059,000</u>
(5) Reimbursements.....	-8,932,000
(6) Amount payable from the General Fund (Item 3940-001-0001).....	-40,575,000
(7) Amount payable from the Unified Program Account (Item 3940-001-0028).....	-621,000
(8) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-0193).....	-78,768,000
(9) Amount payable from the Marine Invasive Species Control Fund (Item 3940-001-0212).....	-103,000
(10) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-0235).....	-2,039,000
(11) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3940-001-0387).....	-6,757,000
(12) Amount payable from the Water Recycling Subaccount (Item 3940-001-0419).....	-1,150,000
(13) Amount payable from the Drainage Management Subaccount (Item 3940-001-0422).....	-515,000
(14) Amount payable from the Seawater Intrusion Control Subaccount (Item 3940-001-0424).....	-222,000

(15) Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-0436).....	-64,000
(16) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-0740).....	-322,000
(17) Amount payable from the Federal Trust Fund (Item 3940-001-0890)....	-51,353,000
(18) Amount payable from the Water Rights Fund (Item 3940-001-3058)....	-7,447,000
	<u>-11,197,000</u>
(19) Amount payable from the Watershed Protection Subaccount (Item 3940-001-6013).....	-250,000
(20) Amount payable from the Santa Ana River Watershed Subaccount (Item 3940-001-6016).....	-250,000
(21) Amount payable from the Lake Elsinore and San Jacinto Watershed Subaccount (Item 3940-001-6017).....	-150,000
(22) Amount payable from the Nonpoint Source Pollution Control Subaccount (Item 3940-001-6019).....	-200,000
(23) Amount payable from the State Revolving Fund Loan Subaccount (Item 3940-001-6020).....	-81,000
(24) Amount payable from the Wastewater Construction Grant Subaccount (Item 3940-001-6021).....	-23,000
(25) Amount payable from the Coastal Nonpoint Source Control Subaccount (Item 3940-001-6022).....	-150,000
(26) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3940-001-6031).....	-3,000,000
(27) Amount payable from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Item 3940-001-6051).....	-4,073,000
(28) Amount payable from the Petroleum Underground Storage Tank Financing Account (Item 3940-001-8026).....	-618,000

(29) Amount payable from the State Water
 Pollution Control Revolving Fund
 Administration Fund (Item
 3940-001-9739)..... -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. 76. Item 3940-001-3058 of Section 2.00 of the Budget Act of 2009 is amended to read:

3940-001-3058—For support of State Water Resources Control Board, for payment to Item 3940-001-0439, payable from the Water Rights Fund..... 7,447,000
11,197,000

Provisions:

1. The increase in appropriation in this item shall be paid only from the fee revenue in the Water Rights Fund.

SEC. 77. Commencing with the 2010–11 fiscal year, and notwithstanding Section 13340 of the Government Code, three million seven hundred fifty thousand dollars (\$3,750,000) is hereby continuously appropriated, without regard to fiscal years, on an annual basis, only from the fee revenue in the Water Rights Fund to the State Water Resources Control Board for the purposes of funding 25.0 permanent water right enforcement positions, as provided in Schedule (2) of Item 3940-001-0439 of Section 2.00 of the Budget Act of 2009, as amended by this act.

SEC. 78. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

SEC. 79. This act shall take effect only if ____ of the 2009–10 Seventh Extraordinary Session of the Legislature is enacted and becomes operative.

OFFICE COPY

Prepared By _____

Approved By _____

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, Steinberg.

General Subject: 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 from 23 to 15 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 or 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, under penalty of perjury, any technical or monitoring report related to the diversion or use of water by that person or entity. By expanding the definition of the crime of perjury, the bill would impose a state-mandated local program. 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 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.

(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.

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.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(16) The bill would take effect only if ____ of the 2009–10 Seventh Extraordinary Session of the Legislature is enacted and becomes operative.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

SB 1—7x Water Session Comprehensive Water Policy Legislation

Joint Policy Committee Hearing
CA Legislature
October 2009

Proposed Author's Amendments

- Delta Protection Commission membership clarification (SACOG, West Sacramento)
 - Water Code Section 375 Clarification (Administration, Farm Bureau, Met, NRDC others)
 - Covered Actions in Delta Secondary Zone (SACOG, others)
 - Wastewater mitigation language (Barry Broad, Sac Regional San District)
 - Other technical amendments
-

Background/Context

- Sac/San Joaquin Delta—heart of state water system—
one small quake or storm from collapse—24 million
people lose drinking water
 - State water supply changing due to population, climate
change, urbanization
 - Need to manage water more efficiently, stop water
theft, manage groundwater more efficiently—provide
options for conveyance and storage
 - Legislature has worked on this issue with little success
for decades
-

Two Years of Extensive Review

- Public Policy Institute CA (PPIC) Report (Feb 2007)
 - Delta Blue Ribbon Commission Report (2008)
 - Assembly and Senate Committee Informational Hearings early in 2009
 - Leadership sponsored bipartisan, bicameral water working groups (March 2009)
 - Assembly and Senate Policy, Fiscal Committee and Floor debates on each bill/issue (April-August 2009)
 - Conference Committee on water package (September 2009)
-

Key Elements of Water Package

- All proposals based on Gov's 2008 Delta Vision Report and other expert reports on CA Water Challenges:
 - Fix the Delta--new governance, funding, protections
 - Improve water conservation—20% water conservation reduction by 2020
 - Stop water theft to protect those who have legal rights to water
 - Better monitor and manage groundwater use
 - Provide financing for key water system improvements
-

Fixing the Delta

- New Governance—Stewardship Council, Conservancy, Protection Commission, science review panel, watermaster
 - New Plan—Delta Plan—consistency review for actions in Delta to achieve co-equal goals of water supply reliability and ecosystem restoration
 - Requirements for BDCP
instream flow requirements, public trust analysis, CEQA analysis, NCCP
-

Strengthening Water Conservation

- 20% by 2020 water conservation target established by law
 - Applies to urban and ag water users/suppliers
 - Flexibility for locals (four paths/urban agencies), and for ag (Best Management Practices)
 - Failure to comply results in loss of state water grants and loans
-

Improving Groundwater Monitoring and Management

- Many, but not all areas of the state, perform GW monitoring—voluntary under current law
 - Mandate reporting statewide (Most other states already mandate)
 - Assign local water agencies to do. (May not enter land or compel reporting without property owner permission)
 - Data submitted to DWR for statewide data on use
 - Loss of water grants and loans for failure to perform
-

Limiting Illegal Water Diversions

- Key problem with water supply reliability -- potentially thousands of acre feet lost each year-- water otherwise avail for lawful ag and urban use:
 - Increase reporting requirements
 - Increase fines
 - Close loopholes
 - Streamline enforcement
 - Provide staff to implement law
-

Key Revisions Since SB 68 heard on 9/11/09—Delta Governance

- Greater local control over land use in secondary zone
 - Assurance that West Sac member of DPC remains
 - Ensuring that in stream flows do not impair water rights
-

Key Revisions Since SB 68 heard on 9/11/09—Water Conservation

- Provides greater flexibility to inland suburban water agencies (Path 4, takes into acct climate, lot size other factors)
 - Assures greater flexibility for water-intensive manufacturing and research and development activities
-

Key Revisions Since SB 68 heard on 9/11/09—Groundwater Monitoring

- Directs local water agencies—not DWR—to implement GW monitoring
 - Prohibits water agencies from accessing private property or compelling monitoring information from property owners.
 - Failure to perform GW monitoring results in loss of water grants and funds
-

Key Revisions Since SB 68 heard on 9/11/09—Illegal Diversions of Water

- Establishes tiered penalties (\$1k/initial violation, \$5k/subsequent violations or highest market value of water)
 - Eliminates “Interim relief” authority
 - Eliminates new “cease and desist” authority
-

Key Gains for Sacramento/Delta Region

- Assurances that water rights will be protected
 - Assurances that parties exporting water will pay for lost property taxes, other mitigation
 - New and increased representation on existing and new Delta Governance entities
 - New and increased funding for Delta economic sustainability, environmental restoration, water efficiency, flood protection and levee repair
-

Closing Points

- Package is comprehensive and balanced.
 - Package has support from business groups, environmental groups, water agencies, local governments.
 - All parties have compromised to reach consensus on overall package.
-

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Susan A. Bonilla, Chair
Supervisor Mary N. Piepho, Member

FROM: Lara DeLaney, Legislative Coordinator

DATE: October 28, 2009

SUBJECT: **Agenda Item #5: 2009 State Legislative Platform: Sponsored Bills and Advocacy Priorities**

RECOMMENDATIONS

1. REVIEW Sponsored Bill proposals and RECOMMEND action for the Board of Supervisors.
2. REVIEW Advocacy Priorities and RECOMMEND action for the Board of Supervisors.

CONTRA COSTA SPONSORED BILL PROPOSALS

To date, staff has received four new proposals for sponsored bills from our Elections Department related to the Elections Code. If pursued, these proposals would be in addition to the three County-sponsored bills that were carried by Senator DeSaulnier in 2009 and would likely be requested for support again, and they would constitute an usually large legislative package. The Transportation, Water and Infrastructure Committee has acted to support requesting Senator DeSaulnier's support of the Subdivision Map Act Amendment for 2010.

Regarding the CEQA related proposals below, staff and our advocate, Cathy Christian, worked to get a bill through the Legislature in 2009, SB 686. However, Senator DeSaulnier's office agreed that we respect the wishes of the Pro Tem and author of SB 375 and agree to make SB 686 a two-year bill. With the budget meltdown and the fact that CEQA is a hot topic in the budget negotiations, all agree that it is better to wait for this issue until we have more time. The Chief Consultant to the Senate Natural Resources committee agreed to work with us to put together the necessary meetings and language.

All seven bill proposals are included below, as well as in the Draft 2010 State Legislative Platform (Attachment A).

1. **Subdivision Map Act Amendment for Pedestrian, Bicycle, Transit and Traffic Calming Facilities** – For some time the County has wanted to update its transportation fees for new development to fund off-site pedestrian, bicycle, transit and traffic calming facilities. However, the state statute authorizing local agencies to adopt ordinances to require the payment of fees for transportation facilities, section 66484 of the Subdivision Map Act, is limited to bridges and major thoroughfares.

Rationale: The public's concern over greenhouse gas emissions and the impact of auto-oriented development on public health has spurred the County's efforts to secure additional funding for transportation facilities that can encourage more walking, bicycling and transit use. In addition, the County's successful efforts to reduce sprawl through infill development has increased the need for traffic calming devices to help minimize the traffic impacts from new development on existing roads. Revising the Subdivision Map Act to allow fees for these transportation facilities would support the County's public policy goals, consistent with its General Plan circulation element. Senator DeSaulnier introduced a bill to accomplish this in 2008 but dropped it due to opposition from the building industry. The County will request the bill be reintroduced in the 2010 session, as it would provide more flexibility for an existing transportation funding source.

2. **CEQA Exemption for Affordable Housing Lending** – CEQA exempts specified projects from its requirements, including an action taken by the State agencies to provide financial assistance or insurance for the development and construction of affordable housing if the project for financial assistance or insurance will be reviewed pursuant to CEQA by another public agency (Section 21080.10(b) of the California Public Resources Code). The County Redevelopment Agency requests legislation to additionally exempt from CEQA that action taken by a city or county housing and community development or housing finance agency to provide financial assistance or insurance for the development and construction of affordable housing.

Rationale: AB 2518 (Houston) in 2006 was a Contra Costa County-sponsored bill to accomplish this, but it was not successful in the Legislature. The exemption for State agencies engaged in affordable housing lending was adopted in 1980, before localities had a significant role in affordable housing lending. Today, localities are a major provider of affordable housing assistance, whereas the State role has diminished. Local agencies should not be treated differently from State agencies with respect to CEQA requirements and exemptions. Moreover, without this exemption, affordable housing projects not otherwise exempt by virtue of "by right" provisions in State law could be subject to "double jeopardy," whereby they would be subject to CEQA during entitlements and subject to CEQA during financing.

3. **CEQA Exemption for Infill Development in Unincorporated Areas** – Section 15332 of the CEQA Guidelines is a Categorical Exemption for infill development projects but only within cities. The exemption should also include *urbanized unincorporated areas*. The proposal would affect the County’s affordable housing, revitalization, and redevelopment programs in all unincorporated urbanized areas of the County.

Rationale: Without the exemption, housing projects in the unincorporated areas are subject to a more time-consuming and costly process in order to comply with the CEQA guidelines than that which is required of cities, despite having similar housing obligations.

4. **All Mail Ballots for Special Elections** –Add provisions to the state Elections Code that would allow special elections to fill a vacancy in a congressional or legislative district to be conducted by all mailed ballots at the county’s discretion.

Rationale: Historically, special elections to fill congressional and legislative vacancies have failed to attract interest, resulting in low voter turnout. For example, in Los Angeles County, four special vacancy elections were held in 2007. The average turnout for these elections was 11 percent with costs incurred ranging from \$700,000 to \$1,400,000. A significant portion of the costs expended was related to the recruitment of polling places and poll workers and supplying those polling places with election materials. This proposal would have a favorable administrative and fiscal impact by eliminating the need to recruit polling places and poll workers for these elections. In addition, the popularity of voting by mail has tremendously increased; therefore, the all mail ballot procedure for this type of election could result in higher voter turnout.

5. **Expand the Definition of “Small City” and Definition of Permissible Elections** –Change will allow small jurisdictions to have a non-consolidated local special election at a greatly reduced cost to the jurisdiction and the tax payer. The definition of “small city” would be defined as a city with a population of 120,000 or less (rather than 100,000 or less). Permissible elections would not be limited to a special election to fill a vacancy in the legislative body or governing body.

Rationale: This proposal will allow small jurisdictions the flexibility to have special elections, which are not consolidated with statewide elections, at reduced cost to the jurisdiction and the taxpayer. Election offices will be able to focus their staff time on one type of election “vote by mail” rather than “polling place and vote by mail”, allowing for increased efficiency.

6. **Increase Eligibility of Students Who Can Serve as Precinct Board Members** –Allow college students who are under the age of 18 to be considered as student precinct board members. Current code section only refers to secondary educational institutions.

Rationale: In a recent General Election, the County had a 16 year old college student who was not eligible to serve as a student precinct board member because she is no longer in high school. A student who has excelled academically should have the opportunity for same experience as other students her age. If the Elections Code is amended, election departments will be able to expand poll worker recruitment and efforts and create public awareness about a program that gives the youth the opportunity to serve their community. College students who fall into this category will be able to experience being a poll worker before reaching voting age.

7. **Clarifying Authority for Determining Candidate Statement Costs** –An Elections Code section change would allow the “local agency,” rather than “the elections official,” to estimate the cost of the candidate statement and require the candidate to pay in advance. This proposal clarifies who has the authority for determining if the candidate will be required to pay the additional costs when the estimate paid is less than the actual costs and who is responsible for billing the candidate for those costs.

Rationale: Some agencies estimate or provide for a certain fee to be paid by the candidate at the time of filing; others rely on an estimate provided by the election official or do not require the candidate to pay an estimate. Some local agencies collect the estimated cost; others request the election official to provide this service. If the actual amount of a candidate’s statement exceeds the estimate, it should be the local agency who determines whether or not to bill the candidate for the additional amount not the election official. Provisions for candidate statements are part of the local agency’s election costs. This proposal will not affect costs; it is only a clarification of authority and responsibility.

LEGISLATIVE/REGULATORY ADVOCACY PRIORITIES

Staff recommends the following advocacy priorities for 2010. The Legislation Committee may wish to provide further direction on these priority areas.

State Budget – The state is facing a deficit of approximately \$7.4 billion for the 2010-2011 fiscal year and a projected deficit of at least \$30.6 billion through 2012-13. The long-standing practice of state government has been to look to

counties as a means of balancing its budget. While opportunities to do so are more limited with the passage of Proposition 1A, the magnitude of the deficit makes it certain the state will be creative in their effort to include counties as part of its budget balancing solution. Of particular concern to counties is the inadequate reimbursement for our increasing cost of operating several human services programs, the Human Services Funding Deficit, formerly referred to as the "Cost of Doing Business." The annual shortfall between actual county expenses and state reimbursement has grown to over \$1 billion since 2001, creating a de facto cost shift to counties. The funding gap forces counties to reduce services to vulnerable populations and/or divert scarce county resources from other critical local services. It also increases the risk of state and federal penalties.

Health Care – Counties have a high stake in California's health reform efforts. Counties serve as employers, payers, and providers of care to vulnerable populations. Consequently, counties stand ready to actively participate in discussions of how to best reform the health care system in California. As proposals for Health Care reform by either the Administration or the Legislature are presented, they will be reviewed based on the Board-adopted "Principles for Action," and the Health Care Principles adopted by CSAC and the Board of Supervisors.

Water and Levees /The Sacramento-San Joaquin Delta – Due to the Governor's Delta Vision and other processes, significant legislative activity related to re-engineering of the Delta is underway that could have significant impacts upon the County in the areas of water quality and supply (such as a peripheral canal), levees, ecosystem, governance and flood control. A water bond may be included in a future election,. Consideration should be given to the potential for the County to sponsor Delta-related legislation through our legislative delegation. The Delta Water Platform, as well as the Strategic and Action Plan documents, is incorporated in this Platform by reference.

Transportation Funding – In recent years, the State has taken a significant amount of dedicated transportation funding to cover the General Fund budget deficit. For FY 2009/10 the state is withholding six months worth of transportation funding for cities and counties, to be repaid in the spring of 2010. The County will advocate for the protection of all current transportation funding sources and work to prevent the State from dipping into these funds again to cover budget shortfalls. Recent legislation placed limits on the State's ability to divert transportation funds to the General Fund, but diversion is frequently discussed by legislators. State transportation funds historically have been an important piece of the funding picture for annual road maintenance work, public transit, paratransit services, and major improvement projects to freeways and local roads. Funds also are needed to meet a growing number of unfunded state and federal mandates such as the Americans with Disabilities Act and stormwater and habitat preservation requirements, all of which have impacts on

transportation improvement projects. The creation of a new transportation funding source could be supported, provided that the new source does not shift revenue away from the State's General Fund.

Redevelopment Agency Revenue Shift to ERAF (Educational Revenue Augmentation Fund) – The adopted FY 2009-10 State budget requires a one-time shift of \$1.7 billion in property tax revenues from redevelopment agencies to Educational Revenue Augmentation Funds (ERAF). The \$1.7 billion take from redevelopment agencies is intended to support schools and programs that service residents of the redevelopment areas or that live in redevelopment-financed housing. Under this take, RDAs may suspend their contributions to their Low and Moderate Income Housing Funds in 2009-10 in order to help finance payments, or may borrow from their parent city or county. Any RDA that fails to restore their L&M Funds by June 30, 2015 will be subject to a 5 percent increase in their required annual housing set-aside. RDAs may extend their time limits for plan effectiveness and for receipt of tax increment revenues by one year after they meet their payment obligation for 2009-10. The County should monitor discussions of any additional redevelopment revenue shifts and work with the California State Association of Counties (CSAC), the League of California Cities, and the California Redevelopment Association to educate the Governor and Legislature on the value of redevelopment as an economic development and smart growth tool as they conceive and adopt budgets in the future.

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For your information, Attachment B is the recommended 2010 legislative priorities for the Urban Counties Caucus (UCC). These recommendations will be discussed and acted on by the UCC Board at its meeting in December.

**2010 STATE LEGISLATIVE PLATFORM
CONTRA COSTA COUNTY**



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Each year, the Board of Supervisors adopts a State legislative platform that establishes priorities and policy positions with regard to potential state legislation and regulation. The State Legislative Platform includes policy issues that provide direction and guidance for identification of bills which would affect the services, programs or finances of Contra Costa County; County-sponsored bill proposals; and issues regarding the state budget and state-local relationship.

2010 Sponsored Bills

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The following sponsored bill proposals respond to Board adopted priorities and/or past direction to staff.

- 1. Subdivision Map Act Amendment for Pedestrian, Bicycle, Transit and Traffic Calming Facilities** – For some time the County has wanted to update its transportation fees for new development to fund off-site pedestrian, bicycle, transit and traffic calming facilities. However, the state statute authorizing local agencies to adopt ordinances to require the payment of fees for transportation facilities, section 66484 of the Subdivision Map Act, is limited to bridges and major thoroughfares.

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Rationale: The public's concern over greenhouse gas emissions and the impact of auto-oriented development on public health has spurred the County's efforts to secure additional funding for transportation facilities that can encourage more walking, bicycling and transit use. In addition, the County's successful efforts to reduce sprawl through infill development has increased the need for traffic calming devices to help minimize the traffic impacts from new development on existing roads. Revising the Subdivision Map Act to allow fees for these transportation facilities would support the County's public policy goals, consistent with its General Plan circulation element. Senator DeSaulnier introduced a bill to accomplish this in 2008 but dropped it due to opposition from the building industry. The County will request the bill be reintroduced in the 2010 session, as it would provide more flexibility for an existing transportation funding source.

Deleted: He has informed staff that he will reintroduce the bill in 2009 with input from the builders.

- 2. CEQA Exemption for Affordable Housing Lending** – CEQA exempts specified projects from its requirements, including an action taken by the State agencies to provide financial assistance or insurance for the development and construction of affordable housing if the project for financial assistance or insurance will be reviewed pursuant to CEQA by another public agency (Section 21080.10(b) of the California Public Resources Code). The County Redevelopment Agency requests legislation to additionally exempt from CEQA that action taken by a city or county housing and community development or housing finance agency to

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Rationale: AB 2518 (Houston) in 2006 was a Contra Costa County-sponsored bill to accomplish this, but it was not successful in the Legislature. The exemption for State agencies engaged in affordable housing lending was adopted in 1980, before localities had a significant role in affordable housing lending. Today, localities are a major provider of affordable housing assistance, whereas the State role has diminished. Local agencies should not be treated differently from State agencies with respect to CEQA requirements and exemptions. Moreover, without this exemption, affordable housing projects not otherwise exempt by virtue of “by right” provisions in State law could be subject to “double jeopardy,” whereby they would be subject to CEQA during entitlements and subject to CEQA during financing.

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Rationale: Without the exemption, housing projects in the unincorporated areas are subject to a more time-consuming and costly process in order to comply with the CEQA guidelines than that which is required of cities, despite having similar housing obligations.

4. All Mail Ballots for Special Elections –Add provisions to the state Elections Code that would allow special elections to fill a vacancy in a congressional or legislative district to be conducted by all mailed ballots at the county’s discretion.

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Rationale: Historically, special elections to fill congressional and legislative vacancies have failed to attract interest, resulting in low voter turnout. For example, in Los Angeles County, four special vacancy elections were held in 2007. The average turnout for these elections was 11 percent with costs incurred ranging from \$700,000 to \$1,400,000. A significant portion of the costs expended was related to the recruitment of polling places and poll workers and supplying those polling places with election materials. This proposal would have a favorable administrative and fiscal impact by eliminating the need to recruit polling places and poll workers for these elections. In addition, the popularity of voting by mail has tremendously increased; therefore, the all mail ballot procedure for this type of election could result in higher voter turnout.

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5. Expand the Definition of “Small City” and Definition of Permissible Elections

–Change will allow small jurisdictions to have a non-consolidated local special election at a greatly reduced cost to the jurisdiction and the tax payer. The definition of “small city” would be defined as a city with a population of 120,000 or less (rather than 100,000 or less). Permissible elections would not be limited to a special election to fill a vacancy in the legislative body or governing body.

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Rationale: This proposal will allow small jurisdictions the flexibility to have special elections, which are not consolidated with statewide elections, at reduced cost to the jurisdiction and the taxpayer. Election offices will be able to focus their staff time on one type of election “vote by mail” rather than “polling place and vote by mail”, allowing for increased efficiency.

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6. Increase Eligibility of Students Who Can Serve as Precinct Board Members

–Allow college students who are under the age of 18 to be considered as student precinct board members. Current code section only refers to secondary educational institutions.

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Rationale: In a recent General Election, the County had a 16 year old college student who was not eligible to serve as a student precinct board member because she is no longer in high school. A student who has excelled academically should have the opportunity for same experience as other students her age. If the Elections Code is amended, election departments will be able to expand poll worker recruitment and efforts and create public awareness about a program that gives the youth the opportunity to serve their community. College students who fall into this category will be able to experience being a poll worker before reaching voting age.

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7. Clarifying Authority for Determining Candidate Statement Costs

–An Elections Code section change would allow the “local agency,” rather than “the elections official,” to estimate the cost of the candidate statement and require the candidate to pay in advance. This proposal clarifies who has the authority for determining if the candidate will be required to pay the additional costs when the estimate paid is less than the actual costs and who is responsible for billing the candidate for those costs.

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Rationale: Some agencies estimate or provide for a certain fee to be paid by the candidate at the time of filing; others rely on an estimate provided by the election official or do not require the candidate to pay an estimate. Some local agencies collect the estimated cost; others request the election official to provide this service. If the actual amount of a candidate’s statement exceeds the estimate, it should be the local agency who determines whether or not to bill the candidate for the additional amount not the election official. Provisions for candidate statements are part of the local agency’s election costs. This proposal will not affect costs; it is only a clarification of authority and responsibility.

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2010 Legislative/Regulatory Advocacy Priorities

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Each year, issues emerge through the legislative process that are of importance to the County and require advocacy. For 2010, it is anticipated that critical issues requiring the attention of Nielsen Merksamer, the County's advocate, will include the following:

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State Budget – The state is facing a deficit of approximately \$7.4 billion for the 2010-2011, fiscal year and a projected deficit of at least \$30.6 billion through 2012-13. The long-standing practice of state government has been to look to counties as a means of balancing its budget. While opportunities to do so are more limited with the passage of Proposition 1A, the magnitude of the deficit makes it certain the state will be creative in their effort to include counties as part of its budget balancing solution. Of particular concern to counties is the inadequate reimbursement for our increasing cost of operating several human services programs, the Human Services Funding Deficit, formerly referred to as the “Cost of Doing Business.” The annual shortfall between actual county expenses and state reimbursement has grown to over \$1 billion since 2001, creating a de facto cost shift to counties. The funding gap forces counties to reduce services to vulnerable populations and/or divert scarce county resources from other critical local services. It also increases the risk of state and federal penalties.

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Health Care – Counties have a high stake in California's health reform efforts. Counties serve as employers, payers, and providers of care to vulnerable populations. Consequently, counties stand ready to actively participate in discussions of how to best reform the health care system in California. As proposals for Health Care reform by either the Administration or the Legislature are presented, they will be reviewed based on the Board-adopted “Principles for Action,” and the Health Care Principles adopted by CSAC and the Board of Supervisors.

Water and Levees /The Sacramento-San Joaquin Delta – Due to the Governor's Delta Vision and other processes, significant legislative activity related to re-engineering of the Delta is underway that could have significant impacts upon the County in the areas of water quality and supply (such as a peripheral canal), levees, ecosystem, governance and flood control. A water bond may be included in a future election. Consideration should be given to the potential for the County to sponsor Delta-related legislation through our legislative delegation. The Delta Water Platform, as well as the Strategic and Action Plan documents, is incorporated in this Platform by reference.

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Transportation Funding – In recent years, the State has taken a significant amount of dedicated transportation funding to cover the General Fund budget deficit. For FY 2009/10 the state is withholding six months worth of transportation funding for cities and counties, to be repaid in the spring of 2010. The County will advocate for the protection of all current transportation funding sources and work to prevent the State from dipping into these funds again to cover budget shortfalls. Recent legislation placed limits on the State's ability to divert transportation funds to the General Fund, but diversion is frequently discussed by legislators. State transportation funds historically have been an important piece of the funding picture for annual road maintenance work, public transit,

paratransit services, and major improvement projects to freeways and local roads. Funds also are needed to meet a growing number of unfunded state and federal mandates such as the Americans with Disabilities Act and stormwater and habitat preservation requirements, all of which have impacts on transportation improvement projects. The creation of a new transportation funding source could be supported, provided that the new source does not shift revenue away from the State's General Fund.

Redevelopment Agency Revenue Shift to ERAF (Educational Revenue Augmentation Fund) – The adopted FY 2009-10 State budget requires a one-time shift of \$1.7 billion in property tax revenues from redevelopment agencies to Educational Revenue Augmentation Funds (ERAF). The \$1.7 billion take from redevelopment agencies is intended to support schools and programs that service residents of the redevelopment areas or that live in redevelopment-financed housing. Under this take, RDAs may suspend their contributions to their Low and Moderate Income Housing Funds in 2009-10 in order to help finance payments, or may borrow from their parent city or county. Any RDA that fails to restore their L&M Funds by June 30, 2015 will be subject to a 5 percent increase in their required annual housing set-aside. RDAs may extend their time limits for plan effectiveness and for receipt of tax increment revenues by one year after they meet their payment obligation for 2009-10. The County should monitor discussions of any additional redevelopment revenue shifts and work with the California State Association of Counties (CSAC), the League of California Cities, and the California Redevelopment Association to educate the Governor and Legislature on the value of redevelopment as an economic development and smart growth tool as they conceive and adopt budgets s in the future.

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Illegal Dumping – The Integrated Waste Management Board's Illegal Dumping Enforcement Task Force report will spark legislative interest in addressing this issue, which is not only costly to counties but also a blight on the environment. ¶
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2010 State Legislative Platform Policy Positions

As requested by the Board, a brief background statement accompanies policy positions that are not self-evident. Explanatory notes are included either as the preface to an issue area or following a specific policy position. Please note that new and revised policy positions are *in italics*, as are the explanations regarding policy positions.

Agricultural Issues

1. SUPPORT efforts to ensure sufficient State funding for pest and disease control and eradication efforts to protect both agriculture and the native environment, including glassy-winged sharpshooter, light brown apple moth, and Japanese dodder activities; high risk pest exclusion activities; pesticide regulatory and law enforcement activities; and noxious weed pest management. *Agriculture is an important industry in Contra Costa County. Protection of this industry from pests and diseases is important for its continued viability.*
2. SUPPORT continued appropriations for regulation and research on sudden oak death, a fungal disease affecting many species of trees and shrubs in native oak

woodlands. *The County's natural environment is being threatened by this disease.*

3. SUPPORT funding for agricultural land conservation programs and agricultural enterprise programs to protect and enhance the viability of local agriculture. *The growth in East County and elsewhere has put significant pressure on agricultural lands, yet agriculture is important not only for its production of fresh fruits, vegetables and livestock, but also as a source of open space.*

Animal Services Issues

4. SUPPORT efforts to protect local revenue sources designated for use by the Animal Services Department; i.e., animal licensing, fines and fees. *Fines, fees, and licensing are major sources of revenue for the Animal Services Department. The demand for animal services is increasing each year as does the demand on the General Fund. It is important to protect these revenue sources to continue to provide quality animal service and to meet local needs.*
5. SUPPORT efforts to protect or increase local control and flexibility over the scope and level of animal services. *Local control over the scope of animal services is necessary to efficiently address public safety and other community concerns. Local control affords jurisdictions the ability to tailor animal service programs to fit their communities. Animal related issues in dense urban areas vary from those in small, affluent communities*
6. SUPPORT efforts to protect against unfunded mandates in animal services or mandates that are not accompanied by specific revenue sources which completely offset the costs of the new mandates, both when adopted and in future years. *Unfunded mandates drain our limited fiscal resources and, at the same time, chip away at local control over the scope and level of services.*
7. SUPPORT efforts to ensure full funding of state animal services mandates, including defense of the State Department of Finance's lawsuit against the State Commission on Mandates regarding the State obligations for reimbursement of local costs for animal services incurred in compliance with SB 1785. *The County invested large sums of money to comply with SB 1785. That was done with the assurance that our cost would be offset by reimbursements from the state. Failure by the state to honor the reimbursements negatively impacts the County General Fund and Animal Services' budget.*
8. SUPPORT efforts to protect and/or increase County flexibility to provide animal services consistent with local needs and priorities. *The demand for quality animal service programming continues to increase each year. The County is undergoing rapid growth and changing demographics. It is incumbent upon the Animal Services Department to be flexible enough to adjust to the changing needs and priorities.*

9. SUPPORT efforts to preserve the integrity of existing County policy relating to Animal Services (e.g., the Animal Control Ordinance and land use requirements). *Contra Costa is looked upon as one of the model Animal Services Departments in the state. Its policies, procedures, and ordinances are the yardstick against which other Animal Control organizations are measured. The local control exercised by the Board of Supervisors is key to that hallmark.*

Child Support Services Issues

10. SUPPORT the establishment of a statewide electronic registry for the creation and release/satisfaction of liens placed on property of a non-custodial parent as necessary to collect delinquent child support payments. *California law currently provides that recording an abstract or notice of support judgment with a County Recorder creates a lien on real property. This requires recording the judgment in each of the 58 counties in order not to miss a property transaction. An electronic registry would simplify not only the creation of liens, but also the release/satisfaction of liens, because there would be a single statewide point of contact, and the entire process would be handled electronically through automated means.*

11. SUPPORT amendment of current law that states that documents completed and recorded by a local child support agency may be recorded without acknowledgement (notarization) to clarify that the exception is for documents completed or recorded by a local child support agency. *This amendment clarifies that documents that are prepared by the local child support agency and then sent for recording either by the local child support agency or by the obligor (non-custodial parent) or by a title insurance company are covered by the exemption, a technical point that not acknowledged by all county recorder offices.*

12. SUPPORT efforts to simplify the court process for modifying child support orders by the court by requiring court appearances only when one of the parties objects to the modification. *Currently, establishment of parentage and support by the court is permitted without court appearance if both parties are in agreement. A similar process for modification would reduce court time, the workload of all involved agencies and parties, and streamline the process.*

13. SUPPORT efforts to ensure that the reduction caused by the federal Deficit Reduction Act of 2005 to the California Department of Child Support Services is not passed down as a reduction to the local program. The Act places a restriction on the ability of states to use incentive funds as the state match to draw additional federal funds. In previous years, California used its \$30 million in federal funds in child support programs.

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Climate Change Issues

14. SUPPORT the CSAC Climate Change Policy Statements and Principles which address a broad range of issues affected by climate change, including water, air quality, agriculture, forestry, land use, solid waste, energy and health. *The document is largely based on existing CSAC policy and adapted to climate change. Additionally, the document contains a set of general principles which establish local government as a vital partner in the climate change issue and maintain that counties should be an active participant in the discussions in the development of greenhouse gas reduction strategies underway at the state and regional level.*
15. SUPPORT efforts to ensure that the implementation of AB 32 results in harmony among the greenhouse gas reduction target created by the Air Resources Board for each regional/local agency, the housing needs numbers provided by the state Department of Housing and Community Development pursuant to housing element law, the Sustainable Communities Strategy, and the Regional Transportation Plan processes.

Elections Issues

16. SUPPORT legislation to adjust precinct sizing from 1,000 voters per precinct to 1,250 voters per precinct. *With the option of being able to have up to 1,250 voters per precinct, the best polling locations in a neighborhood can be selected, and that same site is more likely to be used for several elections, thus avoiding the need to change poll sites for voters.*
17. SUPPORT full state reimbursement for state mandates imposed upon local registrars by the Secretary of State, including special state elections.

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Emergency Preparedness, Emergency Response

18. SUPPORT legislation that would give local agencies more authority to train volunteers and help clean-up oil spills without taking on additional legal liability.
19. SUPPORT legislation that would require the state's Oil Spill Prevention and Response Agency to improve communication and clean-up technology, increase safety standards for ships and establish special protections for ecologically sensitive areas.
20. SUPPORT legislation that would require responses to future oil spills in a shorter timeframe, with a more regional approach.
21. SUPPORT measures that enable counties and other local agencies to better exercise their responsibilities to plan for and respond to emergencies and

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disasters without taking on additional legal liability and oppose those that do not recognize or support the county and local agency role in the State's Standardized Emergency Management System.

Eminent Domain Issues

22. SUPPORT legislation that maintains the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety, and welfare.
23. SUPPORT legislation that would provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety, and welfare.

Flood Control and Clean Water Issues

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24. SUPPORT authorization for regional approaches to comply with aquatic pesticide permit issues under the purview of the State Water Resources Control Board. *Contra Costa County entered into an agreement with a neighboring county and several cities to share the costs of monitoring. While it makes sense for local government to pool resources to save money, State Board regulations make regional monitoring infeasible.*
25. SUPPORT efforts to provide local agencies with more flexibility and options to fund clean water programs. *Stormwater requirements issued by the Regional Water Quality Control Boards are becoming more and more expensive, yet there is no funding. Stormwater should be structured like a utility with the ability to set rates similar to the other two key water services: drinking water and wastewater.*
26. SUPPORT efforts to provide immunity to local public agencies for any liability for their clean-up of contaminations on private lands. *This will be more critical as the Regional Water Quality Control Boards institute Total Maximum Daily Loads, which establish a maximum allowable amount of a pollutant (like mercury) in the stormwater from a watershed.*

General Revenues/Finance Issues

As a political subdivision of the state, many of Contra Costa County's services and programs are the result of state statute and regulation. The state also provides a substantial portion of the County's revenues. However, the state has often used its authority to shift costs to counties and to generally put counties in the difficult position of trying to meet local service needs with inadequate resources. While Proposition 1A

provided some protections for counties, vigilance is necessary to protect the fiscal integrity of the County.

27. SUPPORT the State's effort to balance its budget through actions that do not adversely affect County revenues, services or ability to carry out its governmental responsibilities.
28. OPPOSE any state-imposed redistribution, reduction or use restriction on general purpose revenue, sales taxes or property taxes unless financially beneficial to the County. *(Note that a redistribution of sales and property tax may be beneficial to Contra Costa County in the event that sales tax growth continues to lag behind property tax growth.)* This policy includes opposition to the shift of redevelopment property tax increment revenues to the Educational Revenue Augmentation Fund (ERAF).
29. OPPOSE efforts to limit local authority over transient occupancy taxes (TOT).
30. OPPOSE any efforts to increase the County's share-of-cost, maintenance-of-effort requirements or other financing responsibility for state mandated programs absent new revenues sufficient to meet current and future program needs.
31. SUPPORT efforts to ensure that Contra Costa County receives its fair share of state allocations, including mental health funding under Proposition 63 and pass-through of federal funds for anti-terrorism and homeland security measures. *The state utilizes a variety of methods to allocate funds among counties, at times detrimental to Contra Costa County. For example, with Proposition 63 mental health funding, the Department had anticipated \$12-16 million per year. The state allocation is only \$7.1 million for the first 3 years, in part because the homeless population was not considered in the allocation methodology.*
32. SUPPORT efforts to receive reimbursement for local tax revenues lost pursuant to sales and property tax exemptions approved by the legislature and the State Board of Equalization.
33. SUPPORT continued efforts to reform the state/local relationship in a way that makes both fiscal and programmatic sense for local government.
34. OPPOSE reductions in county-run State programs that shift responsibility or costs to the County.
35. SUPPORT efforts to relieve California of the federal Child Support penalties without shifting the cost of the penalties to the counties.
36. SUPPORT reduction in the 2/3 vote requirement for special taxes that fund high priority local services.

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37. SUPPORT efforts to authorize counties to impose forfeitures for violations of ordinances, as currently authorized for cities. *This would provide the County with the opportunity to require deposits to assure compliance with specific ordinance requirements as well as retain the deposit if the ordinance requirements are not met. Currently, the County is limited to imposing fines which are limited to only \$100 - \$200 for the first violation, which has proven to be an ineffective deterrent in some cases.*
38. SUPPORT efforts to redefine the circumstances under which commercial and industrial property is reassessed to reduce the growing imbalance between the share of overall property tax paid by residential property owners versus commercial/industrial owners.
39. SUPPORT efforts to reduce County costs for Workers' Compensation, including the ability to control excessive medical utilization and litigation. *Workers' Compensation costs are significant, diverting funds that could be utilized for County services. Workers' Compensation should provide a safety net for injured employees, for a reasonable period of time, and not provide an incentive for employees to claim more time than medically necessary.*
40. SUPPORT state actions that maximize federal and state revenues for county-run services and programs.
41. SUPPORT legislative compliance with both the intent and language of Proposition 1A.
42. SUPPORT full State funding of all statewide special elections, including recall elections.
43. OPPOSE efforts of the State to avoid state mandate claims through the practice of repealing the statutes, then re-enacting them. *In 2005, the State Legislature repealed sections of the Brown Act that were subject to mandate claims, then re-enacted the same language pursuant to a voter-approval initiative, and therefore, not subject to mandate claims.*
44. SUPPORT strong Public Utilities Commission (PUC) oversight of state-franchised providers of cable and telecommunications services, including rigorous review of financial reports and protection of consumer interests. *AB 2987 (Núñez), Chapter 700, statutes of 2006 transferred regulatory oversight authority from local government to the PUC.*
45. SUPPORT timely, full payments to counties by the State for programs operated on their behalf or by mandate. *The State currently owes counties over \$1 billion in State General Funds for social services program costs dating back to FY 2002-03.*

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46. SUPPORT full State participation in funding the County's retiree and retiree health care unfunded liability. *Counties perform most of their services on behalf of the state and federal governments. Funding of retiree costs should be the responsibility of the State, to the same extent that the State is responsible for operational costs.*

Health Care Issues

The federal Medi-Cal waiver provided \$180 million per year during years 3 to 5 of the waiver, contingent upon the State developing a "coverage initiative for the uninsured." The California Association of Public Hospitals has taken the lead in structuring an initiative that would not only improve the health status of enrollees, but also promote prudent use of health care services and ultimately lower costs for counties and the Medi-Cal system.

In addition, the Governor and the Legislature have been engaged in health care reform discussions since 2007. Counties are concerned about any reform that could transfer responsibility to counties, without commensurate financing structures or in a manner not compatible with the County's system. Counties support a concept of universal health coverage for all Californians. Toward that end, counties urge the state to enact a system of health coverage and care delivery that builds upon the strengths of the current systems in our state, including county-operated systems serving vulnerable populations.

Currently, California has a complex array of existing coverage and delivery systems that serve many, but not all, Californians. Moving this array of systems into a universal coverage framework is a complex undertaking that requires sound analysis, thoughtful and deliberative planning, and a multi-year implementation process. As California moves forward with health care reform, counties urge the state to prevent reform efforts from exacerbating problems with existing service and funding. The State must also consider the differences across California counties and the impacts of reform efforts on the network of safety-net providers, including county providers. The end result of health reform must provide a strengthened health care delivery system for all Californians, including those served by the safety net.

47. SUPPORT State action to increase access and affordability. *Access to care and affordability of care are critical components of any health reform plan. Expanding eligibility for existing programs will not provide access to care in significant areas of the state. Important improvements to our current programs, including Medi-Cal, must be made either prior to, or in concert with, a coverage expansion in order to ensure access. Coverage must be affordable for all Californians to access care.*
48. SUPPORT Medi-Cal reimbursement rate increases to incentivize providers to participate in the program.

49. SUPPORT administrative streamlining of Medi-Cal, including elimination of the asset test and semi-annual reporting and changes to income verification. *California should look to other states for ideas to reduce administrative costs, such as allowing all children born into Medi-Cal to remain on the program until age 21.*
50. SUPPORT actions that address provider shortages (including physicians, particularly specialists, and nurses). Innovative programs, such as loan forgiveness programs, should be expanded. In an effort to recruit physicians from other states, the licensing and reciprocity requirements should be re-examined. Steps should be taken to reduce the amount of time it takes to obtain a Medi-Cal provider number (currently six to nine months).
51. SUPPORT efforts that implement comprehensive systems of care, including case management, for frequent users of emergency care and those with chronic diseases and/or dual diagnoses. *Approaches could be modeled after current programs in place in safety net systems.*
52. SUPPORT efforts that provide sufficient time for detailed data gathering of current safety funding in the system and the impact of any redirection of funds on remaining county responsibilities. *The interconnectedness of county indigent health funding to public health, correctional health, mental health, alcohol and drug services and social services must be fully understood and accounted for in order to protect, and enhance as appropriate, funding for these related services.*
53. OPPOSE safety net funding transfers until an analysis of who would remain uninsured (e.g. medically indigent adults, including citizens, who cannot document citizenship under current Medicaid eligibility rules) is completed in order to adequately fund services for these populations.
54. SUPPORT efforts to clearly define and adequately fund remaining county responsibilities.
55. SUPPORT State action to provide an analysis of current health care infrastructure (facilities and providers), including current safety net facilities across the state, to ensure that there are adequate providers and health care facilities, and that they can remain viable after health reform.
56. SUPPORT efforts to provide adequate financing for the reforms to succeed.
57. SUPPORT measures that maximize Federal reimbursement from Medicaid and S-CHIP.
58. SUPPORT State action to complete actuarial studies on the costs of transferring indigent populations, who currently receive mostly episodic care, to a coverage model to ensure that there is adequate funding in the model.

59. SUPPORT efforts that ensure that safety net health care facilities remain viable during the transition period and be supported afterwards based on analyses of the changing health market and of the remaining safety net population.
60. SUPPORT State action to implement California's Medi-Cal Hospital/Uninsured Care 1115 Waiver to ensure full Federal financial participation by creating a health coverage program through public hospitals that would establish the provider network and set of services; qualify eligible enrollees; issue coverage cards; and assign primary care providers.
61. SUPPORT efforts to increase revenues and to contain mandated costs in the County's hospital and clinics system.
62. SUPPORT efforts to increase the availability of health care to the uninsured in California, whether employed or not.
63. SUPPORT legislation that improves the quality of health care, whether through the use of technology, innovative delivery models or combining and better accessing various streams of revenue, including but not limited to acute and long term care integration.
64. SUPPORT legislation to protect safety net providers, both public and private. Legislation should focus on stabilizing Medi-Cal rates and delivery modes and should advocate that these actions are essential to the success of any effort to improve access and make health care more affordable.

Currently there is no planned or organized system of care for young people and their families in need of alcohol and drug treatment services. Moreover there is a vast disparity between treatment need and treatment capacity for adolescents. In 2002, an estimated 468,000 persons between the ages of 12 & 18 in our state had an alcohol and drug problem (abuse or dependence) that warranted treatment. In that same year only 18,965 adolescents in that age group were actually admitted to publicly-funded alcohol and drug programs. This number represents only 4% of the estimated population in need of treatment. Relative to the need and demand for this service, this is an area of the State's health care system that has been largely ignored.

65. SUPPORT State efforts to increase the scope of benefits and reimbursement rates contained in Minor Consent Medi-Cal to give youth suffering from substance abuse disorders access to a continuum of care, including residential and one-on-one outpatient treatment.
66. SUPPORT efforts to give incentives to providers to establish more youth-driven treatment facilities within the community.

67. SUPPORT efforts to extend Minor Consent Medi-Cal Coverage to incarcerated youths, many of whom are in custody due to drug related crimes. *This could greatly decrease recidivism in the juvenile justice system.*
68. SUPPORT county efforts in the promotion of partnerships that provide integrated responses to the needs of alcohol and drug populations, including criminal justice, perinatal and youth as well as those populations with co-occurring disorders.
69. SUPPORT and encourage the development of strategies that include alcohol and drug services in the provision of all culturally appropriate health care services.
70. SUPPORT the development and institutionalization of a tracking system for use on utilization and notification of Healthy Family substance abuse benefits for youths enrolled under California's Health Family program. *Like other youth in California, youth in Contra Costa County, are the most underserved population in the County's Alcohol and Other Drug (AOD) Services' caseloads. The Healthy Family initiative holds great potential as a funding source to address this major deficit in our AOD treatment services.*
71. SUPPORT efforts to require coverage of medically necessary alcohol and substance abuse related disorder treatment on the same levels as other medical conditions in health care service plans and disability insurance policies. *Alcohol and drug treatment services are the most under-funded of all health services. Neither the state nor the federal allocations to the County covers medical treatment for AOD services, and so are a cost borne by the County.*

Human Services Issues

72. SUPPORT efforts to increase County flexibility in use of CalWORKs funds and in program requirements in order to better support the transition of welfare dependent families from welfare-to-work and self sufficiency, including, but not limited to, extending supportive services beyond the current limit; enhancing supportive services; increasing diversion and early intervention to obviate the need for aid; developing a state earned income tax credit; expanding job retention services; developing a eligibility definition to 250% of the poverty level; and exempting the hard-to-serve from welfare-to-work activities and the 20% exemption or providing flexibility in the time limit (dependent upon terms and conditions of TANF reauthorization). Support efforts to align CalWORKs property and asset limitations with those of Food Stamps. *All of these measures would make it easier for CalWORKs families to enter employment services, become employed, and continue with the support they need in order to maintain their jobs.*
73. SUPPORT efforts to revise the definition of "homelessness" in the Welfare & Institutions Codes to include families who have received eviction notices due to a

verified financial hardship, thus allowing early intervention assistance for CalWORKs families. *Current law prevents CalWORKs from providing homeless assistance until the CalWORKs family is actually "on the street." This rule change would enable the County to work with CalWORKs families who are being threatened with homelessness to prevent the eviction and, presumably, better maintain the parents' employment status.*

74. SUPPORT efforts to ensure funding of child care for CalWORKs and former CalWORKs families at levels sufficient to meet demand. The State of California has not fully funded the cost of child care for the "working poor." *Additional funding would allow more CalWORKs and post-CalWORKs families to become and/or stay employed.*
75. SUPPORT efforts to establish an "umbrella code" for the reporting of incidents of elder abuse to the Department of Justice, thus more accurately recording the incidence of abuse. *Current reporting policies within California's law enforcement community and social services departments are uncoordinated in regards to the reporting of adult abuse. Under an "umbrella code," law enforcement agencies and social services departments would uniformly report incidents of elder abuse and California would have much better data for policy and budget development purposes.*
76. SUPPORT efforts that seek to identify and eliminate elder financial abuse and elder exposure to crime that may be committed through conservatorships.
77. SUPPORT efforts to reduce County costs for In-Home Supportive Services, including but not limited to extending the required reassessment period. *There are many administrative tasks required in regulation for counties to follow in managing the In-Home Supportive Services program. Options to many of these tasks would lower administrative costs while maintaining program integrity.*
78. SUPPORT efforts to eliminate the finger-imaging requirement for adult food stamp applicants, recognizing the fraud deterrent aspects of the Electronic Benefits Transfer System. *Elimination of the finger-imaging requirement, which was originally implemented as a fraud control measure in the old welfare programs, is viewed by many as an unnecessary or duplicate process. The current electronic benefits transfer system combined with program eligibility processes provides more fraud prevention/detection than does finger-imaging.*
79. SUPPORT efforts to allow phone-in Food Stamp Eligibility Redeterminations as a more cost effective benefit reassessment process. *As counties such as Contra Costa change their business models to utilize centralized service centers, some of the antiquated process rules and requirements also need to be changed, to allow cost efficient practices. Changing the rules to allow phone-ins for Eligibility Redeterminations is one example.*

80. SUPPORT efforts to continue expansion of Child Welfare Redesign Program Improvements including: use of Federal IV-E funding for pre-placement, prevention activities; development of caretaker recruitment and retention campaigns; extension of Independent Living Skill services to age 21; and, funding to implement Children's Child Welfare Workload Study Results, SB 2030. *Changes in these areas would enable counties to better meet their performance accountability goals, as required under Federal and State statutes.*
81. SUPPORT efforts to allow Medi-Cal clients transportation access to medical care via the most efficient transportation mode possible instead of the very costly ambulance transportation that is currently prevalent. *California is currently limited to the types of non-emergency medical transportation for reimbursement by Medi-Cal. However, the federal Medicaid program allows other much less costly forms of transportation to be used. Other states use this more permissive definition of approved non-emergency medical transportation to encourage Medicaid clients to receive preventative care and reduce the incidence of last-resort ambulance transportation to hospital emergency rooms for primary care.*

Illegal Dumping of Waste

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82. SUPPORT legislation to establish an advance disposal fee program (retailer take-back program) for products containing potentially hazardous materials, like batteries, pharmaceuticals, fluorescent bulbs, electronics and large appliances as well as other items which require special handling (e.g. bulky items like furniture).

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83. SUPPORT legislation that would make changes to the used tire redemption program. *Instead of collecting a disposal fee from the consumer when new tires are purchased, a disposal fee would be collected at the wholesale level and redeemed by the disposal site when the used tires are brought to the site. The party bringing the tires to the disposal site would also receive a portion of the fee.*

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Indian Gaming Issues

Contra Costa County is currently home to the Lytton Band of the Pomo Indians' Casino in San Pablo, a Class II gaming facility. There are also proposals for two additional casinos in West County: one in North Richmond and the other in Point Molate. Local governments have limited authority in determining whether or not such facilities should be sited in their jurisdiction; the terms and conditions under which the facilities will operate; and what, if any, mitigation will be paid to offset the cost of increased services and lost revenues. Contra Costa County has been active in working with CSAC and others to address these issues, as well as the need for funding for participation in the federal and state review processes and for mitigation for the existing Class II casino.

84. SUPPORT efforts to ensure that counties who have existing or proposed Class II Indian gaming facilities receive the Special Distribution Funds.

85. OPPOSE the approval or establishment of Indian gaming facilities in Contra Costa County.
86. OPPOSE the expansion or approval of Class III gaming machines at the existing gaming facility in Contra Costa County.
87. SUPPORT State authority to tighten up the definition of a Class II machine.
88. SUPPORT State legislative and administration actions consistent with the CSAC policy documents on development on Indian Lands and Compact negotiations for Indian gaming.

Land Use/Community Issues

89. SUPPORT efforts to promote economic incentives for "smart growth," including in-fill and transit oriented development. *Balancing the need for housing and economic growth with the urban limit line requirements of Measure J (2004) will rely on maximum utilization of "smart growth" principles.*
90. SUPPORT efforts to increase the supply of affordable housing, including, but not limited to, state issuance of private activity bonds, affordable and low income housing bond measures, low-income housing tax credits and state infrastructure financing. *This position supports Goals 2, 3 and 4 of the County General Plan Housing Element.*
91. SUPPORT efforts to amend Section 65915 of the Government Code (amended in 2004 by SB 1818 - Hollingsworth) so that state law enhances rather than inhibits local efforts to increase the supply of affordable housing. *The provisions of law regarding density bonuses and inducements to them should be clarified and simplified in order to encourage this avenue for affordable housing production.*
92. SUPPORT efforts to reform state housing element law to promote the actual production and preservation of affordable housing and to focus less on process and paper compliance.
93. OPPOSE efforts to limit the County's ability to exercise local land use authority.
94. SUPPORT increased flexibility in the use of Redevelopment set-aside funds for low and moderate income housing. *Such flexibility would encourage creative use of these funds, resulting in higher overall production of units.*
95. SUPPORT efforts to reduce the fiscalization of land use decision-making by local government, which favors retail uses over other job-creating uses and housing. *Reducing incentives for inappropriate land use decisions, particularly those that*

negatively affect neighboring jurisdictions, could result in more rational and harmonious land use.

96. SUPPORT efforts to identify funding mechanisms and require producer responsibility for recycling wastes banned from landfills (including universal wastes such as electronic waste and mercury containing items). *Some means of disposal is required for these items once their useful economic life has ended. By creating a universal method of disposal, all Californians will be treated equally.*
97. SUPPORT allocations, appropriations, regulations, and rule making processes related to the expenditure of Proposition 84 funds that provide a fair share of funding to Contra Costa County for the water, park, and resource conservation projects funded by the Proposition, including but not limited to a per capita apportionment of funds for local parks that does not differentiate between residents of unincorporated and incorporated areas as well as funding for land acquisition and restoration under Natural Community Conservation Plans, such as the plan being developed for East County. *In the past, the residents of unincorporated Contra Costa County have not received their fair share of local park funds due to an inequitable allocation process. This policy would address that inequity. In addition, funding is needed to support the East Contra Costa County Natural Community Conservation Plan.*

Law and Justice System Issues

98. SUPPORT legislation that seeks to curb metal theft by making it easier for law enforcement agencies to track stolen metals sold to scrap dealers through such means as requiring identification from customers selling commonly stolen metals, banning cash transactions over a certain amount, and requiring scrap dealers to hold materials they buy for a certain period of time before melting them down or reselling them.
99. SUPPORT full funding of the state Juvenile Probation and Camps Funding (JPCF). *In FY 2004-05, the State eliminated Probation's allocation of federal Temporary Assistance to Needy Families (TANF) funds and backfilled them with state General Funds. At risk is approximately \$5.2 million of revenue that supports the Orin Allen Youth Rehabilitation Facility, Home Supervision and Juvenile Electronic Monitoring Program, and the Juvenile Community Service program (weekend work).*
100. SUPPORT Adult Probation Funding that would provide state funding for adult probation services to enhance public safety and provide realistic opportunities for the rehabilitation of probationers. *Implementing evidence-based practices can potentially reduce the prison-bound probation population by between 10 and 30 percent. Intervening with this population of prison-bound probationers to increase*

supervision and treatment services can have a significant impact on prison admissions and help to reduce prison overcrowding in California.

101. SUPPORT legislation that provides a practical and efficient solution to addressing the problem of abandoned and trespassing vessels and ground tackle in an administrative process that allows the California State Lands Commission to both remove and dispose of such vessels and unpermitted ground tackle. *Boat owners in increasing numbers are abandoning both recreational and commercial vessels in areas within the Commission's jurisdiction. Our state waterways are becoming clogged with hulks that break up, leak, sink and add pollutants to our waterways and marine habitat.*

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Levee Issues, Sacramento-San Joaquin Delta Issues

The Delta Water Platform was compiled initially in mid-2008 to consolidate and organize the many County policies and positions into one document that could be utilized to guide actions and advocacy to promote a healthy Sacramento-San Joaquin Delta.

The Delta Water Platform is comprised of fourteen subject areas. Each of these subject categories contains relevant policies and background explanatory language. Each subject category is summarized below. The policies and background information can be found in the Delta Water Platform, which is included in this document by reference:

Short Term Actions to be implemented immediately: *Includes a broad range of specific, relatively non-controversial actions to quickly improve the state of the Delta, such as improvements to levees, the fishery, habitat and emergency response.*

Conveyance: Through-Delta and Isolated Conveyance: *Consideration of isolated conveyance must protect and improve the Delta and the entire Bay-Delta ecosystem, include the broadest range of non-biased scientific analysis of impacts, include levee repair and all costs of a facility must be paid by beneficiaries.*

Water Storage: *Multi-purpose storage facilities are recommended and groundwater storage preferred to surface storage options. Detailed groundwater studies are recommended.*

The Delta Ecosystem: *Protection and restoration of an ailing Delta ecosystem has long been a priority of the Board of Supervisors, including need for additional scientific research to address fundamental questions, fishery and habitat restoration projects.*

Water Conservation: *Landscape and household conservation, maximizing use of reclaimed wastewater, use of meters, and agricultural water conservation are recommended.*

Governance: *A new or improved system of oversight related to ecosystem and water management is necessary. The existing Delta Protection Commission land use*

governance structure has been successful, requiring no further action. Local Government representation in any governance structure is paramount.

Levee Restoration: *Advocacy for immediate and significant (multi-year) funding and levee repair is a priority, including upgrades to minimum (PL 84 99) standards for all levees, and a higher, 200-year level of protection for communities protected by levees. Stockpiling rock in the Delta specifically for levee repair and continuance of the Long Term Management Strategy (LTMS) are highly recommended.*

Water Quality, Water Quality and Delta Outflow: *Protection and improvement of water quality, quantity and outflow, determination and assurance of adequate water for the delta ecosystem and examination of the State and Federal project operations (including potential for reduced exports) are recommended here.*

Flood Protection/Floodplain Management: *Comprehensive flood management planning throughout the Delta and its watersheds, as well as funding to bring flood facilities to 200-year levels and revenue generation for flood control districts continue to be of import.*

Water Rights and Legislative Protections: *Existing area-of-origin and other water rights protections established for the Delta should be preserved.*

Regional Self-Sufficiency: *All export regions should be implementing all water supply options available to them to reduce stress on the Delta as a limited resource.*

Emergency Response: *Collaborative efforts among the Delta counties to improve emergency response in the region have been productive and are continuing.*

San Luis Drain/Grasslands Bypass: *Long-standing opposition to selenium discharges from this project entering the Delta and support of in-valley treatment solutions are ongoing. Continued reduction in drainage from the Grasslands Bypass project is also monitored.*

Climate Change: *Impacts of climate change must be considered in planning, engineering and construction activities.*

102. *ADVOCATE for administrative and legislative action to provide significant funding for rehabilitation of levees in the western and central Delta. Proposition 1E, passed in November 2006, provides for \$3 billion for levees, primarily those in the Central Valley Flood Control Program. Language is included in the bond for other Delta levees, but funding is not specifically directed. The County will work on a coalition basis to actively advocate for \$1 billion in funding through this bond.*

- 103. ADVOCATE for legislation dealing with the Delta, including levees and levee programs, level and type of flood protection, beneficiary-pays programs, flood insurance, liability and other levee/land use issues.
- 104. SUPPORT legislation/regulation requiring Reclamation Districts to develop, publish, and maintain hazard emergency plans for their districts. *Emergency response plans are critical to emergency management, particularly in an area or situation like the Delta where a levee break could trigger other emergencies. This legislation/regulation should also include the requirement for plan review and annual distribution of the plan to the residents of the district, County Office of Emergency Services and other government agencies that have emergency response interests within the district.*
- 105. ENGAGE in the state Delta Vision program created through legislation and Governor's Executive Order in 2006. *Together with the Delta Risk Management Strategy, the Delta Vision will ultimately determine how the Delta can become a sustainable system and ultimately, the final configuration of the Delta.*

Library Issues

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- 106. SUPPORT State financial assistance in the operation of public libraries, including full funding of the Public Library Fund (PLF) and the Direct/Interlibrary Loan (Transaction Based Reimbursement) program. *The Contra Costa Library has lost over \$1 million in PLF funds annually in the last 5 years.*
- 107. SUPPORT State bonds for public library construction. The 2000 library construction bond provided funding for two libraries in Contra Costa County. There is currently a need of approximately \$289,000,000 for public library construction, expansion and renovation in Contra Costa County.
- 108. SUPPORT continued funding for the California Library Literacy and English Acquisition Services Program, which provides matching funds for public library adult literacy programs that offer free, confidential, one-on-one basic literacy instruction to English-speaking adults who want to improve their reading, writing, and spelling skills.

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Telecommunications Issues

- 109. SUPPORT clean-up legislation on AB 2987 that provides for local emergency notifications similar to provisions in cable franchises for the last 20 years. *Currently our franchises require the cable systems to carry emergency messages in the event of local emergencies. With the occurrence of several local refinery incidents, this service is critical for Contra Costa. Under federal law, Emergency Alert System requirements leave broad discretion to broadcasters to decide when and what information to broadcast, emergency management offices to communicate with the public in times of emergencies.*

110. SUPPORT preservation of local government ownership and control of the local public rights-of-way. *Currently, local government has authority over the time, place, and manner in which infrastructure is placed in their rights-of-way. The California Public Utilities Commission is considering rulemaking that would give them jurisdiction to decide issues between local government and telecommunication providers.*

Transportation Issues

111. SUPPORT increased transportation funding and protection of current transportation funding sources. *While County voters' extension of Measure J and the transportation infrastructure bond measure of November 2006 have increased the funds available for transportation, additional funds are needed to complete the funding for major transportation projects such as Vasco Road improvements. Funds also are needed to meet a growing number of unfunded state and federal mandates such as the Americans with Disabilities Act and stormwater and habitat preservation requirements. The County supports creation of new transportation funding sources provided that the new source does not shift revenue away from the State's General Fund. The County also supports an amendment to the Subdivision Map Act to allow the use of off-site transportation impact fees to fund pedestrian, bicycle transit and traffic calming facilities necessitated by new development. Senator DeSaulnier introduced such a bill in 2008 but dropped it due to opposition from the building industry. The County will request the bill be reintroduced in the 2010 session, as it would provide us with more flexibility in how we can use an existing transportation funding source. The County also will monitor proposed greenhouse gas reduction legislation known as "cap and trade" to determine whether such legislation could result in transportation revenue for local jurisdictions.*

Deleted: He has informed staff that he will reintroduce the bill in 2009 with input from the builders.

112. SUPPORT regional coordination that provides for local input in addressing transportation needs. *Coordinated planning and delivery of public transit, paratransit, and rail services will help ensure the best possible service delivery to the public. Regional coordination also will be needed to effectively deal with the traffic impacts of Indian gaming casinos such as those in West County. Regional coordination also will be essential to complete planning and development of important regional transportation projects such as State Route 239, improvements to Vasco Road, completion of remaining segments of the Bay Trail, improvements to the Delta DeAnza Regional Trail, and the proposed California Delta Trail. There may be interest in seeking enhanced local input requirements for developing the sustainable communities strategy for the Bay Region mandated by SB 375 for greenhouse gas reduction. It is important that the regional coordination efforts are based on input gathered from the local level, to ensure the regional approach does not negatively impact local communities. "Top-down" regional planning efforts would be inconsistent with this goal.*

113. SUPPORT efforts to improve safety throughout the transportation system. *The County supports new and expanded projects and programs to improve safety for bicyclists, pedestrians and wheelchair users, as well as projects to improve safety on high-accident transportation facilities such as Vasco Road. Data on transportation safety would be improved by including global positioning system (GPS) location data for every reported accident to assist in safety analysis and planning. The County also supports school safety improvement programs such as crossing guards, Safe Routes to Schools (SR2S) grants, efforts to improve the safety and security of freight transportation system including public and private maritime ports, airports, rail yards, railroad lines and sidings. The County also supports limits or elimination of public liability for installing traffic-calming devices on residential neighborhood streets.* Realistic deadlines for use of federal transportation funds would help local jurisdictions deliver complex projects without running afoul of federal time limits which are unrealistically tight for complex projects.
114. SUPPORT funding or incentives for the use of renewable resources in transportation construction projects. *The County seeks and supports grant programs, tax credits for manufacturers, state purchasing programs, and other incentives for local jurisdictions to use environmentally friendly materials such as the rubberized asphalt (made from recycled tires) that the County has used as paving material on San Pablo Dam Road and Pacheco Boulevard.*
115. SUPPORT streamlining the delivery of transportation safety projects. *The length of time and amount of paperwork should be reduced to bring a transportation safety project more quickly through the planning, engineering and design, environmental review, funding application, and construction phases, such as for Vasco Road. This could include streamlining the environmental review process and also streamlining all state permitting requirements that pertain to transportation projects.*
116. SUPPORT efforts to coordinate development of state-funded facilities such as courts, schools, jails and state offices with local planning. *The County supports coordinating planning between school districts and local jurisdictions in locating and planning new schools and funding programs that foster collaboration to help finance off-site transportation improvements for access to schools.*
117. SUPPORT regional aviation transportation planning efforts for coordinated aviation network planning to improve service delivery. Regional aviation coordination could also improve the surrounding surface transportation system by providing expanded local options for people and goods movement.
118. SUPPORT efforts to increase waterborne transport of goods, and obtaining funds to support this effort. *The San Francisco to Stockton Ship Channel is a major transportation route for the region, providing water access to a large number of industries and the Ports of Sacramento and Stockton. A project is underway to*

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deepen the channel, providing additional capacity to accommodate increasing commerce needs of the Ports and providing better operational flexibility for the other industries. Increased goods movement via waterways has clear benefits to congestion management on highways and railroads (with resultant air quality benefits).



Chair
Supervisor John Gioia
Executive Director
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DRAFT

UCC Legislative Priorities – 2010

State Budget Issues

UCC will focus on the State Budget with emphasis on securing adequate funding for programs administered by counties. UCC will oppose reductions in state programs that will have the effect of increasing the burden on county programs. UCC will oppose efforts to reduce funding without a commensurate reduction in county responsibility. UCC will further oppose any efforts to shift costs or federal penalties to counties.

The State Budget is in a serious deficit situation but it must not be balanced with cuts alone. Further, closing the budget shortfall with additional borrowing simply delays resolution of the problem. The continuing structural deficit requires reform of California's system of state-local finance so that both Boards of Supervisors and the Legislature have the tools necessary to provide the services and facilities necessary to meet the expectations of our citizens.

Human Services Funding Deficit (formerly known as the Cost of Doing Business)

UCC will work to ensure that the State adequately reimburses counties for their increasing costs of operating several human services programs. The annual shortfall between actual county expenses and state reimbursement has grown to over \$1 billion since 2001, creating a de facto cost shift. The funding gap forces counties to reduce services to vulnerable populations and/or divert scarce county resources from other critical local services. It also increases the risk of state and federal penalties.

Health Care Financing

UCC will work to ensure that the upcoming 2010 Medi-Cal waiver does not increase costs to counties and ensure that urban counties receive their fair share of funding. UCC will also closely monitor the efforts by the Department of Health Care Services to obtain the necessary funding to deal with the 2009-10 budget gap in the Medi-Cal program.

Corrections

UCC will *continue* to monitor reforms to the State's corrections system proposed by either the Administration or the Legislature and respond to them based on the Corrections Reform Principles and Guidelines adopted in 2007 and revised in 2009.

Disaster Preparedness and Response

~~UCC will support measures that enable counties to better exercise their responsibility to plan for and respond to emergencies and disasters and oppose those that do not recognize or support the county role in the State's Standardized Emergency Management System. UCC will work to ensure that the local Emergency Alert System authority that will sunset on January 1, 2009, as provided by AB 2987 (Nunez and Levine) of 2006 is reinstated in some manner to enable counties to communicate with their residents in times of emergency.~~

Board of Directors: **Chair:** Supervisor John Gioia, Contra Costa County **Vice Chair:** Supervisor Paul Biane, San Bernardino County **Treasurer:** John Guthrie, Finance Director, Santa Clara County **Members:** Supervisor Keith Carson, Alameda County; Supervisor Don Knabe, Los Angeles County; Supervisor John Moorlach, Orange County; Supervisor John Tavaglione, Riverside County; Supervisor Roger Dickinson, Sacramento County; Supervisor Greg Cox, San Diego County; Supervisor Carmen Chu, San Francisco County; Supervisor Rose Jacobs Gibson, San Mateo County; Supervisor Liz Kniss, Santa Clara County; Supervisor Kathy Long, Ventura County.

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Susan A. Bonilla, Chair
Supervisor Mary N. Piepho, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: October 28, 2009

SUBJECT: **Agenda Item #6: 2010 Federal Legislative Platform: FFY 2011
Appropriation Requests, Bill Reauthorizations, and Support
Positions**

RECOMMENDATIONS

1. REVIEW Appropriation Requests and RECOMMEND action for the Board of Supervisors.
2. REVIEW SAFETEA-LU and WRDA Reauthorization lists.
3. REVIEW Grant/Appropriation Support positions and provide direction.

FEDERAL APPROPRIATION REQUESTS

With regard to the fiscal year 2010 budget, congressional appropriators continued their drive to move the 12 annual spending bills. Although the federal fiscal year began back on October 1, the goal of appropriators is to send President Obama each funding measure as a separate package. To avoid a government shutdown, Congress approved on September 30 a stop-gap continuing resolution (CR) that keeps government programs operating through the end of the month.

In recent years, Congress has failed to clear the annual appropriations bills individually, forcing lawmakers to approve a massive catch-all spending package. With time running out on this year's session, congressional leaders will have to consider passing another CR before the current one expires or put together another omnibus funding bill.

Along with the CR, Congress has approved only three appropriations bills to date. They are: the Legislative Branch Appropriations bill (HR 2918); the Energy-Water spending measure (HR 3183); and, the Agriculture Appropriations legislation (HR 2997).

To date, Contra Costa County has received the following information about its requests:

FFY 2010 REQUESTS

	Request	House	Senate	Conference
1 Pinole Shoal Management (Delta LTMS)	\$ 2,000,000	\$ 200,000	\$ -	\$ 100,000
2 Safe and Bright Futures	\$ 750,000	\$ 350,000	\$ 200,000	will get \$\$
3 Lower Walnut Creek	\$ 600,000	-	\$ -	\$ -
4 Grayson and Murderer's Creeks	\$ 600,000		\$ 100,000	\$ 90,000
5 Levee Stability Program	\$ 20,000,000	\$ 5,000,000		\$ 4,844,000
6 St. Rte 4/ Old River Bridge (STP)	\$ 1,000,000	-	\$ -	
7 Suisun Bay Channel/New York Slough (Maintenance Dredging)	\$ 6,114,000	\$ 4,019,000	\$ 4,019,000	\$ 3,819,000
8 San Pablo Bay, Mare Island Strait (Pinole Shoal Maintenance Dredging)	\$ 5,300,000	\$ 2,650,000	\$ 2,650,000	\$ 2,518,000
9 Carquinez Scenic Drive (TCSP)	\$ 500,000	-	\$ -	
10 San Francisco to Stockton (Deepening Project)	\$ 2,500,000	-	\$ -	\$ -
11 Methamphetamine Eradication and Suppression Program	\$ 739,000	\$ 200,000	hasn't passed	will get \$\$
	\$ 40,103,000			\$ 11,371,000

2010 Federal Appropriations Requests for FFY 2011

The following 13 appropriations requests have been submitted by department staff and have not been vetted as yet by our federal advocate, Paul Schlesinger. The Legislation Committee may wish to consider the priority ranking of these requests, as well as the number of requests submitted. The Committee may also wish to recommend that staff consider alternative projects.

1. Delta LTMS-Pinole Shoal Management, CA – \$2,000,000 appropriation for the Army Corps of Engineers to continue a Long Term Management Strategy (LTMS) for levee rehabilitation, dredging and sediment reuse in the Delta, similar to the effort completed in the Bay area. Levee work, reuse of dredged sediments, dredging and other activities have been difficult to accomplish due to permitting problems and a divergence of priorities related to water quality. Significant levee rehabilitation is critical to the long term stability of these levees and to water quality and supply for the 23 million Californians who depend upon this water. Stakeholders from the Department of Water Resources, Ports, Army Corps, levee reclamation districts, local governments and other interested parties are participating in the LTMS. A Sediment or Dredged Material Management Office will be established, and in the longer term, preparation of a Sediment Management Plan will consider beneficial reuse of dredged materials as one

potential source of sediment for levees. (Note: \$500,000 appropriated for FFY 2005; \$225,000 for FFY 2006; \$500,000 for FFY 2007; \$462,000 for FFY 2008; \$235,000 for FFY 2009; \$100,000 for FFY 2010.)

2. Safe and Bright Futures for Children Exposed to Domestic Violence – \$750,000 appropriation to implement the federally funded plan to diminish the damaging effects of domestic violence on children and adolescents and to stop the cycle of intentional injury and abuse. A three year assessment and planning process resulted in a program plan that will align and create a system responsive to the needs of children exposed to domestic violence through identification, intervention, and treatment; raising awareness; training professionals; utilizing and disseminating data; establishing consultation teams to support providers in intervening and using best practices; and developing targeted services. The local domestic violence hotline received over 3,100 calls involving children last year (60% of all calls). Exposure to trauma like domestic violence reshapes the human brain, influences personality, shapes personal skills and behaviors, impacts academic performance, and substantially contributes to the high cost of law enforcement, civil/criminal justice and social services. (Note: \$428,000 appropriated for FFY 2009; appropriation for FFY 2010 unknown at this time.)

3. Mt. Diablo Mercury Mine Clean-up – \$483,000 appropriation for the Army Corps of Engineers to complete phase 2 and 3 of the Technical Planning Process for the Mt. Diablo Mercury Mine Demonstration Project. The project will clean up the mine in a cost effective, environmentally-sound manner with minimal liability exposure for the County and involving all stakeholders through an open community-based process. The Corps initiated a Technical Planning Process in June 2008 to develop a preliminary remediation plan, identify applicable permit and environmental data requirements and complete a data collection and documentation program for the clean-up of the Mt. Diablo Mercury Mine. Phase 1 of the planning process has been completed, and this appropriation will allow the Corps to continue the planning process and complete phase 2 and 3. The planning process will include looking at watershed issues downstream of the mercury mine. The Corps will be focusing on the mine site, and the local Contra Costa County Flood Control District will be focusing on the broader watershed issues. The mine site is located on private property on the northeast slope of Mt. Diablo at the upper end of the Marsh Creek watershed. Existing funding will be depleted before the end of this year and an appropriation is needed. (Note: \$517,000 appropriated for FFY 2008.)

4. Lower Walnut Creek, California – \$600,000 appropriation for the Army Corps of Engineers continue their general reevaluation of the lower five miles of the Walnut Creek Channel to restore flood capacity, provide environmental enhancement and ecosystem restoration. The project is designed to help improve flood protection in a densely populated area, while leaving the creek in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and

park land. (Note: \$188,000 appropriated for FFY 2006; no FFY 2007 appropriation; \$562,000 for FFY 2008; \$287,000 for FFY 2009; \$0 for FFY 2010.)

5. Grayson and Murderer's Creeks (Walnut Creek Basin), California – **\$600,000** appropriation for the Army Corps of Engineers to analyze Grayson and Murderer's Creeks to determine the feasibility of providing improved flood protection for a community that regularly experiences flood damages. The project is designed to help improve flood protection in a densely populated area, while leaving the creeks in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$100,000 appropriated for FFY 2006; no FFY 2007 appropriation; \$98,000 for FFY 2008.; \$478,000 for FFY 2009; \$90,000 for FFY 2010.)

6. CALFED Bay Delta Reauthorization Act Levee Stability Improvement Program (LSIP) – TBD appropriation for the Army Corps of Engineers for levee rehabilitation activities. The CALFED Reauthorization Act, passed in January 2004, authorized \$90 million, which may be appropriated for levee rehabilitation work. The Corps has prepared a "180-Day Report" which identifies projects and determines how these funds would be spent. Since that time, the breakdown of CALFED, coupled with the Army Corps' attempts to define an appropriate and streamlined process, has delayed funding and resultant levee work. (Note: \$500,000 appropriated for FFY 2006; \$400,000 for FFY 2007; \$4.92 million for FFY 2008; \$4.844 million for FFY 2010.)

7. Suisun Bay Channel/New York Slough Maintenance Dredging – **\$6,114,000** appropriation for the Army Corps of Engineers for maintenance dredging of this channel to the authorized depth of minus 35 feet. Continued maintenance is essential for safe transport of crude oil and other bulk materials through the San Francisco Bay, along the Carquinez Straits and into the Sacramento/San Joaquin Delta. Dredging for this channel section is particularly costly, due to requirements on placement of dredged materials in upland environments. An oil tanker ran aground in early 2001 due to severe shoaling in a section of this channel, which creates a greater potential for oil spills (Note: \$4.559 million appropriated for FFY 2005; \$4.619 million for FFY 2006; \$2.82 million for FFY 2007; \$2.856 million for FFY 2008; \$2.768 million for FFY 2009; \$3.819 million for FFY 2010.)

8. San Pablo/Mare Island Strait/Pinole Shoal Channel Maintenance Dredging – **\$5,300,000** appropriation for the Army Corps of Engineers (\$2.65 million for Mare Island) for maintenance dredging of the channel to the authorized depth of minus 35 feet. The Pinole Shoal channel is a major arterial for vessel transport through the San Francisco Bay region, serving oil refineries and bulk cargo which is transported as far east as Sacramento and Stockton. (Note: \$1 million appropriated for FFY 2005; \$2.988 million for FFY 2006;

\$896,000 for FFY 2007; \$1.696 million for FFY 2008; \$1.058 million for FFY 2009; \$2.518 million for FFY 2010.)

9. San Francisco to Stockton (J. F. Baldwin and Stockton Channels) Ship Channel Deepening – **\$2,500,000** appropriation for the Army Corps of Engineers to continue the Deepening Project. Deepening of this channel will allow for operational efficiencies for many different industries, an increase in waterborne goods movement, reduced congestion on roadways, and air quality benefits. Phase one work focused on establishing economic benefit to the nation and initial salinity modeling in the channel sections. The second and final phase includes detailed channel design, environmental documentation, cost analysis, additional modeling, and dredged material disposal options. *(Note: \$500,000 appropriated for FFY 2005; \$200,000 for FFY 2006; \$200,000 for FFY 2007; \$403,000 for FFY 2008; \$1.34 million for FFY 2009; \$0 for FFY 2010.)*

10. Methamphetamine Eradication and Suppression Program– **\$700,000** appropriation to maintain the Sheriff's Office's Specialized Investigative Unit's enforcement efforts targeting mid to high-level methamphetamine manufacturers and distributors. This elite unit is responsible for having seized over 100 pounds of methamphetamine, over 10 pounds of cocaine, and assets valued at over \$650,000 in the last two years. This unit is working in a primary capacity with both State and Federal agencies on high-level wire-tap investigations.

The Office of the Sheriff is seeking funds to continue its Specialized Investigations Unit's efforts and honor its commitments to the multi-jurisdictional effort through the Cal-MMET program. Funds from this program would be utilized to maintain staffing of four full-time Detectives in this critical investigative component of the Investigation Division. Without this funding, significant accomplishments and inroads made in the methamphetamine drug-trafficking trade and organized crime industry will be lost. The impact of this will compromise interagency coordination and multi-jurisdictional investigations, heavily impacting public safety throughout Contra Costa County. *(Note: appropriation for FFY 2010 unknown at this time.)*

11. Wildcat Creek, Section 1135 Project – **\$300,000** appropriation for the Army Corps of Engineers to complete a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project.

12. Carquinez Scenic Drive Bay Trail – **\$2.0 million** (increased from \$0.5 million in current platform) to repair slide damage and reconstruct the multi-use trail as part of the San Francisco Bay Trail. The Trail is a continuous 400-mile recreation corridor that will encircle the entire Bay Area, connecting communities to each other and the Bay. To date, 210 miles of the Bay Trail have been developed. This segment would access East Bay Regional Parks land and connect the communities of Martinez, Port Costa and Crockett for bicycle, pedestrian and equestrian users as well as provide alternate emergency vehicle and evacuation routes for these communities. The planning study, which evaluated roadway stability and identified stabilization and path alignment alternatives, was completed in 2007. (Note: \$1 million appropriated for FFY 2006; no appropriations since then.)

13. State Route 4 / Old River Bridge Study – **\$1,000,000** appropriation to work with San Joaquin County and the State of California on a study of improving or replacing the Old River Bridge along State Route 4 on the Contra Costa / San Joaquin County line. The study would determine a preferred alternative for expanding or replacing the existing bridge, which is part of State Route 4. The existing bridge is narrow, barely allowing two vehicles to pass each other, and is aligned on a difficult angle relative to the highway on either side, requiring motorists to make sharp turns onto and off of the bridge. The project would improve safety and traffic flow over the bridge. (Note: no appropriations for this project as yet.)

TRANSPORTATION BILL REAUTHORIZATION

The current federal transportation policy and spending act, a five-year act known as the Safe, Accountable, Flexible and Efficient Transportation Equity Act – A Legacy for Users, or SAFETEA-LU, expired in September 2009. Discussions about the reauthorization of the bill have commenced. What follows is a draft of the current list of projects and programs the County may be requesting Reauthorization funding for. These projects have been recommended by the Transportation, Water and Infrastructure Committee:

1. Vasco Road Safety Improvement Project -- **\$30 million** (reduced from \$40 million in previous platform, due to receipt of \$10 million in ARRA funds) for improvements to a 2.5-mile accident-prone section of Vasco Road. Project components include widening the roadway to accommodate a concrete median barrier and shoulders on either side of the barrier, construction of the barrier, and extension of an existing passing lane. The project will eliminate cross-median accidents which have caused numerous fatalities in recent years, and will provide increased opportunities for vehicles to safely pass (unsafe passing is a major cause of accidents and fatalities on this segment of the increasingly busy two-lane undivided road). The project will include provisions for wildlife undercrossings to preserve migration patterns. The funds will complement \$10

million programmed for the project in the American Recovery and Reinvestment Act (federal stimulus program). (10th/11th Districts, ??? / McNerney)

2. North Richmond Truck Route -- \$25 million (increased from \$15.5 million in the 2009 platform due to engineering issues pertaining to levees and railroad right of way) to construct a new road that will provide truck access between businesses and the Richmond Parkway, moving the truck traffic away from a residential neighborhood and elementary school. This project will increase safety, improve public health around the school and residential area by reducing diesel particulate emissions from those areas, increase livability of the neighborhood, improve local access to the Wildcat Creek Regional Trail, stimulate economic development in the industrial area of the community and provide a better route for trucks traveling to and from the Richmond Parkway. The alignment was developed through a community planning process funded through an Environmental Justice planning grant from Caltrans). (7th District, Miller)

3. Eastern Contra Costa Trail Network -- \$5 million for a joint planning, environmental review, right-of-way acquisition and constructions of a coordinated network of trails for walking, bicycling and equestrian uses in eastern Contra Costa County. Eligible trails include, but are not limited to, (1) the Mokelumne Trail overcrossing of the State Route 4 Bypass; (2) Contra Costa segments of the Great California Delta Trail; (3) a supportive network of East Contra Costa trails in unincorporated County areas and the cities of Antioch, Brentwood, Oakley and Pittsburg (all districts) (No changes proposed from 2009 platform)

Following are priority programs for inclusion in the next multi-year transportation bill:

- **Rural Road Funding Program** – The County supports the creation of a new funding program that will provide funds for converting or upgrading rural roads into more modern roads that can handle increasing commuter traffic in growing areas, such as East County. These roads do not often compete well in current grant programs because they do not carry as many vehicles as roads in more congested urban or suburban areas. As a result, improvements such as widening, realignment, drainage improvements and intersection modifications often go unfunded, leaving such roads with operational and safety problems as well as insufficient capacity. (All districts)
- **Transportation Funding for Disabled, Low-income, and Elderly Persons** – The County supports continuation and increased funding levels for the three federal funding programs dedicated to transit services for these population groups -- the New Freedom Program for senior transit services, the Job Access and Reverse Commute Program which funds transit services to job locations for low-income persons, and the Section 5310 transit funding program for the elderly and individuals with disabilities. SAFETEA-LU provided a total of \$1.7 billion

nationwide for these programs. By comparison, \$200 billion was provided for highway projects; even transportation research got more funding (\$2.3 billion) than transit for elderly, disabled and low-income persons. All of the demographic trends point to a growing need for such services in the future. For example, the 65-and-older population in the Bay Area is projected to more than double by the year 2030.

Transit services for elderly, disabled, and low-income persons are provided by the County, by some cities, by all of the bus transit operators, and by many community organizations and non-profits that provide social services. Increased funding is needed to provide and maintain more service vehicles, operate them longer throughout the day, upgrade the vehicle fleet and dispatching systems, improve coordination between public providers and community groups that also provide such services to their clients, and expand outreach programs to inform potential riders of the available services, among other needs. *(All districts)*

WATER RESOURCES DEVELOPMENT ACT (WRDA) BILL REAUTHORIZATION

The Water Resources Development Act of 2007 became law in November, more than seven years after the last authorization bill. Congress may take action on a WRDA bill in 2009. The following are projects recommended by staff that the County could submit for inclusion:

1. Mt. Diablo Mercury Mine Clean-up - Authorize the Army Corps of Engineers, through their Remediation of Abandoned Mine Site program (RAMS), to perform and complete the Technical Planning Process and site characterization of the Mt. Diablo Mercury Mine in Contra Costa County as a demonstration project with no local match, and authorize the Army Corps of Engineers to construct the clean-up project at the Mt. Diablo Mercury Mine. This mine remediation project is the first to combine the Corps' RAMS program and partnering agreements with local government to resolve liability issues associated with a clean-up project on private property and address mercury pollution on a watershed basis. Since this is a demonstration project, the Corps would fund the full Technical Planning Process and project construction.

A 1995 study of Marsh Creek indicated the Mt. Diablo Mercury Mine tailings are responsible for 88% of the mercury in Marsh Creek. In addition, mercury levels in fish in Marsh Creek Reservoir downstream of the mine exceed the health standard concentration of 0.5 ppm.

2. Wildcat Creek, Section 1135 Project – Support an appropriation for the Army Corps of Engineers to complete a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a

meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project.

3. Pinole Creek, Section 1135 Project – Support an appropriation for the Army Corps of Engineers to complete a feasibility study for restoration and enhancement of wildlife resources in Pinole Creek between San Pablo Bay and Highway 80. The existing Corps-designed flood control channel supports only degraded, primarily non-native habitat. Despite the poor habitat, the creek does support a population of the threatened steelhead trout. A preliminary restoration plan has been completed by the Corps, and federal participation is desired to augment and expand local efforts for creek restoration.

4. Rodeo Creek, Section 1135 Project – The Contra Costa Flood Control and Water Conservation District is seeking an 1135 project authorization for the Army Corps of Engineers to prepare a study of the feasibility of restoring and enhancing wildlife resources in Rodeo Creek between San Pablo Bay and Highway 80. The channel was designed and constructed to provide adequate flood protection for the community of Rodeo and to control erosion of the creek. The channel currently does this, but requires extensive, environmentally insensitive maintenance to keep the channel functioning properly. In addition, the current channel design includes barriers to migration of anadromous fish. The Contra Costa Flood Control and Water Conservation District would like to partner again with the Corps of Engineers under the Corps' 1135 program to transform this outdated design into a sustainable, environmentally sensitive facility that better serves the community and the environment.

5. Rheem Creek, Section 1135 Project – The Contra Costa Flood Control and Water Conservation District is seeking an 1135 project authorization for Rheem Creek between the mouth at San Pablo Bay and Giant Road. The Army Corps of Engineers' existing flood protection project on Rheem Creek protects a number of commercial, industrial, residential and open space areas in the Richmond / San Pablo area of Contra Costa County. Surrounding the mouth of the creek is a large undeveloped parcel (Brunner Marsh) which has been acquired by the East Bay Regional Park District for a future public park. Development of the adjacent lands as a regional park provides a unique opportunity for an enhanced creek environment in an area that will be very visible to the public.

FEDERAL LEGISLATIVE APPROPRIATIONS AND GRANTS – SUPPORT POSITIONS

The Legislation Committee may wish to review the list and make recommendations on our continued support for these requests. *The following support positions are listed in alphabetic order and do not reflect priority order.*

Buchanan Field Airport – The County approved a Master Plan for the Buchanan Field Airport in October 2008, which includes a Federal Aviation Regulation Part 150 Noise Study and a Business Plan for project implementation. The comprehensive planning effort has ideally positioned Buchanan Field Airport for future aviation (general aviation, corporate aviation and commercial airline service) and aviation-related opportunities. To facilitate the economic development potential, the Business Plan prioritizes necessary infrastructure improvements for Buchanan Field Airport. Further, as the Airport is surrounded by urban residential uses, enhancing the noise program infrastructure is deemed essential for balancing the aviation needs with those of the surrounding communities. The Federal government, primarily through the Federal Aviation Administration (FAA), provides funding for planning, analysis, and infrastructure improvements. The County will support funding in all these areas for protection and enhancement of our aviation facility and network.

Byron Airport – The Byron Airport is poised for future general and corporate aviation and aviation-related development, but that future growth is dependent upon infrastructure improvements both on and around the Airport. The Byron Airport Business Plan prioritizes infrastructure and possible additional land acquisition to assist the Byron Airport in fulfilling its aviation and economic development potential. The Federal government, primarily through the Federal Aviation Administration (FAA), provides funding for planning, analysis, infrastructure improvements and aviation land acquisition. The County will support funding in all these areas for protection and enhancement of our aviation facility and network.

Delta Islands and Levees Feasibility Study – TBD appropriation for the Army Corps of Engineers for the Delta Islands and levees feasibility study. Originally designed to be a cooperative effort with the State (the State risk assessment process moved ahead of the Federal process), the study will now look at the water resources challenges in the Delta, will consider a larger Federal role, and will develop a collaborative planning process. (Note: \$200,000 appropriated in FFY 2006; \$800,000 in FFY 2007; \$2 million expected in FFY 2008; appropriation for FFY 2009 unknown at this time.)

East Bay Regional Communication System (EBRCS)– \$TBD million appropriation to build the East Bay Regional Communication System (EBRCS), a P25 Radio System infrastructure for Contra Costa and Alameda County. This two-county system will provide interoperable voice communication in both the 800 MHz and 700 MHz frequencies to all public safety and public services agencies within Contra Costa County and Alameda County. The project will improve radio system reliability, enhance radio coverage, relieve channel congestion, reduce maintenance costs, provide seamless regional coverage, facilitate future expansion and provide a migration path to new technologies. Due to a regional approach, economies of scale will also be realized.

EBRCS will allow for interoperable voice communication within the region that can be integrated with other P25 radio systems outside the geographical area of the EBRCS, for example, with San Francisco. This project will provide Level 5 communications which is the highest level of interoperable communications. This project will allow for everyday interoperable communications, not just various levels of interoperability during big events or disasters in which radio caches are deployed or gateway devices used.

Kirker Pass Road Truck Climbing Lane – \$10 million appropriation (*reduced from \$31 million due to availability of other funding and focusing initially on the northbound direction*) for constructing northbound and southbound truck climbing lanes on Kirker Pass Road, a heavily used arterial linking residential areas in eastern Contra Costa with job centers and the freeway system in central Contra Costa. The truck climbing lanes are needed to improve traffic flow and will also have safety benefits. The \$31 million would augment \$3 million in State Infrastructure Proposition 1B funds which the County has allocated for the project.

Regional Habitat Planning and Conservation – \$125 million appropriation to the U.S. Fish and Wildlife Service's "Cooperative Endangered Species Conservation Fund" to keep pace with land costs and the increasing number of Habitat Conservation Plans (HCPs) throughout the country. In partnership with approximately a dozen counties in northern and southern California, the County will support a request that funding for the Fund increase from the \$73.8 million current-year level to \$125 million in FY2010. This will restore the Fund to approximately its fiscal 2001 level, adjusted for inflation, and provide much needed support to regional HCPs in California and nationally. Given the prolific growth in the number of regional HCPs, the Fund needs to be increased even more substantially in subsequent years. The County would also request that the California State Association of Counties (CSAC) include this Fund increase as a priority on CSAC's federal platform.

San Francisco Bay, Long Term Management Strategy (LTMS), Environmental Windows, Science Projects – \$3.45 million appropriation for the Army Corps of Engineers' "Environmental Windows Science Projects" as part of the Bay Area Long Term Management Strategy (LTMS). Environmental Windows are limited timeframes when dredging and, to some extent, disposal can occur within San Francisco Bay and environs. However, the existing windows are based on old and, in some cases, little or no scientific basis. This project would identify where additional science is necessary, prioritize science projects, obtain funding and oversee these scientific studies. The broad-based coalition includes the Bay LTMS Agencies (EPA, BCDC, Corps, Regional Water Board), resource agencies (USFWS, NOAA Fisheries, State Fish and Game) and a number of other agencies, organizations and individuals.

Vasco Road-Byron Highway Connector – \$30 million appropriation (*increased from \$10 million in 2009 platform due to costs of state and federal environmental*

review, and anticipated cost increases) for design, engineering and construction of an east-west connector road between two major arterials that link Contra Costa County with Alameda and San Joaquin Counties. The Vasco Road-Byron Highway Connector will improve traffic circulation and linkages in the southeastern portion of the County and will provide a new route for truck traffic that will remove a significant portion of truck trips which currently pass through the rural community of Byron. Vasco Road is designated as State Route 84, and Byron Highway is under study as the potential alignment for future State Route 239.

Attachment A is the Draft 2010 Federal Legislative Platform in its entirety.

**2010 FEDERAL LEGISLATIVE PLATFORM
CONTRA COSTA COUNTY**



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Each year, the Board of Supervisors adopts a Federal legislative platform that establishes priorities and policy positions with regard to potential federal legislation and regulation. The 2010 Federal Legislative Platform includes 13 requests for appropriations; 5 requests for the reauthorization of the federal transportation act; and 5 requests for the reauthorization of the Water Resources Development Act.

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FFY 2011 FEDERAL APPROPRIATION REQUESTS

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The following list is a preliminary ranking in priority order. Adjustments to the priority order may be appropriate once the President releases his budget. The current priority ranking gives preference to those projects that we know will not be included in the President's budget, with lower priority to Army Corps of Engineers projects which may be in the budget. Also, Army Corps project requests will be adjusted to be consistent with Corps capability.

1. Delta LTMS-Pinole Shoal Management, CA – \$2,000,000 appropriation for the Army Corps of Engineers to continue a Long Term Management Strategy (LTMS) for levee rehabilitation, dredging and sediment reuse in the Delta, similar to the effort completed in the Bay area. Levee work, reuse of dredged sediments, dredging and other activities have been difficult to accomplish due to permitting problems and a divergence of priorities related to water quality. Significant levee rehabilitation is critical to the long term stability of these levees and to water quality and supply for the 23 million Californians who depend upon this water. Stakeholders from the Department of Water Resources, Ports, Army Corps, levee reclamation districts, local governments and other interested parties are participating in the LTMS. A Sediment or Dredged Material Management Office will be established, and in the longer term, preparation of a Sediment Management Plan will consider beneficial reuse of dredged materials as one potential source of sediment for levees. (Note: \$500,000 appropriated for FFY 2005; \$225,000 for FFY 2006; \$500,000 for FFY 2007; \$462,000 for FFY 2008; \$235,000 for FFY 2009; \$100,000 for FFY 2010.)

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2. Safe and Bright Futures for Children Exposed to Domestic Violence – \$750,000 appropriation to implement the federally funded plan to diminish the damaging effects of domestic violence on children and adolescents and to stop the cycle of intentional injury and abuse. A three year assessment and planning process resulted in a program plan that will align and create a system responsive to the needs of children exposed to domestic violence through identification, intervention, and treatment; raising awareness; training professionals; utilizing and disseminating data; establishing consultation teams to support providers in intervening and using best practices; and developing targeted services. The local domestic violence hotline received over 3,100 calls involving children last year (60% of all calls). Exposure to trauma like domestic violence reshapes the human brain, influences personality, shapes personal skills and

behaviors, impacts academic performance, and substantially contributes to the high cost of law enforcement, civil/criminal justice and social services. (Note: \$428,000 appropriated for FFY 2009; appropriation for FFY 2010 unknown at this time.)

3. Mt. Diablo Mercury Mine Clean-up – \$483,000 appropriation for the Army Corps of Engineers to complete phase 2 and 3 of the Technical Planning Process for the Mt. Diablo Mercury Mine Demonstration Project. The project will clean up the mine in a cost effective, environmentally-sound manner with minimal liability exposure for the County and involving all stakeholders through an open community-based process. The Corps initiated a Technical Planning Process in June 2008 to develop a preliminary remediation plan, identify applicable permit and environmental data requirements and complete a data collection and documentation program for the clean-up of the Mt. Diablo Mercury Mine. Phase 1 of the planning process has been completed, and this appropriation will allow the Corps to continue the planning process and complete phase 2 and 3. The planning process will include looking at watershed issues downstream of the mercury mine. The Corps will be focusing on the mine site, and the local Contra Costa County Flood Control District will be focusing on the broader watershed issues. The mine site is located on private property on the northeast slope of Mt. Diablo at the upper end of the Marsh Creek watershed. Existing funding will be depleted before the end of this year and an appropriation is needed. (Note: \$517,000 appropriated for FFY 2008.)

4. Lower Walnut Creek, California – \$600,000 appropriation for the Army Corps of Engineers continue their general reevaluation of the lower five miles of the Walnut Creek Channel to restore flood capacity, provide environmental enhancement and ecosystem restoration. The project is designed to help improve flood protection in a densely populated area, while leaving the creek in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$188,000 appropriated for FFY 2006; no FFY 2007 appropriation; \$562,000 for FFY 2008; \$287,000 for FFY 2009; \$0 for FFY 2010.)

5. Grayson and Murderer's Creeks (Walnut Creek Basin), California – \$600,000 appropriation for the Army Corps of Engineers to analyze Grayson and Murderer's Creeks to determine the feasibility of providing improved flood protection for a community that regularly experiences flood damages. The project is designed to help improve flood protection in a densely populated area, while leaving the creeks in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$100,000 appropriated for FFY 2006; no FFY 2007 appropriation; \$98,000 for FFY 2008.; \$478,000 for FFY 2009; \$90,000 for FFY 2010.)

6. CALFED Bay Delta Reauthorization Act Levee Stability Improvement Program (LSIP) – TBD appropriation for the Army Corps of Engineers for levee rehabilitation activities. The CALFED Reauthorization Act, passed in January 2004, authorized \$90 million, which may be appropriated for levee rehabilitation work. The Corps has

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4. Grayson and Murderer's Creeks, California – \$300,000 appropriation for the Army Corps of Engineers to continue the analysis of Grayson and Murderer's Creeks to determine the feasibility of providing increased flood control, environmental enhancement, ecosystem restoration and fish passage. The project is intended to eliminate frequent flooding in a densely populated area, while leaving the creeks in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$100,000 appropriated for FFY 2006; \$200,000 provided for FFY 2007 under Continuing

prepared a "180-Day Report" which identifies projects and determines how these funds would be spent. Since that time, the breakdown of CALFED, coupled with the Army Corps' attempts to define an appropriate and streamlined process, has delayed funding and resultant levee work. (Note: \$500,000 appropriated for FFY 2006; \$400,000 for FFY 2007; \$4.92 million for FFY 2008; ~~\$4.844 million for FFY 2010.~~)

7. Suisun Bay Channel/New York Slough Maintenance Dredging – \$6,114,000 appropriation for the Army Corps of Engineers for maintenance dredging of this channel to the authorized depth of minus 35 feet. Continued maintenance is essential for safe transport of crude oil and other bulk materials through the San Francisco Bay, along the Carquinez Straits and into the Sacramento/San Joaquin Delta. Dredging for this channel section is particularly costly, due to requirements on placement of dredged materials in upland environments. An oil tanker ran aground in early 2001 due to severe shoaling in a section of this channel, which creates a greater potential for oil spills (Note: \$4.559 million appropriated for FFY 2005; \$4.619 million for FFY 2006; \$2.82 million for FFY 2007; \$2.856 million for FFY 2008; ~~\$2.768 million for FFY 2009; \$3.819 million for FFY 2010.~~)

8. San Pablo/Mare Island Strait/Pinole Shoal Channel Maintenance Dredging – \$5,300,000 appropriation for the Army Corps of Engineers (\$2.65 million for Mare Island) for maintenance dredging of the channel to the authorized depth of minus 35 feet. The Pinole Shoal channel is a major arterial for vessel transport through the San Francisco Bay region, serving oil refineries and bulk cargo which is transported as far east as Sacramento and Stockton. (Note: \$1 million appropriated for FFY 2005; \$2.988 million for FFY 2006; \$896,000 for FFY 2007; \$1.696 million for FFY 2008; ~~\$1.058 million for FFY 2009; \$2.518 million for FFY 2010.~~)

9. San Francisco to Stockton (J. F. Baldwin and Stockton Channels) Ship Channel Deepening – \$2,500,000 appropriation for the Army Corps of Engineers to continue the Deepening Project. Deepening of this channel will allow for operational efficiencies for many different industries, an increase in waterborne goods movement, reduced congestion on roadways, and air quality benefits. Phase one work focused on establishing economic benefit to the nation and initial salinity modeling in the channel sections. The second and final phase includes detailed channel design, environmental documentation, cost analysis, additional modeling, and dredged material disposal options. (Note: \$500,000 appropriated for FFY 2005; \$200,000 for FFY 2006; \$200,000 for FFY 2007; \$403,000 for FFY 2008; ~~\$1.34 million for FFY 2009; \$0 for FFY 2010.~~)

10. Methamphetamine Eradication and Suppression Program – \$700,000 appropriation to maintain the Sheriff's Office's Specialized Investigative Unit's enforcement efforts targeting mid to high-level methamphetamine manufacturers and distributors. This elite unit is responsible for having seized over 100 pounds of methamphetamine, over 10 pounds of cocaine, and assets valued at over \$650,000 in the last two years. This unit is working in a primary capacity with both State and Federal agencies on high-level wire-tap investigations.

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6. State Route 4 / Old River Bridge Study – \$1,000,000 appropriation to work with San Joaquin County and the State of California on a study of improving or replacing the Old River Bridge along State Route 4 on the Contra Costa/San Joaquin County line. The study would determine a preferred alternative for expanding or replacing the existing bridge, which is part of State Route 4. The existing bridge is narrow, barely allowing two vehicles to pass each other, and is aligned on a difficult angle relative to the highway on either side, requiring motorists to make sharp turns onto and off of the bridge. The project would improve safety and traffic flow over the bridge. ¶

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9. Carquinez Scenic Drive Bay Trail Segment – \$0.5 million appropriation to repair slide damage and reconstruct the multi-use tr... [2]

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The Office of the Sheriff is seeking funds to continue its Specialized Investigations Unit's efforts and honor its commitments to the multi-jurisdictional effort through the Cal-MMET program. Funds from this program would be utilized to maintain staffing of four full-time Detectives in this critical investigative component of the Investigation Division. Without this funding, significant accomplishments and inroads made in the methamphetamine drug-trafficking trade and organized crime industry will be lost. The impact of this will compromise interagency coordination and multi-jurisdictional investigations, heavily impacting public safety throughout Contra Costa County. (Note: appropriation for FFY 2010 unknown at this time.)

11. Wildcat Creek, Section 1135 Project – \$300,000 appropriation for the Army Corps of Engineers to complete a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project.

12. Carquinez Scenic Drive Bay Trail – \$2.0 million (increased from \$0.5 million in current platform) to repair slide damage and reconstruct the multi-use trail as part of the San Francisco Bay Trail. The Trail is a continuous 400-mile recreation corridor that will encircle the entire Bay Area, connecting communities to each other and the Bay. To date, 210 miles of the Bay Trail have been developed. This segment would access East Bay Regional Parks land and connect the communities of Martinez, Port Costa and Crockett for bicycle, pedestrian and equestrian users as well as provide alternate emergency vehicle and evacuation routes for these communities. The planning study, which evaluated roadway stability and identified stabilization and path alignment alternatives, was completed in 2007. (Note: \$1 million appropriated for FFY 2006; no appropriations since then.)

13. State Route 4 / Old River Bridge Study – \$1,000,000 appropriation to work with San Joaquin County and the State of California on a study of improving or replacing the Old River Bridge along State Route 4 on the Contra Costa / San Joaquin County line. The study would determine a preferred alternative for expanding or replacing the existing bridge, which is part of State Route 4. The existing bridge is narrow, barely allowing two vehicles to pass each other, and is aligned on a difficult angle relative to the highway on either side, requiring motorists to make sharp turns onto and off of the bridge. The project would improve safety and traffic flow over the bridge. (Note: no appropriations for this project as yet.)

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Deleted: continue implementation of the integration and interoperability of criminal justice and related information systems for public safety agencies within Contra Costa County and neighboring counties, including Alameda, Solano, San Joaquin, San Mateo, Santa Clara and San Francisco. The Automated Regional Information Exchange System (ARIES) will give agencies access to jail records, criminal histories, mug shots, certified fingerprint data, restraining orders information and images, contacts made by all law enforcement agencies, and probation and parole status of persons in the community. Access to these disparate public safety databases will allow approximately 48 law enforcement agencies to "connect the dots" in preventing crime and terrorist events and in identifying and locating persons of interest. (Note: \$250,000 appropriated for FFY 2004; \$625,000 for FFY 2005; \$450,000 appropriated for FFY 2006; no FFY 2007 appropriation; \$658,000 appropriated for FFY 2008.) ¶

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2010 REAUTHORIZATION OF FEDERAL TRANSPORTATION ACT

The current federal transportation policy and spending act, a five-year act known as the Safe, Accountable, Flexible and Efficient Transportation Equity Act – A Legacy for Users, or SAFETEA-LU, expires in 2009. Its reauthorization will likely be crafted during the year. The following are priority projects for inclusion in the next multi-year transportation bill.

1. Vasco Road Safety Improvement Project -- \$30 million (reduced from \$40 million in previous platform, due to receipt of \$10 million in ARRA funds) for improvements to a 2.5-mile accident-prone section of Vasco Road. Project components include widening the roadway to accommodate a concrete median barrier and shoulders on either side of the barrier, construction of the barrier, and extension of an existing passing lane. The project will eliminate cross-median accidents which have caused numerous fatalities in recent years, and will provide increased opportunities for vehicles to safely pass (unsafe passing is a major cause of accidents and fatalities on this segment of the increasingly busy two-lane undivided road). The project will include provisions for wildlife undercrossings to preserve migration patterns. The funds will complement \$10 million programmed for the project in the American Recovery and Reinvestment Act (federal stimulus program). (10th/11th Districts, ??? / Mc Nerney)

2. North Richmond Truck Route -- \$25 million (increased from \$15.5 million in the 2009 platform due to engineering issues pertaining to levees and railroad right of way) to construct a new road that will provide truck access between businesses and the Richmond Parkway, moving the truck traffic away from a residential neighborhood and elementary school. This project will increase safety, improve public health around the school and residential area by reducing diesel particulate emissions from those areas, increase livability of the neighborhood, improve local access to the Wildcat Creek Regional Trail, stimulate economic development in the industrial area of the community and provide a better route for trucks traveling to and from the Richmond Parkway. The alignment was developed through a community planning process funded through an Environmental Justice planning grant from Caltrans). (7th District, Miller)

3. Eastern Contra Costa Trail Network -- \$5 million for a joint planning, environmental review, right-of-way acquisition and constructions of a coordinated network of trails for walking, bicycling and equestrian uses in eastern Contra Costa County. Eligible trails include, but are not limited to, (1) the Mokelumne Trail overcrossing of the State Route 4 Bypass; (2) Contra Costa segments of the Great California Delta Trail; (3) a supportive network of East Contra Costa trails in unincorporated County areas and the cities of Antioch, Brentwood, Oakley and Pittsburg (all districts) (No changes proposed from 2009 platform)

Following are priority programs for inclusion in the next multi-year transportation bill:

- **Rural Road Funding Program** – The County supports the creation of a new funding program that will provide funds for converting or upgrading rural roads into more

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<#>Vasco Road Safety Improvement Project – \$40 million for improvements to a 2.5-mile accident-prone section of Vasco Road. Project components include widening the roadway to accommodate a concrete median barrier and shoulders on either side of the barrier, construction of the barrier, and extension of an existing passing lane. The project will eliminate cross-median accidents which have caused numerous fatalities in recent years, and will provide increased opportunities for vehicles to pass safely (unsafe passing is a major cause of accidents and fatalities on this segment of the increasingly busy two-lane undivided road). The project will include provisions for wildlife undercrossings to preserve migration patterns. ¶
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The requested funds will augment the regional, state and federal funds already committed to Vasco Road, including East County ... [6]

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modern roads that can handle increasing commuter traffic in growing areas, such as East County. These roads do not often compete well in current grant programs because they do not carry as many vehicles as roads in more congested urban or suburban areas. As a result, improvements such as widening, realignment, drainage improvements and intersection modifications often go unfunded, leaving such roads with operational and safety problems as well as insufficient capacity. *(All districts)*

- **Transportation Funding for Disabled, Low-income, and Elderly Persons** – The County supports continuation and increased funding levels for the three federal funding programs dedicated to transit services for these population groups -- the New Freedom Program for senior transit services, the Job Access and Reverse Commute Program which funds transit services to job locations for low-income persons, and the Section 5310 transit funding program for the elderly and individuals with disabilities. SAFETEA-LU provided a total of \$1.7 billion nationwide for these programs. By comparison, \$200 billion was provided for highway projects; even transportation research got more funding (\$2.3 billion) than transit for elderly, disabled and low-income persons. All of the demographic trends point to a growing need for such services in the future. For example, the 65-and-older population in the Bay Area is projected to more than double by the year 2030.

Transit services for elderly, disabled, and low-income persons are provided by the County, by some cities, by all of the bus transit operators, and by many community organizations and non-profits that provide social services. Increased funding is needed to provide and maintain more service vehicles, operate them longer throughout the day, upgrade the vehicle fleet and dispatching systems, improve coordination between public providers and community groups that also provide such services to their clients, and expand outreach programs to inform potential riders of the available services, among other needs. *(All districts)*

REAUTHORIZATION OF WATER RESOURCES DEVELOPMENT ACT (WRDA)

The Water Resources Development Act of 2007 became law in November, more than seven years after the last authorization bill. It appears that the House and Senate Committees intend to move a WRDA bill in 2010. The following are projects the County would submit for inclusion.

1. Mt. Diablo Mercury Mine Clean-up - Authorize the Army Corps of Engineers, through their Remediation of Abandoned Mine Site program (RAMS), to perform and complete the Technical Planning Process and site characterization of the Mt. Diablo Mercury Mine in Contra Costa County as a demonstration project with no local match, and authorize the Army Corps of Engineers to construct the clean-up project at the Mt. Diablo Mercury Mine. This mine remediation project is the first to combine the Corps' RAMS program and partnering agreements with local government to resolve liability issues associated with a clean-up project on private property and address mercury

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Deleted: **1. Mt. Diablo Mercury Mine** – Authorize the Army Corps of Engineers, through their Remediation of Abandoned Mine Site program (RAMS), to perform and complete the Technical Planning Process and site characterization of the Mt. Diablo Mercury mine in Contra Costa County as a demonstration project with no local match. This mine remediation project is the first to combine the Corps' RAMS program, EPA's Good Samaritan Initiative and a local government "Good Samaritan" to resolve liability issues in a clean-up project. Since this is a demonstration project, the Corps would fund the full Technical Planning Process. ¶

¶ **2. Pinole Creek, Section 1135 Project** – Support an appropriation for the Army Corps of Engineers to complete a feasibility study for restoration and enhancement of wildlife resources in Pinole Creek between San Pablo Bay and Highway 80. The existing Corps-designed flood control channel supports only degraded, primarily non-native habitat. Despite the poor habitat, the creek does support a population of the threatened steelhead trout. A preliminary restoration plan has been completed by the Corps, and federal participation is desired to augment and expand local efforts for creek restoration. ¶

¶ **3. Wildcat/ San Pablo Creek Phase One, Section 1135 Project** – Support an appropriation for the Army Corps of Engineers to initiate a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project. ¶

¶ **4. Rodeo Creek Restoration Project** – Project authorizati... [18]

pollution on a watershed basis. Since this is a demonstration project, the Corps would fund the full Technical Planning Process and project construction.

A 1995 study of Marsh Creek indicated the Mt. Diablo Mercury Mine tailings are responsible for 88% of the mercury in Marsh Creek. In addition, mercury levels in fish in Marsh Creek Reservoir downstream of the mine exceed the health standard concentration of 0.5 ppm.

2. Wildcat Creek, Section 1135 Project – Support an appropriation for the Army Corps of Engineers to complete a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project.

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4. Rodeo Creek, Section 1135 Project – The Contra Costa Flood Control and Water Conservation District is seeking an 1135 project authorization for the Army Corps of Engineers to prepare a study of the feasibility of restoring and enhancing wildlife resources in Rodeo Creek between San Pablo Bay and Highway 80. The channel was designed and constructed to provide adequate flood protection for the community of Rodeo and to control erosion of the creek. The channel currently does this, but requires extensive, environmentally insensitive maintenance to keep the channel functioning properly. In addition, the current channel design includes barriers to migration of anadromous fish. The Contra Costa Flood Control and Water Conservation District would like to partner again with the Corps of Engineers under the Corps' 1135 program to transform this outdated design into a sustainable, environmentally sensitive facility that better serves the community and the environment.

5. Rheem Creek, Section 1135 Project – The Contra Costa Flood Control and Water Conservation District is seeking an 1135 project authorization for Rheem Creek between the mouth at San Pablo Bay and Giant Road. The Army Corps of Engineers' existing flood protection project on Rheem Creek protects a number of commercial, industrial, residential and open space areas in the Richmond / San Pablo area of Contra

Costa County. Surrounding the mouth of the creek is a large undeveloped parcel (Brunner Marsh) which has been acquired by the East Bay Regional Park District for a future public park. Development of the adjacent lands as a regional park provides a unique opportunity for an enhanced creek environment in an area that will be very visible to the public.

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FFY 2010 APPROPRIATIONS AND GRANTS – SUPPORT POSITIONS

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The following support positions are listed in alphabetic order and do not reflect priority order.

Buchanan Field Airport – The County approved a Master Plan for the Buchanan Field Airport in October 2008, which includes a Federal Aviation Regulation Part 150 Noise Study and a Business Plan for project implementation. The comprehensive planning effort has ideally positioned Buchanan Field Airport for future aviation (general aviation, corporate aviation and commercial airline service) and aviation-related opportunities. To facilitate the economic development potential, the Business Plan prioritizes necessary infrastructure improvements for Buchanan Field Airport. Further, as the Airport is surrounded by urban residential uses, enhancing the noise program infrastructure is deemed essential for balancing the aviation needs with those of the surrounding communities. The Federal government, primarily through the Federal Aviation Administration (FAA), provides funding for planning, analysis, and infrastructure improvements. The County will support funding in all these areas for protection and enhancement of our aviation facility and network.

Byron Airport – The Byron Airport is poised for future general and corporate aviation and aviation-related development, but that future growth is dependent upon infrastructure improvements both on and around the Airport. The Byron Airport Business Plan prioritizes infrastructure and possible additional land acquisition to assist the Byron Airport in fulfilling its aviation and economic development potential. The Federal government, primarily through the Federal Aviation Administration (FAA), provides funding for planning, analysis, infrastructure improvements and aviation land acquisition. The County will support funding in all these areas for protection and enhancement of our aviation facility and network.

Delta Islands and Levees Feasibility Study – TBD appropriation for the Army Corps of Engineers for the Delta Islands and levees feasibility study. Originally designed to be a cooperative effort with the State (the State risk assessment process moved ahead of the Federal process), the study will now look at the water resources challenges in the Delta, will consider a larger Federal role, and will develop a collaborative planning process. (Note: \$200,000 appropriated in FFY 2006; \$800,000 in FFY 2007; \$2 million expected in FFY 2008; appropriation for FFY 2009 unknown at this time.)

East Bay Regional Communication System (EBRCS)– \$TBD million appropriation to build the East Bay Regional Communication System (EBRCS), a P25 Radio System

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infrastructure for Contra Costa and Alameda County. This two-county system will provide interoperable voice communication in both the 800 MHz and 700 MHz frequencies to all public safety and public services agencies within Contra Costa County and Alameda County. The project will improve radio system reliability, enhance radio coverage, relieve channel congestion, reduce maintenance costs, provide seamless regional coverage, facilitate future expansion and provide a migration path to new technologies. Due to a regional approach, economies of scale will also be realized.

EBRCS will allow for interoperable voice communication within the region that can be integrated with other P25 radio systems outside the geographical area of the EBRCS, for example, with San Francisco. This project will provide Level 5 communications which is the highest level of interoperable communications. This project will allow for everyday interoperable communications, not just various levels of interoperability during big events or disasters in which radio caches are deployed or gateway devices used.

Kirker Pass Road Truck Climbing Lane – \$10 million appropriation (reduced from \$31 million due to availability of other funding and focusing initially on the northbound direction) for constructing northbound and southbound truck climbing lanes on Kirker Pass Road, a heavily used arterial linking residential areas in eastern Contra Costa with job centers and the freeway system in central Contra Costa. The truck climbing lanes are needed to improve traffic flow and will also have safety benefits. The \$31 million would augment \$3 million in State Infrastructure Proposition 1B funds which the County has allocated for the project.

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Regional Habitat Planning and Conservation – \$125 million appropriation to the U.S. Fish and Wildlife Service’s “Cooperative Endangered Species Conservation Fund” to keep pace with land costs and the increasing number of Habitat Conservation Plans (HCPs) throughout the country. In partnership with approximately a dozen counties in northern and southern California, the County will support a request that funding for the Fund increase from the \$73.8 million current-year level to \$125 million in FY2010. This will restore the Fund to approximately its fiscal 2001 level, adjusted for inflation, and provide much needed support to regional HCPs in California and nationally. Given the prolific growth in the number of regional HCPs, the Fund needs to be increased even more substantially in subsequent years. The County would also request that the California State Association of Counties (CSAC) include this Fund increase as a priority on CSAC’s federal platform.

San Francisco Bay, Long Term Management Strategy (LTMS), Environmental Windows, Science Projects – \$3.45 million appropriation for the Army Corps of Engineers’ “Environmental Windows Science Projects” as part of the Bay Area Long Term Management Strategy (LTMS). Environmental Windows are limited timeframes when dredging and, to some extent, disposal can occur within San Francisco Bay and environs. However, the existing windows are based on old and, in some cases, little or no scientific basis. This project would identify where additional science is necessary, prioritize science projects, obtain funding and oversee these scientific studies. The broad-based coalition includes the Bay LTMS Agencies (EPA, BCDC, Corps, Regional

Water Board), resource agencies (USFWS, NOAA Fisheries, State Fish and Game) and a number of other agencies, organizations and individuals.

Vasco Road-Byron Highway Connector – \$30 million appropriation (increased from \$10 million in 2009 platform due to costs of state and federal environmental review, and anticipated cost increases) for design, engineering and construction of an east-west connector road between two major arterials that link Contra Costa County with Alameda and San Joaquin Counties. The Vasco Road-Byron Highway Connector will improve traffic circulation and linkages in the southeastern portion of the County and will provide a new route for truck traffic that will remove a significant portion of truck trips which currently pass through the rural community of Byron. Vasco Road is designated as State Route 84, and Byron Highway is under study as the potential alignment for future State Route 239.

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2009 FEDERAL LEGISLATIVE PLATFORM POLICY POSITIONS

The following support positions are listed in alphabetic order and do not reflect priority order.

Affordable Housing and Homeless Programs –For Housing and Urban Development (HUD)'s Homeless Assistance Grants, the County will support funding that does not include set-asides or other requirements that limit local communities' ability to respond to the particular needs in their areas. For the Housing Assistance for People with AIDS (HOPWA) program, the County will support legislation to update the formula used to allocate HOPWA grants to reflect local housing costs as well as the number of AIDS cases.

The County supports full funding for HUD homeless assistance programs. As Congress considers McKinney-Vento reauthorization legislation, the County will advocate for greater local flexibility, including an expanded definition of homelessness that will allow agencies to better respond to locally-determined needs.

Congress should include a formula-driven affordable housing production program in the final version of Government Sponsored Enterprise reform legislation. The County also supports the National Affordable Housing Trust Fund Act.

Resources made available through any new affordable housing production program should be accessible to local housing and community development agencies, including public housing authorities. As the present home mortgage crisis demonstrates, homeownership is not for everyone. While we value and support the role that homeownership plays in meeting affordable housing needs, any new production program should prioritize efforts to address our nation's acute shortage of affordable rental housing.

Agricultural Pest and Disease Control – Agriculture and native environments in Contra Costa County continue to be threatened by a variety of invasive/exotic pests,

diseases and non-native weeds. The Federal government provides funding for research, regulation, pest exclusion activities, survey and detection, pest management, weed control, public education and outreach. The County will support funding in all these areas for protection of our agricultural industry and open space. Consistent with the policy position, the County will also support legislation which would authorize and direct the USDA to provide state and local funding for High Risk Prevention programs (also called Pest Detection Funding).

Beneficial Use of Dredged Materials – As the beneficial reuse of dredged materials has a clear public benefit, particularly in the Delta, the County will continue to support beneficial reuse in general and also continue to advocate for funding for a federal study to determine the feasibility of beneficial reuse, considering the benefits and impacts to water quality and water supply in the Delta, navigation, flood control damage, ecosystem restoration, and recreation. The study would include the feasibility of using Sherman Island as a rehandling site for the dredged material, for levee maintenance and/or ecosystem restoration. Language to authorize the study was included in the Water Resources and Development Act (WRDA) which was passed into law on November 8, 2007.

Child Care –The vulnerable children and families we serve face some of the most difficult circumstances of their lifetimes, as unemployment and loss of health insurance increase rapidly, more families are face foreclosure, and food assistance use hits record highs. Our agencies confront sharply rising caseloads and service demands as state and local budget deficits grow. With respect to issues of child care, the County will advocate for the following federal actions:

Increase funding to support employment of low-income families through greater access to child care subsidies, and increase the access of children from eligible families to high-quality care that supports positive child development outcomes. [*Legislative*]

Provide flexibility at the state and local levels so that quality care can be balanced with access and parental choice.

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Require coordination at the federal level among the various early child care and education funding streams.

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Child Support –The County will advocate for the following federal actions:

▪ Eliminate the \$25 fee for non-IV-A families.

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▪ Restore the incentive match payments that were prohibited in the Deficit Reduction Act.

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▪ Allow the automatic use of cash medical support to reimburse Medicaid expenditures.

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- Allow IV-D agencies to access Health Insurance records for the purposes of Medical Support.

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Child Welfare and Well-being –The County will advocate for the following federal actions:

- Provide states with financial incentives, as opposed to monetary penalties, under the Child and Family Services Reviews and minimize the significant administrative burden associated with the review process.

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- End Title IV-E disallowances from federal audits that take away funds from an already resource-strapped child welfare system. Allow states to reinvest these funds in preventing child abuse and neglect.

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- Increase prevention dollars to help maintain children safely in their own homes. Federal funding currently gives disproportional support to out-of-home care rather than to preventing children from coming into care.

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- Any increase in Federal Medical Assistance Percentage should include an associated increase in the Title IV-E matching rate to help support children in foster care.

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Community Development Block Grant and HOME Programs – The County’s ability to continue to provide funding to a variety of nonprofit agencies that provide critical services to lower income residents, including financing the development of affordable housing, was threatened by the Administration’s plan to cut the CDBG and HOME programs as part of the FY 2006 federal budget. While the proposal was defeated, it could resurface. The County will oppose proposed cuts in these vital community development programs.

In addition, as part the Administration’s “Community Development Block Grant Reform Act” introduced in 2007, the formula used in the CDBG program to determine a grantee’s entitlement amount would be amended in several ways. The County will oppose the proposed changes in the CDBG allocation formula. CDBG formula funding has declined by 17 percent since FY 2004 while the HOME program’s funding has declined by 12 percent during the same period. Both programs need to have funding restored.

At present, the HOME program is the only federal source of affordable housing production funding. The County supports increased funding for HOME, particularly formula grants.

Cost Shifts to Local and State Government – Contra Costa County performs many of its services and programs pursuant to federal direction and funding. Other services and programs are performed at the behest of the state, which receives funding through the federal government. In the past, the Administration’s budget has contained significant

cuts to entitlement programs and/or caps on entitlements. Such actions could shift cost of services from the federal government to the state and/or local governments (and to the extent that costs would shift to the state, it is highly likely that these would be passed on to the County). The County will oppose any actions that would result in cost shifts on federal entitlement programs or which would result on greater dependency on county funded programs. In addition, the County will support federal and state financial assistance to aid county and local government efforts to meet unfunded federal mandates, such as those contained in the National Response Plan (NRP), the National Infrastructure Protection Plan (NIPP), and the National Incident Management System (NIMS).

Criminal Debt Collection – Nonpayment of court-ordered victim restitution, fines and fees is a problem of epidemic proportions for all jurisdictions. Literally billions of dollars go uncollected each year across the country, resulting not only in financial suffering of victims, but also the loss of public revenue. Many states already allow for the offset of State Tax Refunds, and these programs are successful in achieving revenue recovery. Federal Tax Refunds are already being successfully offset to pay for delinquent child support. The County will support amendments to the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for court-ordered debts that are past-due.

Designation of Indian Tribal Lands and Indian Gaming – The Board of Supervisors has endorsed the California State Association of Counties' (CSAC) policy documents regarding development on tribal land and prerequisites to Indian gaming. These policy statements address local government concerns for such issues as the federal government's ability to take lands into trust and thus remove them from local land use jurisdiction, absent the consent of the state and the affected county; the need for tribes to be responsible for all off-reservation impacts of their actions; and assurance that local government will be able to continue to meet its governmental responsibilities for the health, safety, environment, infrastructure and general welfare of all members of its communities. The County will continue to advocate for federal legislation and regulation that supports the CSAC policy documents.

The County will also advocate for limitations on reservation shopping; tightening the definition of Class II gaming machines; assuring protection of the environment and public health and safety; and full mitigation of the off-reservation impacts of the trust land and its operations, including the increased cost of services and lost revenues to the County.

The County will also advocate for greater transparency, accountability and appeal opportunities for local government in the decision-making processes that permit the establishment of Indian gaming facilities. This includes sequencing the processes so that the Indian Lands Determination comes first, prior to initiation of a trust land request and associated environmental review.

The County will also continue its opposition to new Indian gaming facilities in Contra Costa County as well as its support for federal legislation that allows Class III gaming at the existing gaming facility only if approved as newly acquired land and maintains the size of the existing Class II gaming operation.

Economic Development Programs – Congress should fund all the complementary programs within HUD’s community and economic development toolkit, ensuring that HUD does not lose sight of the development component of its mission. To that end, the County will support continued funding for the Section 108 loan guarantee program, the Brownfields Economic Development Initiative and the Rural Housing and Economic Development program. Each of these programs plays a unique role in building stronger, more economically viable communities, while enabling communities to leverage external financing in a way the CDBG program alone cannot do.

Federal “Statewideness” Requirements – For many federally funded programs, there is a “statewideness” requirement; i.e., all counties must operate the specific program under the same rules and regulations. This can hamper the County’s ability to meet local needs, to be cost effective and to leverage the funding of one program to reduce costs in another program. Contra Costa County cannot negotiate for federal waivers or do things differently because it is not a state, yet its population is greater than seven states. Recognizing this is a very long-term effort, the County will advocate for relaxation of the “statewideness” rule to allow individual counties or a consortium of counties to receive direct waivers from the federal government and/or adopt the rules and regulations currently in use in another state for specific programs.

Health –With respect to health related issues, the County will advocate for the following actions by the federal government: provide enhanced Medicaid FMAP (“FMAP” is the “Federal Medical Assistance Percentage” for Medicaid. It is the federal matching rate for state Medicaid expenditures. Increasing the federal matching rate for states would free up state general fund money for other purposes and would help counties as well.); suspend the Medicare “clawback” rule; suspend the “60-day rule” that requires states to repay the federal government overpayments identified by the state prior to collection, and even in instances where the state can never collect; ease the ability to cover those eligible for Medicaid by making documentation requirements less stringent; and prevent the implementation of the following seven federal regulations:

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- Outpatient hospital
- Case Management
- School Based Administration & Transportation
- Public Provider Cost Limit
- Graduate Medical Education
- Rehabilitation Services Option
- Provider Tax

Public Housing Programs –Years of disinvestment threaten the viability of public housing and the well-being of millions of our neediest citizens. Preservation of the

existing inventory of public housing units is critical not just to families currently residing in public housing, but also to the millions of families waiting for assistance. The Public Housing program is now in critical condition. The County will support full funding for public housing operations; sufficient funding to help preserve the existing inventory of public housing; funding for unforeseen emergencies or disasters at the former annual levels; and reauthorizing legislation for the HOPE VI program and funding HOPE VI at least at its original level of \$600 million.

The County will support funding of at least \$72 million for Family Self Sufficiency (FSS) coordinators, the same as the President's budget request in FY 2004. FSS is a mandatory program for any housing agency that received new vouchers many years ago, but only about 22 percent of agencies receive funding to operate the program, due to recent changes in the program's competitive funding process. Every agency that needs assistance to operate this mandatory program should receive it.

The County will support the enactment of federal legislation to preserve existing public housing stock by addressing the huge unfunded capital needs of public housing through the use of federal income tax credits, tax credit supported bonds and other means.

The County will support putting to use public housing assets valued in excess of \$100 billion by fully enabling public housing authorities to finance the rehabilitation and preservation of public housing by encumbering public housing properties as contemplated by the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

The County will support the enactment of a Public Housing Conversion Pilot in which up to 100 asset management projects are converted to project-based Section 8 assistance with oversight transferred to HUD's Office of Housing.

The County will support the development of legislation to reauthorize the HOPE VI program that is workable and accessible to public housing authorities of varying sizes.

The County will support enactment of permanent authorization for the Moving to Work Demonstration Program.

The County will support reform of the contractual relationship between public housing authorities and the federal government so that federal administrative and regulatory demands fairly reflect resources provided, and federal subsidies for public housing are predictable, adequate and stable.

The County will support a reasonable transition to asset management of public housing with an optional exemption for agencies operating fewer than 500 public housing units.

The County will support the Administrative Reform Initiative (ARI) process begun at HUD in 2007 for regulatory and administrative reform and seek meaningful, practicable reform of federal oversight activities pertaining to LHAs and the federal programs they administer.

The County will support the development of alternatives to existing methods of evaluating the performance of LHAs and their programs and properties.

The Section 8 HCV program has a demonstrated track record of success. Nonetheless, the HCV program can be further improved to provide public housing authorities with additional tools to help maximize the number of families served in their communities. Legislative and regulatory reform should include enhancements to current voucher subsidy and administrative fee funding distribution formulas; benchmarking important program goals and appropriations; rent simplification; increased self-sufficiency; improved housing affordability burdens and deconcentration of poverty for voucher assisted households; and improving the use of tenant-based vouchers for project-based assistance.

The County will support funding of \$14.9 billion, at a minimum, for the renewal of housing assistance vouchers. Congress should build upon the funding formula revision found in the FY 2007 appropriations bill in order to restore effective funding policies in authorizing language.

The County will also support funding of at least \$1.5 billion for administrative fees and reestablishing the administrative fee structure in place from 1998–2004. The County will support vouchers being renewed at full levels and public housing authorities being provided 100% of administrative funding.

Retiree and Retiree Health Care Costs – The County operates many programs on behalf of the federal government. While federal funding is available for on-going program operations, including employee salaries, the allocation is usually capped, regardless of actual costs. For retiree and retiree health care, the County's ability to contain costs is extremely limited. The County will advocate for full federal financial participation in funding the County's retiree and retiree health obligations.

San Luis Drain – The U. S. Bureau of Reclamation is under a court injunction to evaluate and implement options for providing drainage services for the west side of the San Joaquin Valley. Drainage water from this area contains toxic concentrations of selenium and other hazardous substances. The San Luis Drain is one of the options that was studied. The Drain would pass through Contra Costa County to discharge in the Delta. The U.S. Bureau of Reclamation has determined to address the problem without building the Drain but Congress would need to appropriate the funds before this alternative could be implemented and the injunction requiring provision of drainage service still looms. The County will continue to oppose the San Luis Drain option and support instead drainage solutions in the valley, such as reducing the volume of problem water drainage; managing/reusing drainage waters within the affected irrigation districts; retiring lands with severe drainage impairment (purchased from willing sellers); and reclaiming/removing solid salts through treatment, bird safe/bird free solar ponds and farm-based methods.

Supplemental Nutrition Assistance Program (SNAP)– The County will advocate for the following federal actions:

- Increase SNAP benefits as a major and immediately available element of economic stimulus.
- Increase administrative matching funds to a true 75/25 rate (with no cost allocation reductions) so that states can deliver benefits in a timely and effective manner.
- Suspend the restrictions applying to ABAWDs. ("ABAWDs" stands for "Able-Bodied Adults without Dependents" and pertains to adults receiving food stamps who are considered employable.) They are subject to strict time limits on how long they can receive food stamps. It is difficult administratively to track this, and when unemployment is high, it can result in more adults going hungry.
- Remove the current federal barriers that prevent some nutrition programs from employing EBT technology.

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State Children's Health Insurance Program (SCHIP)– The County supports a \$60 billion appropriation (combined SCHIP and Medicaid funding) to support reauthorization of the federally-funded State Children's Health Insurance Program (SCHIP). This amount would be sufficient to fund California's current SCHIP program, as well as Healthy Families program expansions proposed by the Governor and state Legislature. The State Children's Health Insurance Program (SCHIP) was authorized by Congress in 1997 to expand public health care availability to low-income children and families. At that time, SCHIP gave \$40 billion to states for 10 years to provide coverage for children living in families who earned too much to qualify for Medicaid but not enough to afford private insurance. Today, this successful program covers more than six million children. The authorization for this program expired on Sept. 30, 2007. Given the crush of must-pass legislation at the end of September, House and Senate Democrats abandoned the idea of pushing for a long-term renewal of the SCHIP. Instead, SCHIP will continue to operate under a short-term extension through March 2009. ¶

Streamlining Permitting for Critical Infrastructure, Economic Stimulus, and Alternative Energy Projects –“Green” Job Creation – Request that Congress and the Administration recognize the value of Habitat Conversation Plans (HCPs) as a reliable way of streamlining critical infrastructure, economic stimulus, and alternative energy project permitting in a manner that is consistent with federal environmental regulations. HCPs not only facilitate such projects through permit streamlining, but the planning, implementation, management, and monitoring needs associated with regional HCPs plans also create many quality “green” jobs.

Telecommunications Act of 1996 Revisions – The Telecommunications Act of 1996 governs local government's role in telecommunications, primarily broadband cable that uses the County's right-of-way as well as consumer protections. As Congress works to update the Act, the County will continue to advocate for strengthening consumer protections and local government oversight of critical communications technologies; local access to affordable and reliable high speed broadband infrastructures to support the local economy; the right of local municipalities and communities to offer high-speed broadband access: coordination and integration of private communication resources for governmental emergency communication systems; preservation of local government's franchise fees; preservation of the local community benefits, including but not limited to public, education and governmental (PEG) access channels; authority for provision of municipal telecommunication services; preservation of local police powers essential for health, safety and welfare of the citizenry; preservation of local government ownership and control of the local public rights-of-way; and support for ensuring that communication policy promotes affordable services for all Americans.

Currently, the Community Broadband Act of 2007, S.1853, encourages the deployment of high speed networks by preserving the authority of local governments to offer

community broadband infrastructure and services. The County will oppose all bills that do not address the County's concerns unless appropriately amended. In addition, the Federal Communications Commission (FCC) has proposed rule-making (FCC Second Report and Order Docket 05-311 "Franchising Rules for Incumbents") that, in the opinion of local government, goes beyond the scope of their authority in this area. The County will oppose all such rule making efforts.

Temporary Assistance for Needy Families – The County will advocate for the following federal actions:

Relieve states of work participation rate and work verification plan penalties for fiscal years 2007, 2008, 2009, and 2010 in recognition of the serious downturn in the national economy and the succession of more "process-based" regulations issued in the last few years.

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Permanently withdraw the August 8, 2008, proposal that would have repealed the regulation that enables states to claim caseload reduction credit for excess MOE expenditures.

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Rescind the May 22, 2008, HHS guidance that effectively eliminated the ability of states to offer pre-assistance programs to new TANF applicants for up to four months.

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Rescind the final Deficit Reduction Act regulation restricting allowable state maintenance-of-effort expenditures under TANF purposes 3 and 4.

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End federal efforts to impose a national TANF error rate.

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Volume Pricing – The National Association of Counties supports greater access for local governments to General Services Administration (GSA) contract schedules. These schedules provide volume pricing for state and local governments and make public sector procurement more cost effective. However, current law does not provide full access to state and local governments for GSA schedules. The County will support legislation that gives local governments access to these schedules and provides the option of purchasing law enforcement, security, and other related items at favorable GSA reduced pricing.

Workforce Investment Act (WIA) Reauthorization – Congress may again consider reauthorization of the Workforce Investment Act in 2010. The County will support reauthorization of the Workforce Investment Act at current funding levels or higher; keeping the program at the federal level rather than block granting it; maximizing local control, so that we can meet local needs; and establishing reasonable performance measures. In addition, any reauthorization or new workforce legislation should: retain private sector led state and local Workforce Investment Boards (local boards) as governing bodies; expand, enhance and simplify the WIA Youth Program; redesign the Dislocated Worker program to reflect the new economy; and redesign how the funding of One-Stop facilities is structured.

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3. Lower Walnut Creek, California – \$400,000 appropriation for the Army Corps of Engineers to continue the General Reevaluation of the lower five miles of the Walnut Creek Channel, constructed by the Army Corps in the 1960's, to restore flood capacity, provide environmental enhancements and ecosystem restoration and evaluate fish passage through the system. The project is designed to help improve flood protection in a densely populated area, while leaving the creek in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$188,000 appropriated for FFY 2006; \$400,000 provided for FFY 2007 under Continuing Resolution; \$562,000 appropriated for FFY 2008; \$300,000 anticipated for FFY 2009.)

4. Grayson and Murderer's Creeks, California – \$300,000 appropriation for the Army Corps of Engineers to continue the analysis of Grayson and Murderer's Creeks to determine the feasibility of providing increased flood control, environmental enhancement, ecosystem restoration and fish passage. The project is intended to eliminate frequent flooding in a densely populated area, while leaving the creeks in a natural state, thus providing habitat for migratory birds, fish and other wildlife; increasing neighborhood livability; and allowing for linkages with recreational and park land. (Note: \$100,000 appropriated for FFY 2006; \$200,000 provided for FFY 2007 under Continuing Resolution; \$98,000 appropriated for FFY 2008; appropriation for FFY 2009 unknown at this time.)

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9. Carquinez Scenic Drive Bay Trail Segment – \$0.5 million appropriation to repair slide damage and reconstruct the multi-use trail as part of the San Francisco Bay Trail. The Trail is a continuous 400 mile recreation corridor that will encircle the entire Bay Area, connecting communities to each other and the Bay. To date, 210 miles of the Bay Trail have been developed. This segment would access East Bay Regional Parks land and connect the communities of Martinez, Port Costa and Crockett for bicycle, pedestrian and equestrian users as well as provide alternate emergency vehicle and evacuation routes for these communities. The planning study, which evaluated roadway stability and identified stabilization and path alignment alternatives, was completed in 2007. (Note: \$1 million appropriated for FFY 2006.)

. ARIES Integrated Justice Information Systems

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12. Mt. Diablo Mercury Mine Clean-up – TBD appropriation for the Army Corps of Engineers to complete development of a model agreement and process to enable clean-up of the Mt. Diablo Mercury Mine in a cost-effective,

environmentally-sound manner with minimal liability exposure for the County and involving all stakeholders through an open community-based process. The Corps initiated a Technical Planning Process (TPP) in June 2008 to develop a preliminary remediation plan, identify applicable permit and environmental data requirements and complete a data collection and documentation program for the clean-up of the Mt. Diablo Mercury Mine. The mine site is located on private property on the northeast slope of Mt. Diablo at the upper end of the Marsh Creek watershed. The Mt. Diablo Mercury Mine tailings are responsible for 88% of the mercury in Marsh Creek. Mercury levels in fish in Marsh Creek Reservoir downstream of the mine exceed the health standard concentration of 0.5 ppm. (Note: \$517,000 appropriated for FFY 2008.)

Vasco Road Safety Improvement Project – \$40 million for improvements to a 2.5-mile accident-prone section of Vasco Road. Project components include widening the roadway to accommodate a concrete median barrier and shoulders on either side of the barrier, construction of the barrier, and extension of an existing passing lane. The project will eliminate cross-median accidents which have caused numerous fatalities in recent years, and will provide increased opportunities for vehicles to pass safely (unsafe passing is a major cause of accidents and fatalities on this segment of the increasingly busy two-lane undivided road). The project will include provisions for wildlife undercrossings to preserve migration patterns.

The requested funds will augment the regional, state and federal funds already committed to Vasco Road, including East County regional traffic impact fee revenue and Proposition 1B Local Streets and Roads funds. The Vasco Road project was developed through inter-jurisdictional efforts involving the County, the City of Brentwood, California Highway Patrol, local community groups and state and federal wildlife resource agencies. (10th / 11th Districts, Rep. Tauscher/ Rep. McNerney)

North Richmond Truck Route Project – \$15.5 million to construct a new road system that will provide truck access between businesses and the Richmond Parkway, moving the truck traffic away from a residential neighborhood and elementary school. This project will increase safety, improve public health around the school and residential area by reducing diesel particulate emissions from those areas, increase livability of the neighborhood, improve local access to the Wildcat Creek Regional Trail, stimulate economic development in the industrial area of the community and provide a better route for trucks traveling to and from the Richmond Parkway. The alignment was developed through a community planning process funded through an Environmental Justice planning grant from Caltrans. (7th District, Rep. Miller)

Eastern Contra Costa Trail Network – \$5 million for joint planning, environmental review, right-of-way acquisition and construction of a coordinated network of trails for walking, bicycling and equestrian uses in eastern Contra Costa County. Eligible trails include, but are not limited to: (1) the Mokelumne Trail overcrossing of the State Route 4 Bypass; (2) Contra Costa segments of the Great California Delta Trail which will link Contra Costa County and other counties in the San Joaquin/Sacramento River Delta; and (3) a supportive network of East Contra Costa Trails in unincorporated County areas and the Cities of Antioch, Brentwood, Oakley and Pittsburg. (All districts)

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1. Mt. Diablo Mercury Mine – Authorize the Army Corps of Engineers, through their Remediation of Abandoned Mine Site program (RAMS), to perform and complete the Technical Planning Process and site characterization of the Mt Diablo Mercury mine in Contra Costa County as a demonstration project with no local match. This mine remediation project is the first to combine the Corps' RAMS program, EPA's Good Samaritan Initiative and a local government "Good Samaritan" to resolve liability issues in a clean-up project. Since this is a demonstration project, the Corps would fund the full Technical Planning Process.

2. Pinole Creek, Section 1135 Project – Support an appropriation for the Army Corps of Engineers to complete a feasibility study for restoration and

enhancement of wildlife resources in Pinole Creek between San Pablo Bay and Highway 80. The existing Corps-designed flood control channel supports only degraded, primarily non-native habitat. Despite the poor habitat, the creek does support a population of the threatened steelhead trout. A preliminary restoration plan has been completed by the Corps, and federal participation is desired to augment and expand local efforts for creek restoration.

3. Wildcat/ San Pablo Creek Phase One, Section 1135 Project – Support an appropriation for the Army Corps of Engineers to initiate a feasibility study for environmental enhancement, ecosystem restoration and modification of fish passage in Wildcat Creek. The primary purposes of the project are to enhance the fish and wildlife values for the original Wildcat Creek Flood Control Project while also maintaining the flood carrying capacity of the channel. The project includes construction of a meandering low flow channel, enlarging the associated riparian corridor, stabilizing the adjacent flood plain bench, expanding the existing sediment basin, and modifying or replacing the existing fish ladder to provide for effective fish passage through the sediment basin and concrete channel. The project also includes construction of floodwalls or levee embankments to ensure the level of flood risk reduction provided by the original Corps project.

4. Rodeo Creek Restoration Project – Project authorization is needed for the Army Corps of Engineers to prepare a study of the feasibility of restoring and enhancing wildlife resources in Rodeo Creek between San Pablo Bay and Highway 80. The channel was designed and constructed to provide adequate flood protection for the community of Rodeo and to control erosion of the creek. The channel currently does this, but requires extensive, environmentally insensitive maintenance to keep the channel functioning properly. In addition, the current channel design includes barriers to migration of anadromous fish. The Contra Costa Flood Control and Water Conservation District would like to partner again with the Corps of Engineers under the Corps' 1135 program to transform this outdated design into a sustainable, environmentally sensitive facility that better serves the community and the environment.

5. Rheem Creek Project – The Contra Costa Flood Control and Water Conservation District is seeking an 1135 project authorization for Rheem Creek between the mouth at San Pablo Bay and Giant Road. The Army Corps of Engineers' existing flood protection project on Rheem Creek protects a number of commercial, industrial, residential and open space areas in the Richmond / San Pablo area of Contra Costa County. Surrounding the mouth of the creek is a large undeveloped parcel (Brunner Marsh) which is being acquired by the East Bay Regional Park District for a future public park. Development of the adjacent lands as a regional park provides a unique opportunity for an enhanced creek environment in an area that will be very visible to the public.

6. Regional Watershed Planning – \$500,000 appropriation to the Army Corps of Engineers to participate in developing Regional Wetlands Permits for Placer, Sacramento, Contra Costa, Yolo, Santa Clara and Solano counties. This Regional Watershed Planning project will help to integrate endangered species permits and wetlands permits, improving and streamlining the permitting process for public and private developments and ensuring effective conservation of wetlands and species. While regional endangered species permits for urban growth are becoming more common, there is little precedent for receiving similar permits for wetlands impacts under Section 404 of the Clean Water Act. This project will pilot this innovative concept for areas such as eastern Contra Costa County that have already embarked on regional conservation/permitting efforts.

This project should be added to the list of authorized projects in the next iteration of WRDA to facilitate additional appropriations in future years. Further, the provision of WRDA that authorizes the Army Corps to partner with local entities to cooperatively fund dedicated permitting assistance by Army Corps staff should be continued to provide another avenue for developing and implementing Regional Wetlands Permits with the Army Corps.

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Susan A. Bonilla, Chair
Supervisor Mary N. Piepho, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: October 28, 2009

SUBJECT: **Agenda Item #7: Status of 2009 State and Federal Legislation**

RECOMMENDATION

ACCEPT the report on state and federal legislative matters.

STATE LEGISLATIVE ACTIVITY

COMMISSION ON THE 21ST CENTURY ECONOMY

On September 29, Governor Arnold Schwarzenegger called the Legislature into a sixth extraordinary session to consider the eagerly-awaited report from the Commission on the 21st Century Economy. This commission was tasked with re-examining and modernizing the state's out-of-date revenue laws that contribute to revenue volatility. The commission released its report on September 29 to both praise and criticism.

A quick summary of the Commission's recommendations:

Reduce personal income tax rates for every taxpayer. Reduce the number of tax brackets from six to two. The new tax rates would be 2.75 percent for taxable income up to \$56,000 for joint filers (\$28,000 for single) and 6.5 percent for taxable income above that amount.

Eliminate the corporation tax and minimum tax. Eliminate the corporate tax, which is currently at 8.84 percent. Eliminate the \$800 minimum franchise tax.

Eliminate the state general purpose sales tax. Eliminate the current 5 percent sales tax, with the exception of the sales tax on gas and diesel fuels, which would continue to be dedicated to transportation. Elimination of the sales tax would phase in over five years.

Establish a business net receipts tax (BNRT). Establish a new tax, not to exceed 4

percent, applied to the net receipts of businesses. Small businesses with less than \$500,000 would be exempt from this tax. The tax would have a much broader base than the sales tax and would be deductible against federal taxes.

Create an independent tax dispute forum. This forum would provide taxpayers with a forum for resolving disputes with the state.

Strengthen the state's rainy day reserve fund. Increase the target for the reserve from 5 percent of revenues to 12.5 percent and restrict the government's ability to use reserve assets so that the reserve is available to help fund services during recessionary periods.

The Assembly and Senate Revenue and Taxation Committees have been and will continue to hold hearings on the components of the report and various opinions on the recommendations. While the report includes draft legislation to implement the recommendations, there are no signs yet that bills will be introduced.

The commission Web site contains the full report, as well as dissenting opinions, presentations, correspondence among members, and video downloads of previous meetings. Visit www.cotce.ca.gov for more information.

JOINT COMMITTEE ON GOVERNMENT REFORM HEARING

A new joint committee has been formed by Speaker Bass and Senate Pro-Tem Steinberg to review and discuss reforms to state government. The Senate and Assembly Select Committees on Improving State Government's first committee hearing was held on October 22, 2009 in Sacramento. The October 22 meeting included a review of previous efforts on reform, as well as current reform movements like California Forward, the Bay Area Council, and others.

SPECIAL SESSIONS

For those who are finding it difficult to track the numerous special sessions of the Legislature, or who can't remember how many X's to add to a bill number, the following is a handy chart based on the Senate's roster.

Note that the three current open special sessions -- the 5th, 6th, and 7th -- are the 12th, 13th, and 14th special sessions called by Governor Schwarzenegger since he came into office in the fall of 2003.

SESSION	SENATE CONVENE DATE	SUBJECT	STATUS
1 st EX	Dec. 2, 2008	Fiscal Emergency: Budget imbalance and insufficient cash for FY 2008-09	Adjourned Dec. 18, 2008
2 nd EX	Dec. 2, 2008	Economic Crisis: Stimulate economy, mortgage crisis, solvency of UIF, job creation	Adjourned Feb. 19, 2009
3 rd EX	Jan. 5, 2009	Fiscal Emergency: budget imbalance and insufficient cash for FY 2008-09 and 2009-10	Adjourned Oct. 15, 2009
4 th EX	July 6, 2009	Fiscal Emergency: insufficient cash reserves for FY 2009-10 and 2010- 11	Adjourned July 24, 2009
5 th EX	Aug. 27, 2009	Education: Federal Race to the Top funding, eligibility requirements and guidelines	OPEN
6 th EX	Oct. 15, 2009	Reform Tax System: Address and improve state's volatile tax structure and systems	OPEN
7 th EX	Oct. 15, 2009	CA Water Crisis: Improve aging infrastructure, create water storage, issue bonds	OPEN

IHSS LAWSUIT

On October 19, a federal judge issued a temporary restraining order blocking officials from sending notices to 130,000 IHSS recipients that were slated to be cut or reduced by November 1st. State officials have argued that it is impossible to make the computer programming changes to stop the budget cuts before November 1, 2009 as the Judge has ordered.

The lawsuit was filed October 1, 2009 by Disabled Rights California, the National Senior Citizens Law Center, and unions that represent caregivers and the lawsuit argues that the functional index being used in the cuts to IHSS is arbitrary.

U.S. District Judge Claudia Wilken issued the preliminary injunction at the end of a two-hour hearing. She ruled that a written notice she had stopped the state from sending out would have been constitutionally inadequate, too hard to understand, and gave too little time for appeals. She also ruled the plaintiffs are likely to be able to prove at trial that the state was using inadequate standards to determine whose services would be cut.

The cuts, approved by the Legislature and Governor Arnold Schwarzenegger this summer, were to be based on IHSS patients' "functional index" score, an aggregate of rankings in 11 areas in which a patient might need help. The reductions were intended to save \$82.1 million through the end of fiscal year 2010. Judge Wilken said this case's plaintiffs seem likely to be able to prove the functional index is too vague an instrument, never meant to be used for determining who would and wouldn't keep services in a situation such as this.

State deputy attorney general Gregory Brown asked Judge Wilken to stay the injunction pending the state's appeal to the 9th U.S. Circuit Court of Appeals; she refused.

State deputy attorney general Susan Carson said it took months to develop and install computer coding for the cuts which can't be undone by Nov. 1. The only way to halt the cuts, she said, is for each county's workers to access the state's database and change each IHSS recipient's record individually — a lengthy, costly process.

Judge Wilken ordered the parties to confer immediately on a letter to be sent to all IHSS recipients explaining that no cuts will be made Nov. 1, although it is possible some cuts may happen in the future.

This lawsuit challenges cuts in hours provided to IHSS recipients, while an earlier case pursued by the SEIU challenged a proposed July 1 cutback in IHSS workers' wages. Judge Wilken in June enjoined the state from enacting those cuts; the state appealed that injunction, but the 9th U.S. Circuit Court of Appeals has not yet ruled on that case.

CORRECTIONS REPORTS

The California Department of Corrections and Rehabilitation (CDCR) has released its Annual Report which provides data and information on trends in Corrections including

breakdowns by County on the number of inmates. This report also provides information on the CDCR budget for the last two years. This report is available on their website: www.cdcr.ca.gov.

The Corrections Standards Authority has released a report requested by CDCR and the Council on Mentally Ill Offenders (COMIO) entitled: Jails and the Mentally Ill: Issues and Analysis. The major finding of the report is that it is essential for there to be a unified approach incorporating the many disciplines and agencies that share responsibility for working with mentally ill people in local custody. This paper is available on their website:

http://www.cdcr.ca.gov/Divisions_Boards/CSA/FSO/Docs/MENTALLY_ILL_IN_JAILS.pdf

FEDERAL LEGISLATIVE ACTIVITY

Since returning to Capitol Hill for the start of the fall session, lawmakers have been focused on a number of high-profile issues. While health care reform has garnered the lion's share of the attention both inside the beltway and in the mainstream media, members of Congress also have been working to approve a new federal budget and advance an ambitious global warming package.

With regard to the fiscal year 2010 budget, congressional appropriators continued their drive to move the 12 annual spending bills. Although the federal fiscal year began back on October 1, the goal of appropriators is to send President Obama each funding measure as a separate package. To avoid a government shutdown, Congress approved on September 30 a stop-gap continuing resolution (CR) that keeps government programs operating through the end of the month.

In recent years, Congress has failed to clear the annual appropriations bills individually, forcing lawmakers to approve a massive catch-all spending package. With time running out on this year's session, congressional leaders will have to consider passing another CR before the current one expires or put together another omnibus funding bill.

Along with the CR, Congress has approved only three appropriations bills to date. They are: the Legislative Branch Appropriations bill (HR 2918); the Energy-Water spending measure (HR 3183); and, the Agriculture Appropriations legislation (HR 2997).

Health Care Reform

On Tuesday, October 13, the Senate Finance Committee approved its long-awaited health care reform bill. Breaking ranks with her Republican colleagues to join all 13 committee Democrats in voting to approve the package was Senator Olympia Snowe (R-ME).

Snowe's vote is significant in light of Democratic efforts to build at least some level of Republican support for the legislation in advance of Senate floor action. Although Democrats control 60 votes in the upper chamber – the number needed to overcome a possible Republican filibuster – the majority party may need to look to their GOP colleagues to compensate for any potential Democratic defections.

Before a health care package reaches the floor of the Senate, Majority Leader Harry Reid (D-NV) will be leading an effort to combine the Finance Committee-approved bill with a measure that was approved this summer by the Health, Education, Labor and Pensions (HELP) Committee. Notably, the Finance Committee legislation does not include provisions providing for the creation of a government-run health insurance plan; the HELP Committee bill does include a so-called "public option."

In the House, three separate committees have completed consideration of their respective health reform bills. Since concluding their efforts, House Democratic leaders have been discussing how to meld the three versions into one package before the legislation reaches the House floor.

In both the House and Senate legislation, Medicaid would be expanded to 133 percent of poverty for all individuals, with the federal government assuming a large portion of the benefit costs. The exact federal financial share of covering the expansion ranges from slightly over 80 percent to over 90 percent, depending on the formula used.

The measures also would reduce payments to safety net hospitals by cutting the Disproportionate Share Hospital (DSH) Payment program. Both the House and Senate legislation assumes that there would be less need for additional support to hospitals serving large numbers of Medicaid and uninsured patients due to the projected increase in individuals with health insurance.

CSAC and many other stakeholders have countered the aforementioned argument by pointing to Congressional Budget Office estimates that 17 million to 25 million individuals will remain uninsured after health reform is implemented. Those individuals will continue to use hospital emergency rooms to access health care services.

President Obama has requested that a final reform package reach his desk by Thanksgiving. Meeting that goal may be difficult, however, given the fact that the Senate floor debate alone could consume two to three weeks, with negotiations between the two chambers of Congress expected to last even longer. The most difficult aspects of the ensuing negotiations are expected to center on how to pay for the reform bill and the extent to which the federal government sanctions a public plan option.

Climate Change

Senate Foreign Relations Committee Chairman John Kerry (D-MA) and Senate Environment & Public Works (EPW) Committee Chairwoman Barbara Boxer (D-CA) recently unveiled comprehensive climate change legislation. The bill, known as the *Clean Energy Jobs and American Power Act* (S 1733), is expected to serve as the main

Senate vehicle for advancing President Obama's climate change and renewable energy agenda.

In addition to the EPW Committee, at least four other Senate committees have jurisdiction over portions of S 1733. Although a timetable for EPW consideration of the bill has not been set, the unofficial goal is to complete committee markup before December, when the United Nations will host its climate summit in Copenhagen.

Committee consideration of S 1733 aside, advancing the Kerry-Boxer measure on the floor of the Senate is expected to be challenging. With several farm-state Democrats and moderates expressing strong reservations about the bill, it will be difficult for Senate leaders to secure the 60 votes necessary to invoke cloture on the legislation. Saying that, bill proponents are aggressively courting a core group of moderate Republicans, including several of whom have shown a willingness in the past to sign onto global warming legislation, in an effort to build sufficient support for the measure.

Like its House counterpart (HR 2454) – which narrowly cleared the lower chamber in June – the centerpiece of Kerry-Boxer bill is the creation of a “cap-and-trade” system. The approach is designed to limit the emissions of greenhouse gases (GHGs) through the establishment of an emissions allowance trading program.

Overall, S 1733 would require a 20 percent reduction in carbon emissions from 2005 levels by the year 2020. In contrast, the House-passed bill provides for a 17 percent cut.

Under the Kerry-Boxer bill, emission allowances would be distributed to states, local and tribal governments, metropolitan planning organizations, and renewable electricity generators for programs to reduce GHGs, promote energy efficiency and conservation, and accelerate the deployment of renewable energy sources. States and MPOs would receive 10 percent of the allowance allocation to reduce emissions from the transportation sector, with local governments receiving 25 percent of allowance allocations to implement activities under the Energy Efficiency Conservation Block Grant (EECBG).

The bill also would distribute proceeds of emission allowances for implementation of projects to reduce emissions of GHGs and build resilience to the impacts of climate change. A certain percentage of proceeds would be dedicated to transit grant programs, as well as grant programs for the following activities: water system mitigation; flood control and response; recycling programs; adverse impacts on agriculture and ranching activities, and programs addressing air pollution and air quality.

S 1733 also would establish a program to provide grants for educational programs that raise awareness of homeowners and citizens regarding wildland fire protection practices. In addition, the bill would provide grants for training programs for local firefighters on wildland firefighting techniques and approaches, as well as funding for implementation of community wildfire protection plans.

Transportation Reauthorization

With contract authority for federal highway and transit programs set to expire on October 1, Congress recently approved a short-term extension of SAFETEA-LU. The extension runs through October 31, meaning lawmakers will need to revisit the issue again soon.

The central question that continues to face Congress is how long to extend SAFETEA-LU in the absence of a new six-year reauthorization bill. While Senate transportation leaders and the Obama Administration favor an 18-month extension of current law, House transportation leaders have indicated that they would be willing to accept an extension through the end of the year.

Tribal Affairs

Senate Indian Affairs (IA) Committee Chairman Byron Dorgan (D-ND) recently introduced legislation (S 1703) that would clarify the Secretary of Interior's authority to take land into trust for Indian tribes. The bill, which has seven Democratic co-sponsors, would extend the secretary's trust-land acquisition authority to all tribes, regardless of when they were recognized by the federal government.

Across Capitol Hill, Representative Tom Cole (R-OK) has introduced a companion bill (HR 3697) to Chairman Dorgan's legislation. The impetus behind the Dorgan and Cole legislation is the recent Supreme Court decision in *Carcieri v. Salazar*. Under the court's holding, the authority of the secretary of interior to take land into trust for tribes extends only to those tribes under federal jurisdiction in 1934, when the Indian Reorganization Act was enacted.

For its part, CSAC has conveyed to the California congressional delegation and other leaders in Congress that the introduction of S 1703 provides an opportunity to engage in a broader discussion on the land-into-trust process. In particular, CSAC has maintained that a legislative "fix" to *Carcieri* should include programmatic reforms to the trust land process.

In other developments, Delegate Eni Faleomavaega (D-AS) recently introduced the *Indian Tribal Federal Recognition Administrative Procedures Act* (HR 3690). Under the bill, the administrative responsibility for the federal recognition process would be transferred from the Bureau of Indian Affairs to an independent Commission on Recognition of Indian Tribes. The commission, which would consist of seven members appointed by the president, with the consent of the Senate, would be tasked with reviewing and acting upon petitions submitted by Indian groups that apply for federal recognition.

It should be noted that the legislation would require the commission to publish in the *Federal Register* a notice of receipt of a "letter of intent" that indicates the intention of an Indian group to submit a documented petition for federal acknowledgment. Additionally,

the legislation would require the commission to publish in the *Federal Register* a notice that the commission has received a documented petition for federal acknowledgment, including the name and location of the petitioner and information regarding where a copy of the petition may be examined.

In addition to the aforementioned notification procedures, the commission would be required to notify, in writing, the governor and attorney general of, and each federally recognized Indian tribe within, any state in which a petitioner resides.

Finally, on the administrative front, Senators Dianne Feinstein (D-CA) and Boxer recently joined Senate Majority Leader Harry Reid (D-NV) and other Senate leaders in sending a letter to Department of Interior Secretary Ken Salazar expressing, among other things, strong opposition to taking off-reservation lands into trust for gaming purposes.

The letter also requests that the secretary, in evaluating the Department of Interior's policies on Indian gaming, support certain aspects of the Department's January 3, 2008 "commutable distance test" guidance. The correspondence notes that the guidance places a "greater weight" on state and local concerns, including jurisdictional and tax concerns. In addition, the letter requests that if the Department determines that current regulations and guidelines are insufficient to adequately address the troubling trend of off-reservation gaming, that the secretary advise Congress of the solution and whether legislation is necessary to affect policies supporting the Department's principles.

Joe Krahn, Waterman and Associates, 202/898-1444, or e-mail jk@wafed.com.