

AMENDED IN SENATE APRIL 18, 2007

**SENATE BILL**

**No. 419**

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**Introduced by Senator Kehoe**  
(Coauthor: Assembly Member Saldana)

February 21, 2007

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An act to amend ~~Section 32631~~ *Sections 32631, 32632, 32633, 32634, 32639, 32645, 32646, and 32661* of the Public Resources Code, relating to the San Diego River Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 419, as amended, Kehoe. San Diego River Conservancy.

Existing law authorizes the San Diego River Conservancy to acquire and manage certain public lands in the San Diego River Area. Existing law states that the San Diego River Parkway Coalition's Policy Committee and Citizen's Advisory Committee are developing a San Diego River Parkway Concept Plan and that it is the intent of the Legislature that the conservancy consider the recommendations in that concept plan when implementing the statutory provisions governing the San Diego River Conservancy.

This bill would revise those provisions to state that the ~~San Diego River Parkway Coalition's Policy Committee and Citizen's Advisory Committee have completed the San Diego River Parkway Concept Plan~~ *conservancy has developed a Five Year Strategic and Infrastructure Plan that is consistent with the San Diego River Parkway Concept Plan and that it is the intent of the Legislature that the conservancy pursue the implementation of the Five Year Strategic and Infrastructure Plan.*

*The bill would revise the description of the San Diego River Area to include tributaries of the San Diego River and historic flumes emanation from the river, as well as certain other properties within the river's*

watershed. The bill would also increase the membership of the conservancy from 9 to 10 voting members, by adding one member of the Board of Supervisors of the County of San Diego, whose district includes the preponderance of the San Diego River watershed.

The bill would provide that the conservancy has no authority to levy a tax, regulate land use, or exercise the power of eminent domain. The bill would repeal language providing that an authorization to the conservancy to award grants would not become operative until the Legislature appropriates the necessary funds or until a bond act approved by the voters of the state includes an allocation for those purposes.

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

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

1 SECTION 1. Section 32631 of the Public Resources Code is  
 2 amended to read:  
 3 32631. (a) The San Diego River is a natural, historic, and  
 4 recreational resource in the heart of San Diego. From its headwaters  
 5 near the town of Julian in east San Diego County, it runs 52 miles  
 6 through Mission Valley *and the first settlement in California at*  
 7 *Old Town San Diego* before it empties into the Pacific at Ocean  
 8 Beach. The river has been subjected to intense development in  
 9 some parts; it runs through one of San Diego’s most populated  
 10 neighborhoods and is in need of restoration, conservation, and  
 11 enhancement all along its length. The area presents excellent  
 12 opportunities for recreation, scientific research, *historic*  
 13 *preservation of the first aqueduct in the United States*, and  
 14 educational and cultural activities, of value to California and the  
 15 nation. *Reestablishing the cultural and historic connections*  
 16 *between the San Diego River, Old Town San Diego State Historic*  
 17 *Park, the Military Presidio, and the Kumeyaay Nation will provide*  
 18 *the public with the opportunity to appreciate the state’s historic*  
 19 *beginnings.*  
 20 (b) Given the opportunities available, the state recognizes the  
 21 importance of holding this land in trust to be preserved and  
 22 enhanced for the enjoyment of present and future generations.  
 23 ~~(c) The San Diego River Parkway Coalition’s Policy Committee~~  
 24 ~~and Citizen’s Advisory Committee, representing diverse state and~~

1 local interests, have developed a San Diego River Parkway Concept  
2 Plan that, in concept, outlines and provides a structural framework  
3 for ideas for establishing a San Diego River Parkway Master Plan.  
4 It is the intent of the Legislature that the San Diego River  
5 Conservancy consider the recommendations in that concept plan  
6 when implementing the provisions of this division.

7 (c) *The San Diego River Conservancy has developed a Five*  
8 *Year Strategic and Infrastructure Plan which has been endorsed*  
9 *by its board of directors, as well as by the San Diego River*  
10 *Parkway Coalition, representing diverse state and local interests.*  
11 *The strategic plan is consistent with the San Diego River Parkway*  
12 *Concept Plan and outlines and establishes four programmatic*  
13 *areas: land conservation; recreation and education; natural and*  
14 *cultural resources preservation and restoration; and, water quality*  
15 *and natural flood conveyance. It is the intent of the Legislature*  
16 *that the San Diego River Conservancy pursue the implementation*  
17 *of the Five Year Strategic and Infrastructure Plan when complying*  
18 *with the provisions of this division.*

19 SEC. 2. Section 32632 of the Public Resources Code is  
20 amended to read:

21 32632. For the purposes of this division, the following terms  
22 have the following meanings:

23 (a) “Conservancy” means the San Diego River Conservancy  
24 established by this division.

25 (b) “Fund” means the San Diego River Conservancy Fund  
26 established pursuant to Section 32657.

27 (c) “Governing board” means the governing board of the  
28 conservancy.

29 (d) “Local public agency” means a city, county, district, or joint  
30 powers agency.

31 (e) “Nonprofit organization” means a private, nonprofit  
32 organization that qualifies for exempt status under Section  
33 501(c)(3) of the Internal Revenue Code, as amended, and that has  
34 among its principal charitable purposes the preservation of land  
35 for scientific, historic, educational, recreational, scenic, or  
36 open-space opportunities, the protection of the natural environment,  
37 or preservation or enhancement of wildlife.

38 (f) “San Diego River Area” or “area” means those lands or other  
39 areas that are donated to, or otherwise acquired by, or operated  
40 by, the conservancy, which are located within one-half mile on

1 either side of the thread of the river *and its tributaries including*  
2 *the historic flumes emanating from the river*, from its headwaters  
3 near Julian to the Pacific Ocean at Dog Beach in San Diego, *and*  
4 *other properties within the watershed of the San Diego River that*  
5 *meet the intent of this division as approved on a case-by-case basis*  
6 *by a two-thirds majority vote of the governing board.*

7 SEC. 3. Section 32633 of the Public Resources Code is  
8 amended to read:

9 32633. There is in the Resources Agency, the San Diego River  
10 Conservancy, which is created for the following purposes:

11 (a) To acquire and manage public lands within the San Diego  
12 River Area, and to provide recreational opportunities, open space,  
13 wildlife habitat and species restoration and protection, wetland  
14 protection and restoration, and protection~~and~~, maintenance *and*  
15 *improvements* of the quality of the waters in the San Diego River  
16 *and its watershed, its tributaries and historic flumes emanating*  
17 *from the river* for all beneficial uses, lands for educational uses  
18 within the area, and natural floodwater conveyance.

19 (b) To provide for the public's enjoyment, and to enhance the  
20 recreational and educational experience *and historic interpretation*  
21 on public lands in the territory in a manner consistent with the  
22 protection of land and natural resources, as well as economic  
23 resources, in the area.

24 SEC. 4. Section 32634 of the Public Resources Code is  
25 amended to read:

26 32634. (a) The governing board of the conservancy shall  
27 consist of ~~nine~~ 10 voting members and two nonvoting members.

28 (b) The voting members of the board shall consist of the  
29 following:

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

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

33 (3) Five members of the public at large, three of whom shall be  
34 appointed by the Governor, one of whom shall be appointed by  
35 the Senate Committee on Rules, and one of whom shall be  
36 appointed by the Speaker of the Assembly.

37 (4) The Mayor of San Diego.

38 (5) One member of the City Council of San Diego, elected by  
39 a majority of the membership of the council.

1 (6) *One member of the Board of Supervisors of the County of*  
2 *San Diego, whose district includes the preponderance of the San*  
3 *Diego River watershed.*

4 (c) The two nonvoting members shall consist of the following:

5 (1) The Executive Director of the Wildlife Conservation Board,  
6 or his or her designee.

7 (2) A representative selected by the San Diego Regional Water  
8 Quality Control Board.

9 (d) Two of the three initial appointments by the Governor  
10 pursuant to paragraph (3) of subdivision (b) shall be for three-year  
11 terms and the third appointment shall be for a two-year term. All  
12 subsequent appointments shall be for four-year terms.

13 (e) No person shall continue as a member of the governing board  
14 if that person ceases to hold the office that qualifies that person  
15 for membership. Upon the occurrence of those events, the person's  
16 membership on the governing board shall automatically terminate.

17 *SEC. 5. Section 32639 of the Public Resources Code is*  
18 *amended to read:*

19 32639. The conservancy shall establish and maintain an office  
20 within the area. The conservancy may rent or own real and personal  
21 property and equipment pursuant to applicable statutes and  
22 regulations. *The conservancy may not levy a tax or regulate land*  
23 *use.*

24 *SEC. 6. Section 32645 of the Public Resources Code is*  
25 *amended to read:*

26 32645. The conservancy may take any of the following actions  
27 for the purposes of this division:

28 (a) Select and acquire real property or interests in real property  
29 in the name of the state pursuant to the Property Acquisition Law  
30 (Part 11 (commencing with Section 15850) of Division 3 of Title  
31 2 of the Government Code).

32 (b) Acquire interests in land by various means, including, but  
33 not limited to, land exchanges, easements, development rights, life  
34 estates, leases, and leaseback agreements.

35 (c) Accept and hold real property or an interest in real property  
36 that is acquired through gift, exchange, donation, or dedication.

37 (d) *Local public agencies shall retain exclusive authority over*  
38 *all zoning or land use regulations within their jurisdiction.*

39 *SEC. 7. Section 32646 of the Public Resources Code is*  
40 *amended to read:*

1 32646. Notwithstanding any other provision of law, the  
2 conservancy has the first right of refusal to acquire any public  
3 lands that are suitable for park and open space within the  
4 conservancy’s jurisdiction when those lands become available.

5 *The conservancy may not exercise the power of eminent domain.*

6 SEC. 8. *Section 32661 of the Public Resources Code is*  
7 *amended to read:*

8 ~~32661. (a) Notwithstanding any other provision of this~~  
9 ~~division, Sections 32635, 32639, 32641, 32643, 32645, 32646,~~  
10 ~~32647, 32648, 32649, 32650, 32651, 32654, 32655, 32656, and~~  
11 ~~32658 shall not become operative until the Legislature appropriates~~  
12 ~~funds necessary to implement this division, or until a bond act~~  
13 ~~approved by the voters of this state includes an allocation of funds~~  
14 ~~for the purposes of this division.~~

15 (b)

16 32661. This division shall remain in effect only until January  
17 1, 2010, and as of that date is repealed, unless a later enacted  
18 statute, that is enacted before January 1, 2010, deletes or extends  
19 that date.