

EQUINOX CENTER

THE 2009 CALIFORNIA COMPREHENSIVE WATER PACKAGE

EQUINOX CENTER EXPANDED SUMMARY

On November 4, 2009 the California State Legislature passed a wide-ranging water package, Legislative Bills SBX7, aimed primarily at addressing the state's aging water infrastructure, future water supply issues throughout California, and the environmental plight of the Sacramento-San Joaquin Bay Delta. The package includes an \$11.14-billion bond proposal to fund the project. The bond will go before voters in November 2010.

The bill package is intended to improve planning in the Bay-Delta area and to set up mechanisms by which future decisions about water supply and allocation can be balanced with ecological concerns. In addition, the legislation includes measures that aim to improve groundwater monitoring and record keeping on water diversion activities, promote water conservation, and require more efficient use of water in the urban and agricultural sectors.

The 2009 Comprehensive Water Package consists of a 5-bill package:

1. Senate Bill 1 (**SBX7 1**): Delta Governance and Management.
2. Senate Bill 2 (**SBX7 2**): Water Bond Measure.
3. Senate Bill 6 (**SBX7 6**): Groundwater Monitoring.
4. Senate Bill 7 (**SBX7 7**): Water Conservancy.
5. Senate Bill 8 (**SBX7 8**): Water Rights Enforcement.

1. Senate Bill 1: Delta Governance and Management

The San Francisco Bay-Sacramento-San Joaquin River Delta's (Delta) capacity to serve California is threatened by a variety of factors, including unaccounted for water diversions, pollution, urbanization, flood and seismic risks, and invasive species. The water that is found in, and delivered through, the Delta is the source of drinking water for 25 million Californians, fuels a \$37 billion dollar agricultural industry, and serves as an important habitat for over 750 plant and animal species.

SB 1 establishes a framework that is intended to achieve the dual goals of providing a more reliable water supply to California and restoring and enhancing the Delta ecosystem, while protecting the unique cultural, recreational, natural resource, and agricultural values of the Delta. Essentially, this bill provides for changes to Delta governance in an effort to respond to the Sacramento-San Joaquin Delta's water infrastructure and watershed crisis.

Existing law required several state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) created the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta (Delta). SB 1 reconstitutes and redefines the role of the current Delta Protection Commission (DPC) by narrowing membership from 23 to 15 members to focus on local representation and more specific duties. It expands the DPC's role in economic sustainability and advising the Delta Council. These duties include adopting an economic sustainability plan for the Delta, which is to include flood

protection recommendations to state and local agencies, and submitting the economic sustainability plan to the Delta Stewardship Council for inclusion in the Delta Plan.

SB 1 also creates a new and independent state agency, the Delta Stewardship Council (DSC), authorized to develop and implement a comprehensive management plan for the Delta to meet the needs for reasonable and beneficial uses of water. The new DSC council consists of seven members with staggered terms: with four appointments by the Governor, two by the Legislature, and the chair of the DSC. The Chairperson of the DSC is a permanent member of the Council. Along with developing the management plan, the Council will track and monitor the progress and health of the Delta ecosystem and make sure that state and local agency projects within the Delta are consistent with the goals of the Delta plan.

An important component of the debate over this bill was a provision to authorize the construction of a \$10 billion canal to route water around the Delta, often referred to as a peripheral canal. In 2003, the federal government began restricting how much water California could pull from the Colorado River, thus increasing reliance on Delta water. However, limits have been placed on Delta pumping because of drought conditions and because of laws protecting endangered species such as salmon and the delta smelt. The Metropolitan Water District (MWD), the Los Angeles-based wholesaler that supplies the San Diego County Water Authority (SDCWA), has offered to put up \$2.5 billion dollars in construction costs for a peripheral canal in efforts to minimize rate increases to Southern Californians. Supporters of the canal, certain environmentalists and farmers, see it as a way to stabilize water supplies to farmers in the San Joaquin Valley and to Southern Californian cities. But, opponents such as Delta ecological and fish preservation environmentalists, teachers unions, and local farmers, say it is a waste of money and argue that a canal could worsen water quality for the 450,000 acres of farmland in the Delta and would not bridge the gap between a finite supply and a booming population.

While SB 1 does not authorize construction of the peripheral canal, it does give the authority to the new DSC to approve or disapprove the controversial peripheral canal at some point in the future. Recently, the council approved further study of an alternative to the peripheral canal—the construction of a tunnel to carry water underneath the Delta, which would likely be more expensive, but may address the concerns of local Delta landowners.

SB 1 also ensures that the Department of Fish and Game and the State Water Resources Control Board identify the water supply needs of the Delta estuary for use in determining the appropriate water diversion amounts associated with the current Bay-Delta Conservation Plan. In addition, SB 1 establishes the Sacramento-San Joaquin Delta Conservancy to implement ecosystem restoration activities within the Delta. Finally, SB 1 appropriates funding from Proposition 84 to fund the Two-Gates Fish Protection Demonstration Program, a project in the central Delta that will utilize operable gates for protection of sensitive species and management of water supply.

2. Senate Bill 2: Water Bond Measure

This provision authorizes the issuance of \$11.14 billion in bonds for the development of a program to fund a variety of water conservation and efficiency projects. The breakdown is as follows:

\$455 million for drought relief, including water conservation and efficiency projects. This funding will be available for local and regional drought relief projects that reduce the impacts of drought conditions, including the impacts of reductions to Delta diversions. Also, funding is available for

wastewater treatment facilities for protection of water quality or contamination of surface water or groundwater resources.

\$1.5 billion for water supply reliability. These funds would be in addition to prior funding provided by Proposition 50 and Proposition 84 and would support the existing Integrated Regional Water Management (IRWM) program. IRWM is designed to encourage integrated regional strategies for management of water resources that will protect communities from drought, protect and improve water quality and improve local water security by reducing dependence on imported water. The bond would provide funds for water supply projects in 12 regions throughout the state and would also be available for local and regional conveyance projects that support regional and interregional connectivity and water management. Cost breakdown by region:

- North Coast \$45,000,000
- San Francisco Bay \$132,000,000
- Central Coast \$58,000,000
- Los Angeles sub region \$198,000,000
- Santa Ana sub region \$128,000,000
- San Diego sub region \$87,000,000
- Sacramento River \$76,000,000
- San Joaquin River \$64,000,000
- Tulare/Kern \$70,000,000
- North/South Lahontan \$51,000,000
- Colorado River Basin \$47,000,000
- Mountain Counties Overlay \$44,000,000
- Interregional Projects \$50,000,000

\$2.25 billion for maintaining and improving Delta ecosystem sustainability.

\$3 billion for water storage projects, including surface storage, groundwater storage, and conjunctive use projects. The bulk of funding under the package is allocated in this area for the development of additional water storage, which, when combined with other water management and flood system improvement investments being made, can increase reliability and offset the climate change impacts of reduced snow pack and higher flood flows.

\$1.785 billion for conservation and watershed protection. Funds will be available, through a 50-50 cost share program, for ecosystem and watershed protection and restoration projects in 21 watersheds throughout the state, including coastal protection, wildlife refuge enhancement, forest restoration and the reduction of wildfire fuel, fish passage improvement and obsolete dam removal. Specifically:

- Coastal counties and watersheds \$250,000,000
- Wildlife Conservation Board \$365,000,000

- San Gabriel and Lower Los Angeles River watersheds \$75,000,000
- Santa Monica Mountains Conservancy \$75,000,000
- Baldwin Hills Conservancy \$20,000,000
- Santa Monica Bay watershed \$25,000,000
- Coastal salmon restoration \$50,000,000
- Lake Tahoe watershed restoration \$100,000,000
- Farmland Conservancy Program \$20,000,000
- River parkways and urban streams restoration \$50,000,000
- Sierra Nevada Conservancy \$75,000,000
- Salton Sea restoration \$100,000,000
- Watershed climate change impacts and adaptation \$10,000,000
- Watershed education facilities \$30,000,000
- Waterfowl habitat preservation \$10,000,000
- Forest restoration \$100,000,000
- Klamath dam removal \$250,000,000
- Siskiyou County economic development offset \$20,000,000
- Agricultural water use efficiency research \$50,000,000
- Ocean protection \$50,000,000
- CVPIA fish passage improvement \$60,000,000

\$1 billion for public health concerning groundwater protection and quality of drinking water from groundwater sources.

\$1.25 billion for water recycling programs. Funds will be available for water recycling and advanced treatment technology projects that recycle water or that remove salts and contaminants from water sources. Some of these funds are also intended to ensure urban water users meet conservation targets.

3. Senate Bill 6: Groundwater Monitoring

The State Water Resources Control Board (SWRCB) has authority to protect groundwater quality. Existing law allows voluntary cooperation in management of groundwater basins, but does not provide for any reporting of groundwater elevation. California has very little information about the conditions of its groundwater basins. Excessive pumping in the last century has led to a substantial decrease in groundwater elevations. In attempts to improve the State's access to

groundwater information and make it more readily and widely available than in previous years, Senate Bill 6 requires, for the first time in California's history, that local agencies monitor the elevation of their groundwater basins to help better manage the resource during both normal water years and drought conditions.

Statutes will require specified entities to file standardized groundwater monitoring reports. Monitoring will be done locally and the data made readily available to the Department of Water Resources (DWR) to establish a priority schedule for the monitoring of groundwater basins and the review of groundwater elevation reports, and to make recommendations to local entities to improve the monitoring programs. Under SB 6 local entities are provided the ability to set up their own monitoring systems and tailor them to local conditions.

If local agencies fail to implement a monitoring program or fail to provide the reports, DWR may implement a groundwater program for that region. Failure to implement a program required to perform groundwater monitoring functions would result in local entities losing eligibility for water grants or loans.

4. Senate Bill 7: Water Conservancy

Senate Bill 7 creates a framework for future planning and actions by urban and agricultural water suppliers to reduce California's water use. This bill requires sustainable water use and mandatory reductions. The specific goal of SB 7 is to achieve a statewide 20% reduction in urban per capita water use by December 31, 2020 with incremental progress of 10% reduction by 2015. To this end, each urban water supplier must develop water use targets by 2011 and agricultural water suppliers must implement efficient water management practices by July 2012 and prepare water management plans by December 2012. The Department of Water Resources (DWR) is to develop water use reporting forms and every urban and agricultural water supplier must comply with water conservation requirements in order to be eligible for state water grants or loans.

Most importantly in this bill is for urban water suppliers to meet the per capita water use goal for their specific hydrologic region as identified by DWR and other state agencies in the 20 % by 2020 Water Conservation Plan. The DWR will cooperatively work with the California Urban Water Conservation Council to establish a task force that will identify best management practices to assist the commercial, industrial and institutional sectors in meeting the water conservation goal. The DWR is also required in 2013, 2016 and 2021, to report to the Legislature on agricultural efficient water management practices being undertaken and reported in agricultural water management plans. The DWR, the State Water Resources Control Board, and other state agencies are to develop a standardized water information reporting system to streamline water reporting required under the law.

5. Senate Bill 8: Water Rights Enforcement

Senate Bill 8 provides new and increased penalties for violating water rights law and expands the State Water Resources Control Board (SWRCB) authority to enforce existing water rights laws. The bill does not change existing water rights law or expand SWRCB jurisdiction. Penalties for violation of these laws have not been increased in decades and in some cases, there is no penalty at

all. This specific legislation, which was weakened in the final package, may see additional revisions in the next legislative session.

Given the well-known importance of water to the state's health, economy, and welfare, including to its ecosystems and natural resources, water measurement and reporting are required for most diversions from the Bay Delta. It has been estimated that there are over 1,800 agricultural, municipal, and industrial diversions in the Delta that, combined, divert 5 % of the freshwater flows from the Delta watershed but none of these in-Delta diverters are required to measure and report their water diversion and use. Therefore there is presently little data regarding the nature, extent, and location of these diversions. The Delta Vision Blue Ribbon Task Force's 2008 report stated "the State Board has issued permits for the diversion of water from the Delta to less than a third of those currently assumed to be doing so. The State Board does not know how many divert water without permits." SB 8 recommends improved monitoring and reporting, including the elimination of exemptions from requirements for the filing of statements of water diversion and use.

Specifically, SB 8 provides a stronger accounting of water diversion and use in the Delta by removing an exemption from reporting water use by in-Delta water users. It redefines the types of diversions that are exempt from the reporting requirement. It assesses strict civil liability and monetary penalties on diverters who fail to submit the required reports, and for willful misstatements, and/or tampering with monitoring equipment. For example, SB 8 subjects a person to a misdemeanor penalty of \$1,000 or six months imprisonment that makes a material misstatement in the diversion and use statement. Additionally, SB 8 appropriates money from certain bond acts such as Propositions 1E and 84, and the Water Rights Fund, to support the SWRCB enforcement efforts, including the addition of 25 SWRCB reporting, monitoring, and enforcement staff.