

**ASSEMBLY BILL**

**No. 71**

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**Introduced by Assembly Member V. Manuel Pérez**

January 10, 2013

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An act to add Article 2 (commencing with Section 2940) to Chapter 13 of Division 3 of the Fish and Game Code, relating to the Salton Sea.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as introduced, V. Manuel Pérez. Salton Sea restoration.

(1) Existing law, until January 1, 2013, established the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.

This bill would require the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill would require the secretary, in consultation and coordination with the authority, to form a technical advisory group, as prescribed, to provide guidance about evaluating, developing, or proposing future restoration or economic development activities. This bill would also require the secretary to seek input from the authority with regard to specified components of restoration of the Salton Sea. By imposing duties on a local joint powers authority, the bill would impose a state-mandated local program.

(2) Existing law establishes the Salton Sea Restoration Fund and requires the fund to be administered by the Director of Fish and Wildlife. Existing law requires the money deposited in the fund to be expended, upon appropriation by the Legislature, for various purposes relating to the restoration of the Salton Sea.

This bill would authorize the authority to lead a restoration funding and feasibility study, in consultation with the agency and the technical

advisory group, as prescribed. If the authority undertakes the study, this bill would require the Department of Fish and Wildlife to enter into a funding agreement for an amount of up to \$2,000,000 from the Salton Sea Restoration Fund for the purposes of this study.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Article 2 (commencing with Section 2940) is  
2 added to Chapter 13 of Division 3 of the Fish and Game Code, to  
3 read:

4  
5 Article 2. Salton Sea Restoration

6  
7 2940. The Legislature finds and declares all of the following:

8 (a) The Salton Sea is California’s largest inland water body with  
9 beneficial uses that include fisheries and wildlife habitat and  
10 preservation of endangered species, and is a repository for  
11 agricultural drainage.

12 (b) The Salton Sea ecosystem is a critical link on the  
13 international Pacific Flyway and supports over 400 species of  
14 birds.

15 (c) The Salton Sea is threatened by increasing salinity and  
16 reduced inflows. These changes increasingly threaten the  
17 unparalleled wildlife resources at the sea, as well as air quality in  
18 the region.

19 (d) In cooperation with local governments, nonprofit  
20 organizations, private businesses, and the public, the Salton Sea  
21 Authority can help protect wildlife habitats and endangered species,  
22 improve water and air quality, and enhance recreational  
23 opportunities in the region.

24 (e) In restoring the Salton Sea, it is the intent of the Legislature  
25 to do all of the following:

- 1 (1) Permanently protect fish and wildlife that are dependent on  
2 the Salton Sea ecosystem.
  - 3 (2) Restore the long-term stable aquatic and shoreline habitat  
4 for fish and wildlife that depend on the Salton Sea.
  - 5 (3) Eliminate air quality impacts from restoration projects using  
6 the best available technology, as determined by the South Coast  
7 Air Quality Management District and the Imperial County Air  
8 Pollution Control District.
  - 9 (4) Protect water quality.
  - 10 (5) Maintain the Salton Sea as a vital link along the Pacific  
11 Flyway.
  - 12 (6) Preserve local tribal heritage and cultural values associated  
13 with the Salton Sea.
  - 14 (7) Minimize noxious odors and other water and air quality  
15 problems.
  - 16 (8) Coordinate with state and federal agencies that are  
17 responsible for air quality, endangered species, and other  
18 environmental mitigation implementation requirements of the  
19 Quantification Settlement Agreement.
  - 20 (9) Enhance economic development opportunities that will  
21 provide sustainable financial improvements benefiting the local  
22 environment and the economic quality of life for communities  
23 around the Salton Sea.
- 24 2941. Unless the context requires otherwise, the definitions  
25 set forth in this section govern the construction of this article.
- 26 (a) “Agency” means the Natural Resources Agency.
  - 27 (b) “Habitat mosaics” means two or more proximate habitat  
28 types, such as saltwater shoreline abutting riverine deltas and  
29 irrigated farmland.
  - 30 (c) “Quantification Settlement Agreement” has the same  
31 meaning as defined in subdivision (a) of Section 1 of Chapter 617  
32 of the Statutes of 2002.
  - 33 (d) “Salton Sea Authority” or “authority” means the joint powers  
34 authority comprised of the County of Imperial, the County of  
35 Riverside, the Imperial Irrigation District, the Coachella Valley  
36 Water District, and the Torres Martinez Desert Cahuilla Indian  
37 Tribe.
  - 38 (e) “Secretary” means the Secretary of the Natural Resources  
39 Agency.

1 (f) “Technical advisory group” means the technical advisory  
2 group formed pursuant to subdivision (b) of Section 2942.

3 (g) “Vector management” means services that eliminate or  
4 reduce the risk of illness caused by any organism transporting a  
5 pathogen.

6 2942. (a) (1) The secretary, in consultation and coordination  
7 with the authority, shall lead the Salton Sea restoration efforts that  
8 shall include all of the following:

9 (A) Early start habitat demonstration projects.

10 (B) Biological investigations relating to the restoration of the  
11 Salton Sea.

12 (C) Investigations of water quality, sedimentation, and inflows  
13 relating to the restoration of the Salton Sea.

14 (D) Air quality investigations relating to the restoration of the  
15 Salton Sea.

16 (E) Geotechnical investigations relating to the restoration of the  
17 Salton Sea.

18 (F) Financial assistance grant programs to support restoration  
19 activities of local stakeholders.

20 (2) The secretary and the Legislature shall maintain full authority  
21 and responsibility for any state obligation under the Quantification  
22 Settlement Agreement. The secretary and the Legislature shall  
23 have final approval for any proposed restoration plan.

24 (3) (A) To the extent that funding is appropriated to the  
25 department for Salton Sea restoration activities, the Department  
26 of Water Resources, in coordination and under agreement with the  
27 department, may undertake restoration efforts identified in this  
28 subdivision.

29 (B) The department and the Department of Water Resources  
30 shall do all of the following for the Salton Sea Species  
31 Conservation Habitat Project:

32 (I) Immediately make available relevant information relating  
33 to the factors that influence the cost and size of the alternatives  
34 discussed in the environmental impact report or environmental  
35 impact statement for the species habitat conservation program.

36 (ii) Release all available detail on a final project design  
37 immediately, or upon final determination of a least environmentally  
38 damaging preferred alternative by the United States Army Corps  
39 of Engineers. Details of a final project design shall include location,  
40 configuration, size, and cost.

- 1 (iii) Immediately make available project evaluation protocols  
2 that include the following principles of adaptive management:  
3 (I) Goals and objectives of the project.  
4 (II) The project design and an operations plan.  
5 (III) A monitoring plan that will include metrics that identify  
6 benefits to the species.  
7 (IV) A performance evaluation based on species population  
8 identified through monitoring.  
9 (V) A decisionmaking framework to evaluate project  
10 performance and guide operations and management changes.  
11 (b) (1) The secretary, in consultation and coordination with the  
12 authority, shall form a technical advisory group composed pursuant  
13 to paragraph (2) to provide guidance to the secretary and the  
14 authority in evaluating, developing, or proposing future restoration  
15 of or economic development activities restoring the, Salton Sea.  
16 (2) The technical advisory group shall be composed as follows:  
17 (A) The secretary, or his or her designee.  
18 (B) The secretary may include a representative from any of the  
19 following:  
20 (I) The department.  
21 (ii) The Department of Water Resources.  
22 (iii) The State Air Resources Board.  
23 (iv) The State Energy Resources Conservation and Development  
24 Commission.  
25 (C) The secretary shall invite the following entities to  
26 participate:  
27 (I) Local government agencies and tribal governments with  
28 geographic, economic, environmental health, or cultural interest  
29 in the Salton Sea.  
30 (ii) Nongovernmental organizations with environmental interests  
31 relating to the Salton Sea.  
32 (iii) The United States Geological Survey Salton Sea Science  
33 Office.  
34 (iv) Research institutions focused on research and development  
35 projects in the Salton Sea region.  
36 (c) (1) The authority may lead a restoration funding and  
37 feasibility study, in consultation with the agency and the technical  
38 advisory group, to do the following:  
39 (A) Investigate access and utility agreements that may contribute  
40 to the future funding of restoration activities at the Salton Sea.

1 (B) Analyze all feasible funding sources for restoration program  
2 components and activities.

3 (C) Analyze economic development opportunities, including,  
4 but not limited to, renewable energy, biofuels, mineral  
5 development, and algae production for the purposes of identifying  
6 new revenue sources for the Salton Sea restoration efforts.

7 (D) Identify state procurement and royalty sharing opportunities.

8 (E) Review existing long-term plans for restoration of the Salton  
9 Sea and recommend to the technical advisory group and the  
10 secretary changes to existing restoration plans. In any review  
11 pursuant to this subparagraph, the authority shall consider the  
12 impacts of the restoration plan on air quality, fish and wildlife  
13 habitat, water quality, and the technical and financial feasibility  
14 of the restoration plan and shall consider the impacts on other  
15 agencies responsible for air quality, endangered species, and other  
16 environmental mitigation requirements for implementation of the  
17 Quantification Settlement Agreement.

18 (2) No evaluation, study, review, or other activity pursuant to  
19 this article shall delay the planning and implementation of ongoing  
20 and planned mitigation projects, including, but not limited to, the  
21 Salton Sea Species Conservation Habitat Project or other mitigation  
22 measures pursuant to existing state and federal programs and  
23 agreements, including, but not limited to, those programs and  
24 agreements undertaken pursuant to the Quantification Settlement  
25 Agreement.

26 (3) (A) If the authority undertakes a study pursuant to paragraph  
27 (1), the department shall enter into a funding agreement with the  
28 authority for an amount of up to two million dollars (\$2,000,000)  
29 from the Salton Sea Restoration Fund for the purposes of producing  
30 the restoration funding and feasibility review study. Provided that  
31 funding is available to the authority on or before July 1, 2014, the  
32 authority shall complete the study undertaken pursuant to this  
33 subdivision and present the study to the Governor and the  
34 Legislature on or before June 30, 2015.

35 (B) A report required to be submitted pursuant to this paragraph  
36 shall be submitted in compliance with Section 9795 of the  
37 Government Code.

38 2943. For the purposes of considering local, publicly derived  
39 input concerning habitat objectives and actions, types and levels  
40 of public access, and integration of air quality management and

1 habitat restoration, the secretary shall seek input from the authority  
2 with regard to the following components of restoration of the Salton  
3 Sea:

4 (a) Design opportunities and constraints, including the  
5 integration of the habitat, public access, and air quality  
6 management objectives.

7 (b) Public access and recreational components.

8 (c) Opportunities for economic development.

9 (d) Habitat mosaics and location.

10 (e) Vector management and predator control.

11 (f) Feasible financial resources to fund all recommended  
12 restoration program components.

13 2945. (a) Nothing in this article interferes with or prevents the  
14 exercise of authority by a public agency to carry out its programs,  
15 projects, or responsibilities.

16 (b) Nothing in this article affects requirements imposed under  
17 any other provision of law.

18 SEC. 2. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district are the result of a program for which legislative authority  
22 was requested by that local agency or school district, within the  
23 meaning of Section 17556 of the Government Code and Section  
24 6 of Article XIII B of the California Constitution.