

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 147

Introduced by Assembly Member V. Manuel Pérez
(Principal coauthor: Senator Hueso)

January 18, 2013

An act to amend Section 2932 of the Fish and Game Code, and to add Chapter 6 (commencing with Section 42750) to Part 4 of Division 26 of the Health and Safety Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as amended, V. Manuel Pérez. Environment: Salton Sea: dust mitigation.

~~Existing law establishes the Salton Sea Restoration Fund that is administered by the Director of Fish and Game and, upon appropriation by the Legislature, used for the restoration of the Salton Sea.~~

Existing law implements the Quantification Settlement Agreement (QSA), which was entered into by various parties to budget their portions of California's apportionment of Colorado River water and to provide a framework for conservation measures and water transfers for a period of up to 75 years. Existing law provides for a framework to mitigate the environmental impacts on the Salton Sea caused by the QSA water transfer. Existing law authorizes the Department of Fish and Wildlife to enter into a joint powers agreement with specified local agencies to establish a joint powers authority for the purposes of providing for the payment of costs for environmental mitigation requirements.

This bill would require the State Air Resources Board, upon the execution of an agreement with the joint powers authority, to evaluate and determine with the air quality planning completed by the authority is sufficient to mitigate the air quality impacts of the QSA. In the event that the state board concludes that additional mitigation measures are needed, the bill would require the state board to submit recommendation to the authority. ~~The bill would authorize moneys in the fund, upon appropriation by the Legislature, to be expended by the state board for the above purposes.~~

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The Salton Sea is California’s largest lake, covering
- 4 *approximately* 365 square miles, and it serves as an important stop
- 5 on the annual Pacific Flyway migratory route, supporting over 400
- 6 species of birds and representing over two-thirds of all birds in the
- 7 continental United States.
- 8 (2) The Salton Sea is located in the Imperial Valley and
- 9 Coachella Valley of southern California and rests in close
- 10 proximity to thousands of residents.
- 11 (3) In 2003, the Legislature enacted statutes (Chapters 611, 612,
- 12 and 613 of the Statutes of 2003) to facilitate the execution and
- 13 implementation of the Quantification Settlement Agreement (QSA)
- 14 and related agreements, including a transfer of conserved water
- 15 from the Imperial Irrigation District to the San Diego Water
- 16 Authority. As part of those statutes, the Legislature declared its
- 17 intent that the State of California undertake the restoration of the
- 18 Salton Sea ecosystem and the permanent protection of wildlife
- 19 dependent on the ecosystem.
- 20 (4) Implementation of the water transfer from the Imperial
- 21 Irrigation District to the San Diego Water Authority will reduce
- 22 agricultural drainage inflow to the Salton Sea, reducing the sea’s
- 23 depth and result in the exposure of currently submerged sea
- 24 lakebed.
- 25 (5) The exposure of previously submerged sea lakebed has the
- 26 potential to significantly increase fugitive dust emissions for

1 particulate matter of 10 or less microns in diameter (PM10) as
2 winds blow across exposed lakebed eroded fine-grained sediments
3 and salts, lofting them into the air.

4 ~~(6) At Owens Lake, a lake drained by the Los Angeles~~
5 ~~Department of Water and Power, the cost of mitigation fugitive~~
6 ~~dust emissions arising from the exposed lakebed has reached~~
7 ~~\$1,200,000,000.~~

8 *(6) Experience mitigating particulate matter emissions at other*
9 *exposed lakebeds has proved to be costly and has demonstrated*
10 *the need to have a proactive approach to mitigation that stresses*
11 *control measures over monitoring activities and includes a strong*
12 *adaptive management platform.*

13 (7) As part of the Quantification Settlement Agreement, the
14 state entered into a Joint Powers Agreement (QSA-JPA) for
15 purposes of financing the mitigation of the environmental impacts
16 resulting from the QSA. The parties of the QSA-JPA include the
17 State of California acting by and through the Department of Fish
18 and Wildlife, the Coachella Valley Water District, the Imperial
19 Irrigation District, and the San Diego County Water Authority.

20 (8) Under the QSA-JPA, the nonstate member agencies are
21 liable for the cost of mitigating the environmental impacts of the
22 QSA up to the first \$133 million. The QSA-JPA nonstate member
23 agencies have spent a considerable amount of time and resources
24 developing plans to meet this obligation.

25 (9) Under Section 9.2 of the QSA-JPA, the state agreed to “an
26 unconditional contractual obligation” to pay for the cost of
27 mitigating the environmental impact of the QSA above the first
28 \$133 million in costs.

29 (b) It is the intent of the Legislature, in enacting this measure,
30 to have the State Air Resources Board evaluate the air quality
31 ~~planning completed~~ *mitigation developed* by the Joint Powers
32 Authority established by QSA-JPA ~~to determine if it is sufficient~~
33 ~~to mitigate the air quality impacts of the QSA and ensure that when~~
34 ~~the state assumes liability over mitigating the environmental~~
35 ~~impacts of the QSA that the air quality mitigation work completed~~
36 ~~by the authority continue uninterrupted.~~

37 ~~SEC. 2.—~~ Section 2932 of the Fish and Game Code is amended
38 to read:

39 ~~2932.—~~ There is hereby established the ~~Salton Sea Restoration~~
40 ~~Fund~~ which shall be administered by the director. Money deposited

1 in the fund shall be expended, upon appropriation by the
2 Legislature, for the following purposes:

3 (a) Environmental and engineering studies related to the
4 restoration of the Salton Sea and the protection of fish and wildlife
5 dependent on the sea.

6 (b) ~~(1) Air quality evaluations conducted by the State Air
7 Resources Board for purposes of providing the joint powers
8 authority established pursuant to Chapter 613 of the Statutes of
9 2003 with guidance on how to appropriately mitigate the air quality
10 impacts resulting from the Quantification Settlement Agreement.~~

11 ~~(2) For the purposes of this subdivision, “Quantification
12 Settlement Agreement” has the same meaning as defined in
13 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.~~

14 (c) ~~Implementation of conservation measures necessary to
15 protect the fish and wildlife species dependent on the Salton Sea,
16 including adaptive management measurements pursuant to Section
17 2081.7. These conservation measures shall be limited to the Salton
18 Sea and lower Colorado River ecosystems, including the Colorado
19 River Delta.~~

20 (d) ~~Implementation of the preferred Salton Sea restoration
21 alternative.~~

22 (e) ~~Administrative, technical, and public outreach costs related
23 to the development and selection of the preferred Salton Sea
24 restoration alternative.~~

25 ~~SEC. 3.~~

26 ~~SEC. 2. Chapter 6 (commencing with Section 42750) is added
27 to Part 4 of Division 26 of the Health and Safety Code, to read:~~

28

29

CHAPTER 6. SALTON SEA DUST MITIGATION

30

31 42750. Unless the context requires otherwise, as used in this
32 chapter, the following terms mean the following:

33 (a) “Air districts” means the Imperial County Air Pollution
34 Control District and South Coast Air Quality Management District.

35 (b) “Authority” means the *water transfer* joint powers authority
36 established pursuant to an agreement entered into pursuant to
37 Chapter 613 of the Statutes of 2003.

38 (c) “County” means either of the following:

39 (1) The County of Riverside.

40 (2) The County of Imperial.

1 (d) “Quantification Settlement Agreement” has the same
2 meaning as defined in subdivision (a) of Section 1 of Chapter 617
3 of the Statutes of 2002.

4 (e) “Valley” means either of the following:

5 (1) The Imperial Valley.

6 (2) The Coachella Valley.

7 42751. (a) Upon the execution of an agreement between the
8 state board and the authority for purposes of compiling the air
9 quality mitigation planning completed by the authority, the state
10 board shall evaluate and determine if the air quality planning
11 completed by the authority is sufficient to mitigate the air quality
12 impacts of the Quantification Settlement Agreement.

13 ~~(b) In determining if the authority’s air quality planning is~~
14 ~~adequate to mitigate the air quality impacts of the Quantification~~
15 ~~Settlement Agreement, the state board shall evaluate all of the~~
16 ~~following:~~

17 ~~(1) The quantified current and projected exposed sea lake bed~~
18 ~~arising from the Quantification Settlement Agreement.~~

19 ~~(2) The quantified current and projected exposed sea lake bed~~
20 ~~arising from factors other than the Quantification Settlement~~
21 ~~Agreement.~~

22 ~~(3) The profiled Salton Sea lake bed aerosols, given chemicals~~
23 ~~that have historically drained into the sea from both agricultural~~
24 ~~runoff and water coming from Mexico over the New River,~~
25 ~~including Dichlorodiphenyltrichloroethane or “DDT.”~~

26 ~~(4) The prioritization of mitigation measures that can be~~
27 ~~instituted at the sea to enable both valleys to meet National~~
28 ~~Ambient Air Quality Standards for particulate matter, including~~
29 ~~the applicability of measures used to mitigate ambient dust~~
30 ~~pollution at Owens Lake.~~

31 ~~(e) (1)~~

32 ~~(b) To the extent the state board concludes additional mitigation~~
33 ~~planning needs to take place to mitigate the air quality impacts of~~
34 ~~the Quantification Settlement Agreement, the state board shall~~
35 ~~submit recommendations to the authority.~~

36 ~~(2) To the extent the state board recommends to the authority~~
37 ~~additional planning work that needs to be completed pursuant to~~
38 ~~paragraph (1), the state board shall make recommendations in a~~
39 ~~manner to minimize costs on the authority, including both of the~~
40 ~~following:~~

- 1 ~~(A) The appropriate agencies or departments with whom the~~
- 2 ~~authority may work, including the air districts for purposes of~~
- 3 ~~accessing work the air districts have already completed as part of~~
- 4 ~~their state implementation plan planning activities.~~
- 5 ~~(B) The appropriate number, model, and placement of air quality~~
- 6 ~~monitors in the Salton Sea basin to ensure aerosols arising from~~
- 7 ~~the sea are properly monitored.~~
- 8 ~~(d)~~
- 9 ~~(c) This section does not modify existing roles, responsibilities,~~
- 10 ~~or liabilities of the State of California, the County of Imperial, the~~
- 11 ~~County of Riverside, or any other governmental agency, under the~~
- 12 ~~Quantification Settlement Agreement.~~
- 13 ~~(e) Moneys in the Salton Sea Restoration Fund shall, upon~~
- 14 ~~appropriation by the Legislature, be expended by the state board~~
- 15 ~~for purposes of this chapter.~~