

<p>OFFICE COPY</p> <p>Prepared By _____</p> <p>Approved By _____</p>
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An act to amend Section 13332.11.1 of the Government Code, and to add Division 26.7 (commencing with Section 79700) to the Water Code, relating to financing a water supply reliability and water source protection program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

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

SECTION 1. Section 13332.11.1 of the Government Code is amended to read:

13332.11.1. Notwithstanding Section 13332.11, the expenditure by the Department of Water Resources of funds appropriated pursuant to Section 5096.821 or 75032 of the Public Resources Code, or Section 79730 of the Water Code, is not subject to the approval of the State Public Works Board if either of the following applies to the expenditure:

(a) The department is performing work pursuant to an emergency.

(b) The department does all of the following:

(1) Obtains engineering review of the proposed project from the United States Army Corps of Engineers.

(2) Obtains engineering review of the proposed project from an independent board of consultants for any project with a construction cost exceeding five million dollars (\$5,000,000).

(3) Provides a written report to the Reclamation Board.

(4) Provides information on the project expenditure to the Legislature in a semiannual report due on April 1 and October 1 each year.

(5) Provides written notification to the Legislature if funds are made available by Section 75032 of the Public Resources Code to pay a project cost increase for which the Legislature has not otherwise been notified in writing.

SEC. 2. Division 26.7 (commencing with Section 79700) is added to the Water Code, to read:

DIVISION 26.7. THE SAFE, CLEAN, RELIABLE DRINKING WATER SUPPLY
ACT OF 2010

CHAPTER 1. SHORT TITLE

79700. This division shall be known and may be cited as the Safe, Clean, Reliable Drinking Water Supply Act of 2010.

CHAPTER 2. FINDINGS AND DECLARATIONS

79701. The people of California find and declare all of the following:

- (a) Safeguarding supplies of clean, safe drinking water to California's homes, businesses, and farms is an essential responsibility of government, and critical to protecting the quality of life for Californians.
- (b) Every Californian should have access to clean, safe, reliable drinking water.
- (c) Providing adequate supplies of clean, safe drinking water is vital to keeping California's economy growing and strong.
- (d) Encouraging water conservation and recycling are commonsense methods to make more efficient use of existing water supplies.
- (e) Protecting lakes, rivers, and streams from pollution, cleaning up polluted groundwater supplies, and protecting water sources that supply the entire state are crucial to providing a reliable supply of drinking water and protecting the natural resources of California.

CHAPTER 3. DEFINITIONS

79702. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division, as follows:

(a) “Bay Delta Conservation Plan” means a habitat conservation plan prepared pursuant to the Planning Agreement regarding the Bay Delta Conservation Plan, dated October 6, 2006.

(b) “Bay-Delta Estuary” means the Delta, Suisun Bay, and Suisun Marsh.

(c) “CALFED Bay-Delta Program” means the undertaking by CALFED to develop and implement, by means of the final programmatic environmental impact statement/environmental impact report, the preferred programs, actions, projects, and related activities that will provide solutions to identified problem areas related to the Bay-Delta ecosystem, including, but not limited to, the Bay-Delta and its tributary watersheds.

(d) “Commission” means the California Water Commission.

(e) “Committee” means the Safe, Clean, Reliable Drinking Water Supply Finance Committee created by Section 79923.

(f) “Council” means the Delta Independent Governing Council established in Section 79760.

(g) “Delta” means the Sacramento-San Joaquin Delta as defined in Section 12220, including the Yolo Bypass south of Interstate 80.

(h) “Delta conveyance facilities” means facilities that convey water directly from the Sacramento River to the State Water Project or the federal Central Valley Project pumping facilities in the south Delta.

(i) “Department” means the Department of Water Resources.

(j) “Developed area” has the meaning set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(k) “Director” means the Director of Water Resources.

(l) “Disadvantaged community” has the meaning set forth in subdivision (a) of Section 79505.5.

(m) “Economically distressed area” means a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less, with a financial hardship, as determined by the department after considering factors including, but not limited to, median income of the residents, rate of unemployment, and low population density.

(n) “Fund” means the Safe, Clean, Reliable Drinking Water Supply Fund of 2010 created by Section 79720.

(o) “Integrated regional water management plan” has the meaning set forth in Section 10534.

(p) “Nonprofit organization” means an organization qualified to do business in California and qualified under Section 501(c) (3) of Title 26 of the United States Internal Revenue Code.

(q) “Public agency” means a state agency or department, district, joint powers authority, city, county, city and county, or other political subdivision of the state.

(r) “Secretary” means the Secretary of the Natural Resources Agency.

(s) “State General Obligation Bond Law” means the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

CHAPTER 4. GENERAL PROVISIONS

79705. An amount that equals not more than 5 percent of the funds allocated for a grant program pursuant to this division may be used to pay the administrative costs of that program.

79706. Up to 10 percent of funds allocated for each program funded by this division may be used for planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. This section shall not otherwise restrict funds ordinarily used by an agency for “preliminary plans,” “working drawings,” and “construction” as defined in the annual Budget Act for a capital outlay project or grant project. Water quality monitoring shall be integrated into the surface water ambient monitoring program administered by the State Water Resources Control Board.

79707. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development or implementation of programs or projects authorized or funded under this division.

79708. (a) Prior to disbursing grants pursuant to this division, each state agency that is required to administer a competitive grant program under this division shall develop and adopt project solicitation and evaluation guidelines. The guidelines may include a limitation on the dollar amount of grants to be awarded.

(b) Prior to disbursing grants, the state agency shall conduct three public meetings to consider public comments prior to finalizing the guidelines. The state agency shall publish the draft solicitation and evaluation guidelines on its Internet Web site at least 30 days before the public meetings. One meeting shall be conducted at a location in northern California, one meeting shall be conducted in the central valley, and one meeting shall be conducted at a location in southern California. Upon adoption, the state agency shall transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature.

79709. It is the intent of the people that the investment of public funds pursuant to this division will result in public benefits.

79710. The State Auditor shall annually conduct a programmatic review and an audit of expenditures from the fund. The State Auditor shall report its findings annually on or before March 1 to the Governor and the Legislature, and shall make the findings available to the public.

79711. Funds provided by this division shall not be used to support or pay for the costs of environmental mitigation measures or compliance obligations of any party except as part of the environmental mitigation costs of projects financed by this division. Funds provided by this division may be used for environmental enhancements or other public benefits.

79712. Funds provided by this division shall not be expended to pay the costs of the design, construction, operation, or maintenance of Delta conveyance facilities. Those costs shall be the responsibility of the agencies that benefit from the design, construction, operation, or maintenance of those facilities.

79713. This division does not limit or otherwise affect the application of Sections 10505, 10505.5, 11128, 11460, 11461, 11462, 11463 and Sections 12200 to 12220, inclusive. However, those sections do not create any right, in areas outside of the Sacramento River hydrologic region, to water originating within the Sacramento River hydrologic region as a result of facilities constructed with the proceeds of bonds issued and sold pursuant to this division. For purposes of this division, the Sacramento River hydrologic region does not include the Delta.

79714. (a) The United States, as operator of the Central Valley Project, and the department, as operator of the State Water Project, shall continue to operate consistently with the agreement described in the State Water Resources Control Board order WR 2001-05 so long as required by the terms of that agreement and so long as it is in effect including any extensions of the agreement.

(b) If, after the expiration of the agreement described in subdivision (a), the board revises Water Rights Decision D-1641 or any other water rights decision allocating responsibility for meeting flow related objectives in a Bay-Delta Water Quality Control Plan the responsibility for meeting the modified flow related objectives shall be based upon findings by the board or a court of competent jurisdiction that (1) the exercise of the water rights upon which the obligation is imposed are a cause of the water quality concern or harm to public trust or other beneficial use that is being

addressed, and (2) the obligation to be imposed is in proportion to the finding of causation.

(c) To the extent that the board or a court of competent jurisdiction imposes any obligation in accordance with subdivision (b), based on a finding that multiple diversions each contribute incrementally to impact fish and wildlife or any other public trust or other beneficial uses in the Delta, the obligation imposed shall not affect current law with respect to water right priorities.

79715. The Legislature may enact legislation necessary to implement programs funded by this division.

CHAPTER 5. SAFE, CLEAN, RELIABLE DRINKING WATER SUPPLY FUND OF 2010

79720. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Safe, Clean, Reliable Drinking Water Supply Fund of 2010, which is hereby created.

CHAPTER 6. WATER SUPPLY RELIABILITY

79730. The sum of two billion three hundred twenty-five million dollars (\$2,325,000,000) shall be available upon appropriation by the Legislature from the fund to the department for the purposes of this chapter.

79731. One billion seven hundred million dollars (\$1,700,000,000) of the funds provided pursuant to Section 79730 shall be allocated for grants and expenditures in accordance with Section 79732.

79732. (a) Except as provided in subdivision (g) or (i), the department shall award grants to eligible projects that are consistent with an adopted integrated regional water management plan.

(b) An urban water supplier that does not prepare, adopt, and submit its urban water management plan in accordance with the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6) is ineligible to receive funds made available pursuant to Section 79731 until the urban water management plan is prepared and submitted in accordance with the requirements of that act.

(c) For the purposes of awarding a grant under this chapter, the department shall require a local cost share of not less than 25 percent of the total costs of the projects. The department may waive or reduce the cost-sharing requirement for projects that directly benefit a disadvantaged community or an economically distressed area.

(d) Eligible projects include, but are not limited to, all of the following:

(1) Agricultural and urban water use efficiency implementation projects, including, but not limited to, feasibility studies, technical assistance, education, and public outreach, and projects that result in water savings, increased instream flow, improved water quality, or increased energy efficiency.

(2) Recycling, reclamation, water treatment for the recovery of water supplies, desalination, and associated facilities, including distributions systems.

(3) Groundwater and surface storage projects, and conjunctive use and reservoir reoperations projects.

(4) Groundwater contamination prevention, cleanup, and treatment, and other water quality projects necessary to protect existing or potential water supplies. The implementation of a project financed pursuant to this paragraph does not relieve a responsible party or liable person from that person's obligation under existing state or federal law to clean up or remediate, or otherwise treat, contaminated water.

(5) Projects that reduce contributions to climate change from water management systems.

(6) Projects that enhance the adaptability to climate change of water management systems.

(7) Other projects that meet the requirements of Section 75026 of the Public Resources Code.

(e) Eligible applicants are public agencies, public utilities, and mutual water companies. To be eligible for funding under Section 79731, a project proposed by a public utility that is regulated by the Public Utilities Commission or a project proposed by a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the respective water system.

(f) The funding provided in Section 79731 shall be allocated to each hydrologic region as identified in the California Water Plan in accordance with this subdivision. For the South Coast hydrologic region, the department shall establish three funding areas that reflect the watersheds of San Diego County (designated as the San Diego subregion), the Santa Ana River watershed and southern Orange County (designated

as the Santa Ana subregion), and the Los Angeles and Ventura County watersheds (designated as the Los Angeles subregion), and shall allocate funds to those areas in accordance with this subdivision. The North and South Lahontan hydrologic regions shall be treated as one area for the purpose of allocating funds. The department may recognize multiple integrated regional water management plans in each of the areas allocated funding. Funds made available by this chapter shall be allocated as follows:

(1) North Coast	\$76,000,000
(2) San Francisco Bay	\$171,000,000
(3) Central Coast	\$91,000,000
(4) Los Angeles subregion	\$243,000,000
(5) Santa Ana subregion	\$167,000,000
(6) San Diego subregion	\$122,000,000
(7) Sacramento River	\$115,000,000
(8) San Joaquin River	\$101,000,000
(9) Tulare/Kern	\$103,000,000
(10) North/South Lahontan	\$82,000,000
(11) Colorado River Basin	\$79,000,000
(12) Interregional	\$350,000,000

(g) Allocated funds shall be appropriated solely on a competitive basis for implementation of qualified plans and allowable projects within those plans based on the regional and local priorities for projects reflected in approved plans. Allocated funds shall not be appropriated for specified individual projects or for specified categories of projects.

(h) Interregional funds provided pursuant to paragraph (12) of subdivision (f) may be expended directly or granted by the department to address multiregional needs or state priorities, including, but not limited to, any of the following:

- (1) Investing in new water technology development and deployment.
- (2) Meeting state water recycling and water conservation goals.

(3) Adapting to climate change impacts.

(4) Reducing contributions to climate change.

(5) Other projects to improve statewide water management systems.

(6) Other projects and activities designed to meet the needs of disadvantaged communities or economically distressed areas, including technical and grant writing assistance.

(i) Fifty million dollars (\$50,000,000) of the interregional funds provided in pursuant to paragraph (12) of subdivision (f) shall be allocated for costs incurred in connection with the provision of recreation and fish and wildlife enhancement at state water projects. The funds shall be available to meet the cost associated with the planning, construction, operation, and maintenance for recreation and fish and wildlife enhancement.

79733. (a) Five hundred million dollars (\$500,000,000) of the funds provided pursuant to Section 79730 shall be allocated for grants and expenditures for the planning, design, and construction of local and regional conveyance projects that support regional and interregional connectivity and water management. Projects shall be consistent with an adopted integrated regional water management plan and shall provide one or more of the following benefits:

(1) Improvements in regional or interregional water supply and water supply reliability.

(2) Mitigation of conditions of groundwater overdraft, saline water intrusion, water quality degradation, or subsidence.

(3) Adaptation to the impacts of hydrologic changes.

(4) Improved water security from drought, natural disasters, or other events that could interrupt imported water supplies.

(5) Providing safe drinking water for disadvantaged communities and economically distressed areas.

(b) Not more than 10 percent of the funds provided by this section shall be available for planning, investigations, studies, and monitoring.

(c) The department shall require a cost share of not less than 50 percent of total project costs from nonstate sources. The department may waive or reduce the cost share requirement for projects that directly benefit disadvantaged communities or economically distressed areas.

79734. (a) One hundred twenty-five million dollars (\$125,000,000) of the funds provided pursuant to Section 79730 shall be allocated to the department for grants and expenditures for the planning, design, and construction of local and regional drought relief projects that reduce the impacts of drought conditions including the impacts of Delta diversion reductions. Projects shall be consistent with an adopted integrated regional water management plan and include all of the following:

- (1) Water conservation and efficiency projects.
- (2) Water recycling and related infrastructure.
- (3) Stormwater capture.
- (4) Groundwater cleanup.
- (5) Local and regional conveyance projects that improve connectivity and water management.
- (6) Other local and regional water supply reliability projects.

(b) Projects shall meet the following conditions:

(1) The project shall provide a sustainable water supply that does not increase groundwater overdraft.

(2) The project shall be capable of being operational within two years of receiving the grant.

(c) Preference shall be given to applicants that can demonstrate substantial past and current investments in conservation and local water projects.

(d) Not more than 10 percent of the funds provided by this section shall be available for planning, investigations, studies, and monitoring.

(e) The department shall require a cost share of not less than 50 percent of total project costs from nonstate sources. The department may waive or reduce the cost share requirement for projects that directly benefit disadvantaged communities or economically distressed areas.

CHAPTER 7. DELTA GOVERNANCE

Article 1. General Provisions

79740. This chapter shall be known, and may be cited, as the Sacramento-San Joaquin Delta Reform Act of 2010.

79741. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin River Delta is a unique natural resource that is critically important to the state and the nation. The Delta is the largest estuary on the

west coast of North and South America, and it is a complex, interconnected ecosystem that provides habitat to 55 species of fish and 750 species of plants and wildlife. A significant portion of the state's commercial fishery species live in or migrate through the Delta, and the Delta is a major stopping point for hundreds of thousands of migrating birds along the Pacific Flyway.

(b) The Delta is a web of natural and manmade channels and reclaimed islands at the confluence of the Sacramento and San Joaquin Rivers. The watersheds of the Sacramento and San Joaquin Rivers encompass approximately 45 percent of the state's surface area.

(c) The economies of major regions of the state, including the San Francisco peninsula, the east San Francisco Bay area, the south San Francisco Bay area, the westside of the San Joaquin Valley, the central coast, and southern California, depend on the ability to import water from streams in distant parts of the state that are tributary to the Delta. More than two-thirds of the residents of the state, including residents of the City and County of San Francisco, the City of San Jose, the City of Oakland, the City of Los Angeles, the City of Long Beach, and the City of San Diego, and more than two million acres of highly productive farm ground rely on water exported from streams that are tributary to the Delta.

(d) The Delta ecosystem and water supplies that are conveyed through the Delta are in crisis, and neither the Delta ecosystem nor the economy of the state can be sustained unless immediate and long-term actions are taken to restore the Delta ecosystem and to restore a reliable water supply for the state.

(e) Restoration of the Delta ecosystem will have to involve a comprehensive plan that addresses all of the human activities that have degraded the ecosystem, including, but not limited to, operation of water export projects, urban and agricultural pollution, in-Delta diversions of water, in-Delta agricultural cultivation, introduction of exotic species, and urbanization.

(f) Restoration of a reliable water supply for the state will have to involve implementation of water use efficiency and conservation projects, wastewater reclamation projects, desalinization, and the construction of new infrastructure, including surface water storage and isolated Delta conveyance facilities.

79742. (a) The Legislature finds and declares that it is the policy of the state that the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California shall be the foundation of the Delta and water policy.

(b) Any action, program, project, or activity within the Delta that is undertaken or funded by an agency of the state shall be consistent with the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California.

Article 2. Definitions

79750. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) “Adaptive management” means a framework and flexible decision-making process for ongoing knowledge acquisition, monitoring, and evaluation leading to continuous improvement in management planning and implementation.

(b) “Bay-Delta” means the San Francisco Bay/Sacramento-San Joaquin Delta.

(c) “Board,” “board of directors,” or “board members” means the board of directors of the council.

(d) “CALFED” means the consortium of state and federal agencies with management and regulatory responsibilities in the Bay-Delta.

(e) “Covered action” means a plan, program, project or activity that, in whole or in part, will occur within the boundaries of the Delta or Suisun Marsh, will be carried out, approved, or funded by the state or local public agencies, is covered by one or more provisions of the Delta Plan and will have a significant impact on achievement of one or both of the coequal goals or implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta. In light of the current environmental and water supply crisis in the Delta, and the statewide ramifications thereof, it is the intent of the Legislature that covered actions be implemented expeditiously, consistent with the Delta Plan, this chapter, and other applicable law. Covered actions do not include implementation of a Bay Delta Conservation Plan approved by the Department of Fish and Game as a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, routine operation and maintenance activities, and emergency actions necessary to preserve public health and safety.

(f) “Delta counties” mean the Counties of Contra Costa, Solano, Yolo, Sacramento, and San Joaquin.

(g) “Delta Independent Governing Council” or “council” means the council established by Section 79760.

(h) “Delta Plan” means a plan developed pursuant to this chapter by the council.

(i) “Delta Protection Commission” or “commission” means the commission established pursuant to Section 29735 of the Public Resources Code.

(j) “Restoration” means implementation, to the maximum extent practicable, of actions that minimize and mitigate the impacts of the incidental take on the listed species and is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction of a species’ critical habitat.

(k) “Suisun Marsh” means the region defined in Section 29101 of the Public Resources Code.

(l) “Water supply reliability” means a supply that is adequate to meet the demands for reasonable and beneficial use.

Article 3. Delta Independent Governing Council

79760. (a) The Delta Independent Governing Council is hereby established to advance the coequal goals described in Section 79742.

(b) (1) The board of directors of the council shall consist of seven members appointed by the Governor.

(2) Board members shall have diverse expertise, experience and perspectives with respect to environmental, biological, local land use or water management issues derived from governance of large water resources management entities, either private or public public policy analysis of environmental, biological, local land use or water resource issues or training and experience in the engineering, hydrologic, or biological aspects of environmental or ecosystem management or water resources.

(3) The initial term of office of each member of the board shall be one, two, three, four, or five years, as specified in subdivision (b), and all subsequent terms shall be five years.

(c) In making the appointments, the Governor shall classify the members into five classes. One class shall have two members who shall serve one year, one class shall have one member who shall serve two years, one class shall have one member who shall serve three years, one class shall have one member who shall serve four years, one class shall have two members who shall serve five years. Thereafter, the terms of all succeeding members shall be five years.

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

(e) The Governor shall appoint a chairperson from among the board members.

(f) The council shall meet in a public forum, and at least two meetings each year shall take place within the Delta.

(g) The council may invite state and federal officials to participate in board activities and deliberations at the discretion of the council.

79761. (a) The council shall appoint an executive director who shall serve full time and at the pleasure of the council. The executive director shall receive the annual salary provided for by Section 11550 of the Government Code.

(b) The executive director shall be provided staff support from the Natural Resources Agency and those agencies implementing the Bay Delta Conservation Plan.

(c) The council shall not have authority to hire staff unless adequate funding is made available by the Legislature after a determination of need.

79762. The headquarters of the council shall be located in Sacramento.

Article 4. Mission, Duties, Powers, and Responsibilities of the Council

79770. The council shall do all of the following:

(a) Prepare and adopt a long-term plan to achieve the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California, to be referred to as the Delta Plan.

(b) Prior to adoption of the Delta Plan, the council shall operate under the guidelines set forth in Article 6 (commencing with Section 79790).

(c) Receive and allocate funds for actions covered under the Delta Plan including bond funds dedicated to Delta sustainability purposes.

(d) Assume management and control for the CALFED Bay-Delta Program. For these purposes, all staff and resources within the Natural Resources Agency and the Department of Forestry and Fire Protection for support of the CALFED Bay-Delta Program are hereby transferred to the council. The executive director shall confer with

the directors of the Department of Fish and Game and the department and the executive director of the State Water Resources Control Board regarding possible reallocation of Delta related staff and resources.

(e) Exercise exclusive authority to determine, on appeal, as set forth in Article 9 (commencing with Section 79820), the consistency of any action, program, project, or activity proposed or approved by a state or local government agency with statutory jurisdiction or facilities in the Delta with the Delta Plan adopted pursuant to this chapter.

(f) The council may review climate change plans produced by state agencies in response to the anticipated effects of climate change on their existing statutory authorities.

79771. Upon appeal, the council may assess policies by state or federal agencies applied outside the Delta that are critical to meeting goals of this division and convey the results of that assessment to the responsible agency.

Article 5. Delta Science Board

79780. (a) The Delta Science Board is hereby established in state government. The board shall consist of up to 12 members who shall each serve a maximum of five years. Board members shall be independent scientists with appropriate expertise to assess the broad range of Delta water and ecosystem management actions. The board shall periodically review planning and implementation of the adaptive management program developed by the council.

(b) The council shall appoint members to the Delta Science Board no later than March 31, 2010, to provide high-level periodic review to the council on the science occurring in the Bay-Delta system.

(c) The council shall appoint a lead scientist following consultation with the council's executive director and Delta Science Board. The lead scientist shall be responsible for leading, overseeing, and guiding the Delta Science Program, and shall nominate future members to the Delta Science Board.

79781. Under the direction of the lead scientist, the Delta Science Program shall provide the best possible unbiased scientific information to inform water and environmental decision-making through funding research, synthesizing and communicating scientific information to policy- and decision-makers, promoting independent scientific peer review, and coordinating with Delta agencies to promote science-based adaptive management. The Delta Science Program will assist with development and periodic updates of the Delta Plan's adaptive management program.

79782. At least annually the Delta Science Board shall provide a summary of its findings and conclusions to the council. As part of its summary the Delta Science Board shall review all state or federal administrative policies, regulations, or statutes intended to protect the Delta fishery or associated riparian wildlife and identify specific changes that should be made to those administrative policies, regulations, or statutes based on the Delta Science Board's findings and conclusions. As part of its summary the Delta Science Board shall report the number of administrative, regulatory, or statutory changes that have been made based on its findings and conclusions or as a result of the adaptive management program component of the Delta Plan. Five years

after the Delta Science Board is established the council shall determine if the findings and conclusions of the Delta Science Board have improved management of the Delta ecosystem, in part by reviewing the number of changes to administrative policies, regulations, or statutes that resulted from the findings and conclusions of the Delta Science Board.

79783. The Delta Science Program shall be a replacement for and successor to the CALFED Science Program and the Delta Science Board shall replace the CALFED Independent Science Board.

Article 6. The Delta Plan

79790. (a) The council shall prepare, on or before August 1, 2010, a schedule for preparing and adopting the Delta Plan.

(b) The council shall prepare a list of all applicable legal requirements relating to covered actions of the Delta Plan, including requirements relating to federal and state endangered species laws that pertain to the Delta for incorporation into the Delta Plan.

(c) The council shall commence the preparation of the Delta Plan on or before September 1, 2010, and the Delta Plan shall be completed and adopted by the council by December 31, 2012.

(d) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the preparation and adoption of the Delta Plan or to any decision on appeal made by the council pursuant to this division.

(e) The council shall review and revise the Delta Plan every five years. The review and revisions shall be based upon the findings and conclusions made by the Delta Science Council and the adaptive management program developed by the council and reviewed by the Delta Science Board.

79791. Prior to adoption of the Delta Plan, the council shall have oversight responsibility over existing plans, and plans under development by state or local agencies with jurisdiction or facilities in the Delta, that may have a significant effect on achievement of the coequal goals described in Section 79742. The purpose of the oversight shall be to ensure that those plans are developed and implemented in a manner that does not result in an adverse effect on the coequal goals.

79792. Each state or local agency with jurisdiction or facilities in the Delta that has an existing plan or seeks to develop a new plan that may have a significant effect on the coequal goals as shall report to the council on the status of that plan at least once a year, or more frequently as requested by the council. The council may make recommendations to the state or local agency regarding the plan, and the state or local agency shall report to the council on the implementation of the recommendations. All recommendations of the council shall comply with other applicable law regarding state or local agency actions.

79793. (a) The goal of the Delta Plan is to achieve the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California.

(b) The Delta Plan may also include other elements as the council determines appropriate, including:

(1) Measures that contribute to the reduction of risks from flooding to people, property, and other state interests in the Delta.

(2) Measures that recognize the Delta's unique natural, recreation, and agricultural heritage.

79794. (a) The geographic scope of the Delta Plan shall be the Delta and Suisun Marsh but not the tributaries to those areas.

(b) The Delta Plan shall include measures to achieve the goals of the Delta Plan as set forth in Section 79793. Those measures shall include guidance and requirements for individual state and local agencies with jurisdiction or facilities in the Delta.

(c) The council shall consider the Delta Vision Strategic Plan as a guidance document for the Delta Plan. The council may incorporate into the Delta Plan other plans adopted by other agencies if it determines that those plans will help achieve the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California. The following plans, currently under development, should be reviewed by the council, after adoption by the appropriate agency, for inclusion in the Delta Plan: the ecosystem restoration program being developed by the Department of Fish and Game, the land use and resource management plan developed by the Delta Protection Commission, any local habitat conservation plan within the Delta, the Suisun Marsh plan under development and the provisions of the California Water Plan that address reliable water supply being developed by the department. The council may incorporate other plans at its discretion except for the Bay Delta Conservation Plan which will be included in the Delta Plan as described in this article.

(d) The council shall consult with the Delta counties on issues included in the development of the Delta Plan.

(e) Those persons responsible for implementing the plans described in subdivision (a) shall do so in a manner that is consistent with the Delta Plan adopted pursuant to this division to the maximum extent feasible under existing law. Each state and local agency with jurisdiction or facilities in the Delta shall ensure that all covered actions to be undertaken are consistent with the Delta Plan to the maximum extent feasible.

79795. The Delta Plan shall include:

- (a) Estimates of the costs of carrying out this division.
- (b) Provisions for coordination with entities undertaking major actions that are not subject to the Delta Plan, but may have a significant impact on implementation of the Delta Plan, including construction or modification of transportation and transmission infrastructure.

Article 7. Bay-Delta Conservation Plan

79800. (a) The Legislature finds and declares that a Bay Delta Conservation Plan that is consistent with a feasible conservation standard would further the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California. Upon approval of a Bay Delta Conservation Plan by the Department of Fish and Game, the council shall incorporate the Bay Delta Conservation Plan in the Delta Plan. The Department of Fish and Game's decision to approve a Bay

Delta Conservation Plan shall be appealable to the council pursuant to the process described in Article 9 (commencing with Section 79820).

(b) The entity that implements the Bay Delta Conservation Plan, in coordination with the Department of Fish and Game, shall report to the council on the status of implementation of the conservation plan at least once a year.

(c) The council may make recommendations to the entity that implements the Bay Delta Conservation Plan regarding implementation of the plan. The entity that implements the Bay Delta Conservation Plan shall consult with the council on these recommendations, provided that the recommendations do not change the terms and conditions of the permits issued by the state and federal regulatory agencies.

(d) A Bay Delta Conservation Plan shall be eligible for funding from the state for the public benefit parts of the plan.

(e) If the Bay Delta Conservation Plan has been approved, state and local agencies should exercise their authorities in a manner consistent with the Bay Delta Conservation Plan.

Article 8. State and Local Public Agency Actions

79810. (a) A state or local public agency that seeks to undertake a covered action shall, prior to initiating implementation of that covered action, prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and file that evaluation with the council.

(b) To assist state and local public agencies in preparing the required certification, the council shall develop clear and concise guidelines for preparation of the certificate of consistency.

79811. After adoption of the Delta Plan by the council, each agency that has an existing plan or seeks to develop a new plan that may have a significant effect on implementation of the Delta Plan or achievement of the coequal goals as described in Section 79842 shall report to the council on the status of that plan at least once a year, or more frequently as requested by the council. The council may make recommendations to the agency regarding the plan, and the agency shall report to the council on the implementation of the recommendations. All recommendations of the council must comply with other applicable law regarding agency actions.

79812. Prior to incorporation into the Delta Plan and in order to be eligible for any funding from the state, the Central Valley Flood Protection Plan and the Delta Protection Commission Land Use and Resource Management Plan shall, as determined in findings by the council:

- (a) Take into account and meet the overall objective of coequal goals for the Delta.
- (b) Establish an effective performance measures tracking system.
- (c) Reduce the overall risk of flooding.

Article 9. Appeals Process

79820. 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 achievement of one or both of the coequal goals of restoration of the Delta ecosystem and creation of a reliable water supply for the State of California or implementation of government-sponsored flood control programs to reduce risks to people and property in the Delta, may file an appeal of that covered action with the council.

79821. 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.

79822. The appeal shall be based on, and limited to, review of the state or local public agency's certification of consistency. The appeal must be filed no later than 30 days after the filing 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.

79823. (a) The council, or by delegation the executive director, may dismiss the appeal for failure of the appellant to provide information requested by the council within the period provided, so long as the information requested is in the possession or under the control of the appellant.

(b) The appeal shall be heard by the council within 60 days of the date of the filing of the appeal, unless the council determines, or by delegation to the executive

director, 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.

(c) After a hearing on an appealed action, the council shall make specific 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 findings of the council. Upon remand, the state or local public agency may determine not to proceed with the covered action, may modify the appealed action and resubmit the certification of consistency to the council, or may reject the findings based on a determination by the agency's director or governing board that the findings are inconsistent with existing law or substantially negate the purpose of the proposed covered action. A proposed covered action appealed pursuant to these provisions and remanded to the state or local public agency shall not be implemented until the council has adopted written findings, based on substantial evidence in the record, that the covered action, as modified, is consistent with the Delta Plan. The appeal shall be deemed denied if such written findings are not issued by the council within the time allowed by subdivision (b).

(d) 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.

(e) A decision of the council on the appeal is subject to judicial review by the Supreme Court of California, which may, for purposes of judicial economy and expediency, transfer the matter for decision to an appropriate Court of Appeal. No new or additional evidence may be introduced upon review and the cause shall be heard on

the record of the council as certified by the council. The review shall not be extended further than to determine whether the council has abused its discretion or its determination is not supported by substantial evidence in the light of the whole record.

(f) The council's determination, including its findings and conclusions on questions of fact, is final and not subject to review, except as provided by this chapter. No court in this state has jurisdiction to hear or determine any matter which was, or could have been, determined in an appeal proceeding before the council, or to stop or delay the implementation of any covered action except to enforce compliance with the provisions of a decision of the council.

Article 10. Federal Agencies

79830. The council shall, within 90 days of establishment, initiate discussions with the secretaries of the United States Department of the Interior and the United States Department of Commerce, the administrator of the United States Environmental Protection Agency, and the Assistant Secretary of the Army for Civil Works regarding development of procedures to ensure federal agency actions are consistent with the Delta Plan.

Article 11. Delta Protection Commission

79840. (a) The Delta Protection Commission shall ensure that its Land Use and Resource Management Plan and commission decisions are consistent with the Delta Plan.

(b) Within six months of adoption of the Delta Plan, the Delta Protection Commission shall submit its Land Use and Resource Management Plan to the council for a determination as to whether it is consistent with the Delta Plan. If the council determines the resources management plan is not consistent with the Delta Plan, it shall remand the plan to the Delta Protection Commission for revision.

Article 12. State Water Project Operations

79850. The council shall conduct a study, in coordination with the department, assessing the feasibility of establishing the State Water Project as an independent agency with a public governing body composed of public agencies that fund the costs of the State Water Project, receive the findings of the study no later than December 31, 2010, and transmit recommendations to the Legislature no later than March 31, 2011.

CHAPTER 8. DELTA SUSTAINABILITY

79860. (a) The Bay-Delta Estuary is a unique and irreplaceable combination of environmental and economic resources. Current management and use of the Delta is not sustainable, and results in a high level of conflict among various interests. Future

Delta sustainability is threatened by changing hydrology due to climate change, water diversions, flood risk, seismic events, nonnative species, toxics, and other environmental problems. Future management of the Delta must improve Delta ecosystem health and improve the means of Delta water conveyance in order to protect drinking water quality, improve water supply and water supply reliability, restore ecosystem health, and preserve agricultural and recreational values in the Delta, while providing to counties and watersheds of origin assurances that their priority to water resources will be protected and that programs or facilities implemented or constructed in the Delta will not result in redirection of unmitigated, significant adverse impacts to the counties and watershed of origin. Many sources of funding will be needed to implement improved Delta management.

(b) This chapter provides state funding for public benefits associated with projects needed to assist in the Delta's sustainability as a vital resource for fish, wildlife, water quality, water supply, agriculture, and recreation.

(c) In implementing this chapter, the council, taking into consideration the Bay Delta Conservation Plan and pursuant to the Delta Plan requirement of Chapter 7 (commencing with Section 79740), shall develop and implement, in cooperation with federal, state, and local agencies engaged in management or regulation of the Delta or its resources, a comprehensive plan for Delta sustainability to achieve the coequal goals of Delta restoration and water supply reliability.

(d) The Legislature may only amend or repeal this section by a statute that is passed in each house by rollcall vote entered into the journal, two-thirds of the membership concurring.

79861. Notwithstanding Section 13340 of the Government Code, the sum of three billion dollars (\$3,000,000,000) is hereby continuously appropriated from the fund to the council, without regard to fiscal year, for grants and direct expenditure, as follows:

(a) One billion dollars (\$1,000,000,000) for projects that provide public benefits and support Delta sustainability options, including projects and supporting scientific studies and assessments that do any of the following:

(1) Ensure that urban and agricultural water supplies derived from the Delta, including water supplies used within the Delta, are not disrupted because of catastrophic failures of Delta levees resulting from earthquakes, floods, land sinking, rising ocean levels, or other forces.

(2) Improve the quality of drinking water derived from the Delta.

(3) Provide physical improvements or other actions to create water flow and water quality conditions within the Delta to provide adequate habitat for native fish and wildlife.

(4) Ensure that other projects pursuant to this chapter protect related transportation and other vital infrastructure in and around the Delta.

(5) Facilitate other projects that provide public benefits and support Delta sustainability options approved by the Legislature, including costs associated with planning, monitoring, and design of alternatives, and project modifications and adaptations necessary to achieve the goals of this chapter.

(b) Two billion dollars (\$2,000,000,000) for projects to protect and enhance the sustainability of the Delta ecosystem, including any of the following:

(1) Projects for the development and implementation of the Bay Delta Conservation Plan, including, but not limited to, actions for the purpose of achieving the conservation standards identified in the Bay Delta Conservation Plan, that promote the conservation of covered species, and for native fishery restoration projects that are consistent with provisions of Chapter 7 (commencing with Section 79740). The projects shall be implemented through a cooperative effort among regulatory agencies, regulated and potentially regulated entities, and affected parties, including state and federal water contractors. These funds may be expended for the preparation of environmental documentation and environmental compliance.

(2) Other projects to protect and restore native fish and wildlife dependent on the Delta ecosystem, including the acquisition of water rights and the removal or reduction of undesirable invasive species.

(3) Projects to reduce greenhouse gas emissions from exposed Delta soils.

(4) Scientific studies and assessments that support the projects authorized under this chapter.

79862. The expenditure of any portion of the funds provided pursuant to this chapter is contingent on the adoption and implementation of a comprehensive plan for Delta sustainability described in subdivision (c) of Section 79860.

79863. By April 1 of each year following the submission of the plan, the council shall evaluate the progress in implementing the plan, determine if adequate progress is being made, and submit those findings to the Legislature along with recommendations to improve the implementation of the plan.

CHAPTER 9. STATEWIDE WATER SYSTEM OPERATIONAL IMPROVEMENT

79870. (a) Notwithstanding Section 162, the commission may make the determinations, findings, and recommendations required of it by this chapter independent of the views of the director. All final actions by the commission in implementing this chapter shall be taken by a majority of the members of the commission at a public meeting noticed and held pursuant to 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).

(b) Notwithstanding Section 13340 of the Government Code, the sum of four billion dollars (\$4,000,000,000) is hereby continuously appropriated from the fund to the commission, without regard to fiscal year, for public benefits associated with water storage projects that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions, in accordance with this chapter. Funds authorized for, or made available to, the commission pursuant to this chapter shall be available and used only for the purposes provided in this chapter, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.

(c) Projects shall be selected by the commission through a competitive public process that ranks potential projects based on the expected return for public investment as measured by the magnitude of the public benefits provided, pursuant to criteria established under this chapter.

(d) Any project constructed with funds provided by this chapter shall be subject to Section 11590.

(e) No funds authorized under this chapter shall be expended for any project identified in Section 79871 until December 31, 2011, or until the planning and feasibility studies associated with new surface storage identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, have been completed, whichever occurs first.

79871. Projects for which the public benefits are eligible for funding under this chapter consist of any of the following:

(a) Surface storage projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000.

(b) Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.

(c) Conjunctive use and reservoir reoperation projects.

(d) Regional and local surface storage projects that improve the operation of water systems in the state and provide public benefits.

79872. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or the tributaries to the Delta.

79873. (a) Funds allocated pursuant to this chapter may be expended solely for the following public benefits associated with water storage projects:

(1) Ecosystem improvements, including changing the timing of water diversions, improvement in flow conditions, temperature, or other benefits that contribute to

restoration of aquatic ecosystems and native fish and wildlife, including those ecosystems and fish and wildlife in the Delta.

(2) Water quality improvements in the Delta, or in other river systems, that provide significant public trust resources, or that clean up and restore groundwater resources.

(3) Flood control benefits, including, but not limited to, increases in flood reservation space in existing reservoirs by exchange for existing or increased water storage capacity in response to the effects of changing hydrology and decreasing snow pack on California's water and flood management system.

(4) Emergency response, including securing emergency water supplies and flows for dilution and salinity repulsion following a natural disaster or act of terrorism.

(5) Recreational purposes, including, but not limited to, those recreational pursuits generally associated with the out-of-doors.

(b) For the purposes of this chapter, "public benefits" does not include the costs of environmental mitigation measures or compliance obligations established prior to the enactment of this division under state or federal law.

79874. In consultation with the Department of Fish and Game, the State Water Resources Control Board, and the department, the commission shall develop and adopt, by regulation, methods for quantification and management of public benefits described under Section 79753 by December 15, 2011. The regulations shall include the priorities and relative environmental value of ecosystem benefits as provided by the Department of Fish and Game and the priorities and relative environmental value of water quality benefits as provided by the State Water Resources Control Board.

79875. (a) Except as provided under subdivision (c), no funds allocated pursuant to this chapter may be allocated for a project before December 15, 2011, and until the commission approves the project based on the commission's determination that all of the following have occurred:

(1) The commission has adopted the regulations specified in Section 79874 and specifically quantified and made public the cost of the public benefits associated with the project.

(2) The department has entered into a contract with each party who will derive benefits, other than public benefits as defined in Section 79873, from the project that ensures the party will pay its share of the total costs of the project. The benefits available to a party shall be consistent with that party's share of total project costs.

(3) The department has entered into a contract with each public agency identified in Section 79874 that administers the public benefits, after that agency makes a finding that the public benefits of the project for which that agency is responsible meet all the requirements of this chapter, to ensure that the public contribution of funds pursuant to this chapter achieves the public benefits identified for the project.

(4) The commission has held a public hearing for the purposes of providing an opportunity for the public to review and comment on the information required to be prepared pursuant to this subdivision.

(5) All of the following additional conditions are met:

(A) Feasibility studies have been completed.

(B) The director has found and determined that the project is feasible, is consistent with all applicable laws and regulations, and will advance the long-term objectives of

restoring ecological health and improving water management for beneficial uses of the Bay-Delta system.

(C) All environmental documentation associated with the project has been completed, and all other federal, state, and local approvals, certifications, and agreements required to be completed have been obtained.

(b) The commission shall submit to the Legislature its findings for each of the criteria listed in subdivision (a) for a project funded pursuant to this chapter.

(c) Notwithstanding subdivision (a), funds may be made available under this chapter for the completion of environmental documentation and permitting of a project.

79876. The public benefit cost share of a project funded pursuant to this chapter, shall be based on the direct benefit received by the public for the project pursuant to Section 79874.

79877. (a) A project identified in Section 79871 is not eligible for funding under this chapter unless, by January 1, 2016, all of the following conditions are met:

(1) All feasibility studies are complete and draft environmental documentation is available for public review.

(2) The director makes a finding that the project is feasible, and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Bay-Delta system.

(3) The director receives commitments for not less than 75 percent of the nonpublic benefit cost share of the project.

(b) If compliance with subdivision (a) is delayed by litigation or failure to promulgate regulations, the date in subdivision (a) shall be extended by the commission

for a time period that is equal to the time period of the delay, and funding under this chapter that has been dedicated to the project shall be encumbered until the time at which the litigation is completed or the regulations have been promulgated.

79878. Surface storage projects funded pursuant to this chapter and described in subdivision (a) of Section 79871 may be made a unit of the Central Valley Project as provided in Section 11290 and may be financed, acquired, constructed, operated, and maintained pursuant to Part 3 (commencing with Section 11100) of Division 6.

79879. (a) Notwithstanding Sections 79861 to 79867, inclusive, upon a finding by the commission and the director that doing so is feasible and capable of being consistent with all applicable laws and regulations, the funds allocated for the design, acquisition, and construction of surface storage projects identified in the CALFED Bay-Delta Record of Decision, dated August 28, 2000, shall be provided for those purposes to local joint powers authorities formed by irrigation districts, and other local water districts and local governments within the applicable hydrologic region to design, acquire, and construct those projects.

(b) The joint powers authorities described in subdivision (a) may include in their membership governmental and nongovernmental partners that are not located within their respective hydrologic regions in financing the surface storage projects, including, as appropriate, cost share participation or equity participation. The department shall be an ex officio member of each joint powers authority subject to this section, but the department shall not control the governance, management, or operation of the surface water storage projects.

(c) A joint powers authority subject to this section shall own, govern, manage, and operate a surface water storage project, subject to the requirement that the ownership, governance, management, and operation of the surface water storage project shall advance the purposes set forth in this chapter.

79879.5. The Legislature may only amend or repeal this chapter by a statute that is passed in each house by roll call vote entered into the journal, two-thirds of the membership concurring.

CHAPTER 10. CONSERVATION AND WATERSHED PROTECTION

79880. The sum of one billion five hundred dollars (\$1,500,000,000) is available, upon appropriation by the Legislature from the fund, in accordance with this chapter, for expenditures and grants for ecosystem and watershed protection and restoration projects, including, but not limited to, all of the following watersheds:

- (a) The San Joaquin River watershed.
- (b) The Kern River and Tulare Basin watersheds.
- (c) The Salton Sea and Colorado River watersheds.
- (d) The Los Angeles River watershed.
- (e) The San Gabriel River watershed.
- (f) The Santa Ana River watershed.
- (g) The Klamath River watershed, including the Trinity, Scott, and Shasta Rivers and watersheds.
- (h) North coast watersheds.

- (i) San Francisco Bay watersheds.
- (j) Central coast watersheds.
- (k) South coast watersheds.
- (l) Lake Tahoe Basin watershed.
- (m) The Sacramento River watershed, including the Yolo Bypass.
- (n) San Diego County coastal watersheds.
- (o) The Ventura River watershed.
- (p) The Sierra Nevada Mountain watersheds.
- (q) The Mojave River watershed.
- (r) The Owens River watershed.
- (s) The Santa Monica Bay watershed.

79880.5. Funds provided under this chapter may be appropriated to the Natural Resources Agency, the Department of Fish and Game, the Wildlife Conservation Board, the Department of Forestry and Fire Protection, or to state conservancies for expenditures and grants consistent with this chapter and other applicable laws.

79881. (a) Funds provided for the Sacramento River and San Joaquin River watersheds under Section 79880 shall be available for projects consistent with the ecosystem restoration program element of the California Bay-Delta Program, or its successor, or the San Joaquin River Parkway Master Plan.

(b) Funds provided for Salton Sea watershed projects under Section 79880 shall be available for Salton Sea restoration activities identified for “Period I” in the Resources Agency report entitled “Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan,” dated May 2007.

(c) Funds provided for the Lake Tahoe Basin watershed under Section 79880 shall be available for projects consistent with the Lake Tahoe Environmental Improvement Program.

(d) Funds provided for the Los Angeles River and San Gabriel River watersheds under Section 79880 shall be available pursuant to Section 79508, and for projects identified in the Los Angeles River Revitalization Master Plan.

79882. (a) The sum of eighty-five million dollars (\$85,000,000) is available, upon appropriation by the Legislature from the fund, to the Department of Fish and Game for expenditures and grants to protect the Delta ecosystem and the state's water supply from invasive species, including, but not limited to, Asiatic clams, zebra mussels, quagga mussels, and New Zealand mud snails.

(b) At least fifty million dollars (\$50,000,000) of the funds provided pursuant to subdivision (a) shall be available for grants to public agencies, including water agencies, to pay for capital expenditures associated with the control of invasive species, including, but not limited to, chlorination facilities, habitat modifications, and monitoring equipment. The Department of Fish and Game shall administer the grant program.

(c) The Legislature, by statute, shall establish requirements for both of the following:

(1) Repayment of grant funds made available pursuant to this section in the event of cost recovery from parties responsible for the introduction of invasive species that affect the Delta ecosystem and the state's water supply.

(2) Recipients of grants to make reasonable efforts to recover costs from parties described in paragraph (1).

79882.5. For restoration and ecosystem protection projects under this chapter, the services of the California Conservation Corps or community conservation corps shall be used whenever feasible.

79883. Funds provided under this chapter may be appropriated to the Resources Agency, the Department of Fish and Game, the Wildlife Conservation Board, the California Conservation Corps, the Department of Parks and Recreation, or to state conservancies for expenditures and grants consistent with this chapter and other applicable laws.

79883.5. Of the funds made available pursuant to Section 79880, not less than two hundred million dollars (\$200,000,000) shall be available to the State Coastal Conservancy for projects within coastal counties and coastal watersheds, including grants to the San Diego River Conservancy and for the Santa Ana River Parkway.

79884. Of the funds provided in Section 79880, not less than one hundred million dollars (\$100,000,000) shall be available to the Wildlife Conservation Board for direct expenditure or grants for the acquisition of water rights from willing sellers and the conveyance of water for the benefit of migratory birds on wildlife refuges and wildlife habitat areas subject to Section 3406(d) of the federal Central Valley Project Improvement Act (Public Law 102-575), provided that the acquisition of water rights by the Wildlife Conservation Board is consistent with that federal act. All costs associated with the acquisition of water rights by the Wildlife Conservation Board for

the purposes set forth under this section shall be paid for out of the funds designated for the Wildlife Conservation Board.

79884.5. Of the funds provided in Section 79880, not less than two hundred million dollars (\$200,000,000) shall be available to the Wildlife Conservation Board for direct expenditure or grants for the protection or restoration of watershed lands that provide sources of drinking water or rivers and streams that support species listed as threatened or endangered under state or federal law.

79885. Fifty million dollars (\$50,000,000) of the funds provided pursuant to Section 79880 shall be allocated to the Natural Resources Agency for projects that improve salmonid fish passage in the Sacramento River watershed.

79885.5. (a) One hundred ninety million dollars (\$190,000,000) of the funds provided pursuant to Section 79880 shall be allocated to the Department of Forestry and Fire Protection for direct expenditure or grants for fuel treatment and forest restoration projects to protect watershed tributary to dams or reservoirs from the adverse impacts of fire and erosion; to promote forest health in those watershed; to protect life and property; to provide for climate change adaptation; and reduce total wildfire costs and losses. Funds shall be available in accordance with the following:

(1) One hundred thirty million dollars (\$130,000,000) shall be available to the Department of Forestry and Fire Protection to provide technical assistance for project development and implementation and to fund grants to public agencies, recognized tribes, and nonprofit organizations for the purpose of fuel treatment projects that will reduce wildfire risks, protect watershed tributary to water storage facilities, and promote watershed health.

(2) Fifty million dollars (\$50,000,000) shall be available to the Department of Forestry and Fire Protection to provide technical assistance for project development and implementation, and for grants and loans for fuel treatment and reforestation projects to eligible landowners as defined in subdivision (b) of Section 4793 of the Public Resources Code and consistent with the provisions of the California Forest Improvement Act of 1978.

(3) Ten million dollars (\$10,000,000) shall be available to:

(A) Reimburse incremental costs to the Department of Forestry and Fire Protection resulting from implementation of fuel reduction projects consistent with the provisions of the Vegetation Management Program established under Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code. These projects shall include three or more pilot projects to utilize the fuels removed for energy production or other wood product uses.

(B) Reimburse, up to the approved daily reimbursement rate, costs of Conservation Camp Crews used to conduct fuel reduction activities; reimburse incremental costs to the Department of Forestry and Fire Protection for conducting prefire management projects consistent with the 1996 California Fire Plan or its successor plan, as required under Section 4114 of the Public Resources Code.

(b) Funding criteria and projects shall demonstrate the linkage between the project and the protection of watershed health, protection of watershed storage capacity, maintenance or enhancement of forest health, protection of life and property, and greenhouse gas reduction.

(c) The definitions set forth below shall apply only to this section:

(1) “Nonprofit organization” means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (commencing with Section 5000 of the Corporations Code) qualified to do business in California and qualified under Section 501(c)(3), 501(c)(4), or 501(c)(5) of the Internal Revenue Code.

(2) “Recognized tribes” mean those entities recognized and eligible to receive services from the United State Bureau of Indian Affairs as listed in the Federal Register and those tribes designated in the list of nonrecognized tribes for California.

79886. Not more than two hundred sixty million dollars (\$260,000,000) of the funds provided pursuant to Section 79880 shall be allocated for dam removal and related measures in the Klamath River watershed if the Secretary of Natural Resources finds that the following conditions have been met:

(a) The State of California, State of Oregon, United States, and PacifiCorp have executed a dam removal agreement.

(b) The United States and the States of California and Oregon have made the determinations required under the agreement to effect dam removal.

(c) Ratepayer funds required by the agreement have been authorized and will be timely provided.

(d) All other conditions required in the agreement have been met.

79886.5. Of the funds allocated in Section 79886 not less than ten million dollars (\$10,000,000) shall be allocated to Siskiyou County for the purpose of economic development as defined in Government Code Section 13997.2. Upon submission of materials by Siskiyou County the Secretary of Business Transportation and Housing may authorize up to an additional ten million dollars (\$10,000,000) for economic

development if it is determined that a greater amount is necessary to offset the impacts to the economy of Siskiyou County from the removal of the dams.

79887. For the purposes of this chapter, the terms “restoration” and “protection” have the meanings set forth in Section 75005 of the Public Resources Code.

CHAPTER 11. GROUNDWATER PROTECTION AND WATER QUALITY

79890. The sum of one billion fifty million dollars (\$1,050,000,000) shall be available upon appropriation by the Legislature from the fund for the purposes of this chapter.

79891. (a) Three hundred sixty million dollars (\$360,000,000) of the funds provided pursuant to Section 79890 shall be allocated for expenditures, grants, and loans for projects to prevent or reduce the contamination of groundwater that serves as a source of drinking water. Projects shall be consistent with an adopted integrated regional water management plan. Funds appropriated pursuant to this section shall be available to the State Department of Public Health for projects necessary to protect public health by preventing or reducing the contamination of groundwater that serves as a major source of drinking water for a community

(b) Projects shall be prioritized based upon the following criteria:

(1) The threat posed by groundwater contamination to the affected community’s overall drinking water supplies, including the need for treatment of alternative supplies if groundwater is not available due to contamination.

(2) The potential for groundwater contamination to spread and reduce drinking water supply and water storage for nearby population areas.

(3) The potential of the project, if fully implemented, to enhance local water supply reliability.

(4) The potential of the project to increase opportunities for groundwater recharge and optimization of groundwater supplies.

(c) The department shall give additional consideration to projects that meet any of the following criteria:

(1) The project is implemented pursuant to a comprehensive basinwide groundwater quality management and remediation plan or is necessary to develop a comprehensive groundwater plan.

(2) Affected groundwater provides a local supply that, if contaminated and not remediated, will require import of additional water from outside the region.

(3) The project will serve an economically disadvantaged community or an economically distressed area.

(4) The project addresses contamination at a site where the responsible parties have not been identified, or where the responsible parties are unwilling or unable to pay for cleanup.

(d) Of the amount made available by subdivision (a), not less than one hundred million dollars (\$100,000,000) shall be allocated to projects that benefit disadvantaged communities and economically distressed areas, including technical and grant writing assistance.

(e) Of the amount made available by subdivision (a), up to one hundred million dollars (\$100,000,000) shall be available for projects that meet the requirement of this section and both of the following criteria:

(1) The project is part of a basinwide management and remediation plan for which federal funds have been allocated.

(2) The project addresses contamination at a site on the list maintained by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code or a site listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(f) The Legislature, by statute, shall establish both of the following:

(1) Requirements for repayment of grant funds in the event of cost recovery from parties responsible for the groundwater contamination.

(2) Requirements for recipients of grants to make reasonable efforts to recover costs from parties responsible for groundwater contamination.

79892. Ninety million dollars (\$90,000,000) of the funds provided pursuant to Section 79890 shall be allocated to the State Department of Public Health for grants and expenditures to finance emergency and urgent actions on behalf of disadvantaged communities to ensure that safe drinking water supplies are available to all Californians.

79893. Two hundred million dollars (\$200,000,000) of the funds provided pursuant to Section 79890 shall be allocated to the State Water Resources Control Board for grants for small community wastewater treatment projects to protect water quality that meet all of the following criteria:

(a) The project is for the planning, design, permitting, construction, or improvement of a wastewater treatment facility, sewer system, or related infrastructure necessary to meet water quality standards or prevent contamination of surface water or groundwater resources.

(b) The project will serve a community with a population of 20,000 or less.

(c) The project meets other standards that may be established by the State Water Resources Control Board with respect to the design, construction, financing, and operation of the project.

79894. (a) Three hundred million dollars (\$300,000,000) of the funds provided pursuant to Section 79890 shall be allocated to the State Water Resources Control Board for competitive grants and loans for stormwater management and water quality projects pursuant to this section.

(b) Eligible projects shall assist in compliance with total maximum daily load (TMDL) implementation plans and be consistent with all applicable waste discharge permits.

(c) Eligible projects include facilities and infrastructure to reduce, manage, and treat stormwater runoff, including, but not limited to, all of the following:

- (1) Detention and retention basins.
- (2) Dry weather diversion facilities, trash filters, and screens.
- (3) Treatment wetlands creation and enhancement.
- (4) Stormwater runoff reduction projects, including permeable surface installation, cisterns, and collection and treatment facilities for groundwater recharge.
- (5) Other stormwater management infrastructure for low-impact development.

(d) The board shall require not less than a 50 percent local cost share for grant funds, but may suspend or reduce the matching requirements for disadvantaged communities and economically distressed areas.

(e) The board shall award grants on a competitive basis, considering the following criteria:

(1) Water quality benefits of the project, including the project's ability to reduce impairment of the receiving water body.

(2) Cost effectiveness.

(3) Public health benefits of the project.

(f) Eligible recipients shall include local public agencies and joint powers authorities.

79895. One hundred million dollars (\$100,000,000) of the funds provided pursuant to Section 79890 shall be allocated to the Ocean Protection Fund (Chapter 4 (commencing with Section 35650) of Division 26.5 of the Public Resources Code) and available for the purposes of projects consistent with Section 35650 of the Public Resources Code.

CHAPTER 12. WATER RECYCLING AND ADVANCED TREATMENT TECHNOLOGIES

79900. (a) The sum of five hundred million dollars (\$500,000,000) shall be available, upon appropriation by the Legislature from the fund, for grants and loans for water recycling and advanced treatment technology projects that include all of the following:

- (1) Water recycling projects.
- (2) Contaminant and salt removal projects, including groundwater and seawater desalination.
- (3) Dedicated distribution infrastructure for recycled water, including commercial and industrial end user retrofit projects to allow use of recycled water.
- (4) Pilot projects for new salt contaminant removal technology.
- (5) Groundwater recharge infrastructure related to recycled water.
- (6) Technical assistance and grant writing assistance for disadvantaged communities and economically distressed areas.

(b) Grants or loans shall require not less than a 50 percent cost share, but matching requirements may be suspended or reduced for disadvantaged communities and economically distressed areas. Projects shall be selected on a competitive basis, considering all of the following criteria:

- (1) Water supply reliability improvement.
- (2) Water quality and ecosystem benefits related to decreased reliance on diversions from the Delta or instream flows.
- (3) Public health benefits from improved drinking water quality.
- (4) Cost-effectiveness.
- (5) Energy efficiency and greenhouse gas emission impacts.

(c) Eligible applicants under this chapter are public agencies, public utilities, and mutual water companies. Projects shall be consistent with an adopted integrated regional water management plan. To be eligible for funding under this chapter, a project proposed by a public utility that is regulated by the Public Utilities Commission and

a project proposed by a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the respective water systems.

CHAPTER 13. STATE OF CALIFORNIA WATER USE EFFICIENCY PROGRAM

79910. The sum of twenty million dollars (\$20,000,000) shall be available, upon appropriation by the Legislature from the fund, to state agencies and departments for direct expenditures to fund water savings projects that conserve and use water more efficiently, thus resulting in savings to the taxpayer, reducing energy costs, and using water more efficiently at state buildings, facilities, and grounds.

CHAPTER 14. FISCAL PROVISIONS

79920. Bonds in the total amount of twelve billion three hundred ninety five million dollars (\$12,395,000,000), not including the amount of any refunding bonds issued in accordance with Section 79934, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute valid and binding obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

79921. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, and all of the provisions of that law apply to the bonds and to this division and are hereby incorporated in this division as though set forth in full in this division, except Section 16727 of the Government Code shall not apply to the extent that it is inconsistent with any other provision of this division.

79923. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Safe, Clean, Reliable Drinking Water Supply Finance Committee is hereby created. For purposes of this division, the Safe, Clean, Reliable Drinking Water Supply Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law.

(b) The committee consists of the Director of Finance, the Treasurer, the Controller, the Director of Water Resources, and the Secretary for the Natural Resources Agency. Notwithstanding any other provision of law, any member may designate a deputy to act as that member in his or her place for all purposes, as though the member were personally present.

(c) The Treasurer shall serve as chairperson of the committee.

(d) A majority of the members of the committee shall constitute a quorum of the committee, and may act for the committee.

79924. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

79925. "Board," as defined in Section 16722 of the Government Code for the purposes of compliance with the State General Obligation Bond Law, means the department.

79926. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

79927. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out the provisions of Section 79789, appropriated without regard to fiscal years.

79928. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purpose of carrying out this division. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this division. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated in accordance with this division.

79929. Notwithstanding any other provision of this division, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

79930. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to

be sold for the purpose of carrying out this division. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this division.

79931. All money deposited in the fund that is derived from premiums and accrued interest on bonds sold pursuant to this division shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

79932. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionately by each program funded through this division.

79934. The bonds issued and sold pursuant to this division may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds under this division shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this division or any previously issued refunding bonds.

79935. The proceeds from the sale of bonds authorized by this division are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution,

and the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 3. (a) Notwithstanding the requirements of Sections 9040, 9043, 9044, 9061, and 9082 of the Elections Code or any other provision of law, the Secretary of State shall submit Section 2 of this act to the voters at the November 3, 2010, statewide general election.

(b) Notwithstanding Section 13115 of the Elections Code, Section 1 of this act and any other measure placed on the ballot by the Legislature for the November 3, 2010, statewide general election after the 131-day deadline set forth in Section 9040 of the Elections Code shall be placed on the ballot, following all other ballot measures, in the order in which they qualified as determined by chapter number.

(c) The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the bond act contained in Section 1 of this act. If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding this act to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall be mailed separately.

SEC. 4. (a) (1) Notwithstanding Section 9051 of the Elections Code or any other provision of law, the Attorney General shall provide and return to the Secretary of State a ballot title and summary in 10-point type for all state ballot pamphlets of the November 3, 2010, statewide general election that contains the following title and summary for the bill, adopted by the Legislature at the 2009–10 Regular Session:

“SAFE, CLEAN, RELIABLE DRINKING WATER SUPPLY ACT OF 2010”
and in the same square under those words: “Safeguards supplies of safe, clean drinking water to California homes, farms, and businesses. Expands conservation, cleans up polluted wells, and improves the environment within California’s water sources. Authorizes twelve billion three hundred ninety five million dollars (\$12,395,000,000) in general obligation bonds.”

(2) The language in paragraph (1) shall be the only language included in the title and summary for Section 2 of this act adopted by the Legislature at the 2009–10 Regular Session, and the Attorney General shall not supplement, subtract from, or revise that language.

(3) Notwithstanding any other provision of law, including Sections 9050, 9051, 13247, 13262, and 13281 of the Elections Code, the language in paragraph (1) that specifies the title and summary shall also be the language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the fiscal impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(b) Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the

voting machines and the expression of the voters' choices by means thereof are in compliance with this section.

SEC. 5. Sections 1 and 2 of this act shall take effect only upon the approval by the voters of the Safe, Clean, Reliable Drinking Water Supply Act of 2010, as set forth in that section.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to finance a critical water supply reliability and water source protection program as soon as possible, it is necessary that this act take effect immediately.

OFFICE COPY

Prepared By _____

Approved By _____

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Safe, Clean, Reliable Drinking Water Supply Act of 2010.

Under existing law, various measures have been approved by the voters to provide funds for water protection, facilities, and programs.

This bill would enact the Safe, Clean, Reliable Drinking Water Supply Act of 2010 which, if approved by the voters, would authorize, for the purposes of financing specified water supply reliability and water source protection programs, the issuance of bonds in the amount of \$12,395,000, 000 pursuant to the State General Obligation Bond Law. The bill would provide for the submission of the bond act to the voters at the November 3, 2010 statewide general election.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.