

ASSEMBLY BILL

No. 2463

Introduced by Assembly Member Dickinson

February 21, 2014

An act to amend Section 85320 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 2463, as introduced, Dickinson. Delta plan: Bay Delta Conservation Plan: hearings.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, known as the Delta Plan, by January 1, 2012. Existing law requires the council to consider for inclusion in the Delta Plan the Bay Delta Conservation Plan, a multispecies conservation plan, and requires the incorporation of the Bay Delta Conservation Plan into the Delta Plan if the Bay Delta Conservation Plan meets certain requirements. Under existing law, if the Department of Fish and Wildlife approves the Bay Delta Conservation Plan as a natural community conservation plan, the council is required to have at least one public hearing concerning the incorporation of the Bay Delta Conservation Plan into the Delta Plan.

This bill would require the council to have at least 5 public hearings concerning the incorporation of the Bay Delta Conservation Plan into the Delta Plan if the Department of Fish and Wildlife approves the Bay Delta Conservation Plan as a natural community conservation plan.

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. Section 85320 of the Water Code is amended to
 2 read:

3 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be
 4 considered for inclusion in the Delta Plan in accordance with this
 5 chapter.

6 (b) The BDCP shall not be incorporated into the Delta Plan and
 7 the public benefits associated with the BDCP shall not be eligible
 8 for state funding, unless the BDCP does all of the following:

9 (1) Complies with Chapter 10 (commencing with Section 2800)
 10 of Division 3 of the Fish and Game Code.

11 (2) Complies with Division 13 (commencing with Section
 12 21000) of the Public Resources Code, including a comprehensive
 13 review and analysis of all of the following:

14 (A) A reasonable range of flow criteria, rates of diversion, and
 15 other operational criteria required to satisfy the criteria for approval
 16 of a natural community conservation plan as provided in
 17 subdivision (a) of Section 2820 of the Fish and Game Code, and
 18 other operational requirements and flows necessary for recovering
 19 the Delta ecosystem and restoring fisheries under a reasonable
 20 range of hydrologic conditions, which will identify the remaining
 21 water available for export and other beneficial uses.

22 (B) A reasonable range of Delta conveyance alternatives,
 23 including through-Delta, dual conveyance, and isolated conveyance
 24 alternatives and including further capacity and design options of
 25 a lined canal, an unlined canal, and pipelines.

26 (C) The potential effects of climate change, possible sea level
 27 rise up to 55 inches, and possible changes in total precipitation
 28 and runoff patterns on the conveyance alternatives and habitat
 29 restoration activities considered in the environmental impact report.

30 (D) The potential effects on migratory fish and aquatic resources.

31 (E) The potential effects on Sacramento River and San Joaquin
 32 River flood management.

33 (F) The resilience and recovery of Delta conveyance alternatives
 34 in the event of catastrophic loss caused by earthquake or flood or
 35 other natural disaster.

36 (G) The potential effects of each Delta conveyance alternative
 37 on Delta water quality.

1 (c) The department shall consult with the council and the Delta
2 Independent Science Board during the development of the BDCP.
3 The council shall be a responsible agency in the development of
4 the environmental impact report. The Delta Independent Science
5 Board shall review the draft environmental impact report and
6 submit its comments to the council and the Department of Fish
7 and ~~Game~~ *Wildlife*.

8 (d) If the Department of Fish and ~~Game~~ *Wildlife* approves the
9 BDCP as a natural community conservation plan pursuant to
10 Chapter 10 (commencing with Section 2800) of Division 3 of the
11 Fish and Game Code, the council shall have at least ~~one~~ *five* public
12 ~~hearing~~ *hearings* concerning the incorporation of the BDCP into
13 the Delta Plan.

14 (e) If the Department of Fish and ~~Game~~ *Wildlife* approves the
15 BDCP as a natural community conservation plan pursuant to
16 Chapter 10 (commencing with Section 2800) of Division 3 of the
17 Fish and Game Code and determines that the BDCP meets the
18 requirements of this section, and the BDCP has been approved as
19 a habitat conservation plan pursuant to the federal Endangered
20 Species Act (16 U.S.C. Section 1531 et seq.), the council shall
21 incorporate the BDCP into the Delta Plan. The Department of Fish
22 and ~~Game's~~ *Wildlife's* determination that the BDCP has met the
23 requirements of this section may be appealed to the council.

24 (f) The department, in coordination with the Department of Fish
25 and ~~Game~~ *Wildlife*, or any successor agencies charged with BDCP
26 implementation, shall report to the council on the implementation
27 of the BDCP at least once a year, including the status of monitoring
28 programs and adaptive management.

29 (g) The council may make recommendations to BDCP
30 implementing agencies regarding the implementation of the BDCP.
31 BDCP implementing agencies shall consult with the council on
32 these recommendations. These recommendations shall not change
33 the terms and conditions of the permits issued by state and federal
34 regulatory agencies.