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Funding and Implementation of The 2009 Delta Legislation

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Natural Resources and Water Committee

Hon. Fran Pavley, Chair

Senate Budget and Fiscal Review Subcommittee No. 2 on Resources

Hon. Joe Simitian, Chair

Assembly Water, Parks and Wildlife Committee

Hon. Jared Huffman, Chair

Assembly Budget Subcommittee No. 3 on Resources

Hon. Ira Ruskin, Chair





Overview of LAO Presentation

- Overview of the November 2009 Delta/Water Legislative Package.
- Governor's Proposed Budget to Implement the Legislative Package.
- LAO's Budget Recommendations.



Overview of the Legislative Package

The Major Components of the 2009 Water Package

Bill	Topic	Key Provisions
SBx7 1 (Chapter 5, Simitian and Steinberg)	Delta Governance	<ul style="list-style-type: none"> Creates Delta Stewardship Council and Delta Conservancy, and reconfigures existing Delta Protection Commission. Requires the council to create a management plan for the Delta (incorporating work from existing planning efforts)—The Delta Plan. Requires development of water flow criteria for Delta ecosystem.
SBx7 2 (Chapter 3, Cogdill)	Water Bond	<ul style="list-style-type: none"> Places an \$11.1 billion legislative bond on the November 2010 ballot, providing for multiple water program goals. Reactivates California Water Commission (with continuous appropriation authority for new storage projects).
SBx7 6 (Chapter 1, Steinberg and Pavley)	Groundwater	<ul style="list-style-type: none"> Requires groundwater elevation monitoring by local agencies (with guidance from Department of Water Resources). Bars counties and certain local agencies that do not comply with reporting from receiving state water grants and loans.
SBx7 7 (Chapter 4, Steinberg)	Water Conservation	<ul style="list-style-type: none"> Requires a 20 percent reduction in urban per capita water use (and 5 percent overall base reduction—regardless of population) by 2020. Requires agricultural water efficiency, and changes certain water recycling and stormwater targets.
SBx7 8 (Chapter 2, Steinberg)	Water Diversion/Rights	<ul style="list-style-type: none"> Requires increased reporting of water use and water diversion; increases certain penalties for water rights violations.



Package Addresses a Broad Array of Water Issues



Delta Governance (Chapter 5)

- Creates the Delta Stewardship Council to manage the state's interest in the Delta, requires the council to develop the Delta Plan to guide the management of the Delta resources by multiple state and local agencies, and creates a state conservancy (Delta Conservancy) for the acquisitions of land in the Delta, mainly for preservation and restoration of habitat.
- Requires both Department of Fish and Game and the State Water Resources Control Board to provide input to the Delta planning process on environmental in-stream flow requirements and water quality matters, respectively.
- Requires the Bay Delta Conservation Plan (BDCP) to be considered by the council in its planning process and incorporated in the Delta Plan if certain conditions are met. The BDCP is a planning process being conducted by the Department of Water Resources (DWR) to provide the basis for the issuance of endangered species permits necessary to allow the operations of both the state and federal water projects in the Delta for the next 50 years.



Water Diversion/Water Rights (Chapter 2)

- Increases reporting of water diversions to the State Water Resources Control Board and provides for legal penalties for failure to report diversions, particularly affecting Delta-related diversions. Also allows the board to adopt emergency regulations for electronic filing of water rights and diversion-related statements.



Package Addresses a Broad Array of Water Issues *(Continued)*



Other Chapters (Not Delta-Focused)—Groundwater (Chapter 1) and Water Conservation (Chapter 4)

- **Chapter One** requires monitoring and reporting of groundwater elevations, with certain penalties for noncompliance. The DWR is required to work with local agencies to determine how much monitoring is needed, develop standards for reporting, and conduct an investigation of the state's groundwater basins and report these findings to the Legislature.
- **Chapter Four** (1) establishes a statutory statewide target of 20 percent reduction in urban per capita water use by 2020, (2) sets a target of 5 percent base urban water use reduction by 2020 (regardless of future population growth), and (3) reactivates an agricultural water management (efficiency) program to be implemented by 2012.



How the November 2010 Water Bond Would Be Allocated

November 2010 Water Bond Allocation of Funds	
<i>(In Millions)</i>	
Water supply (storage)	\$3,000
Sacramento-San Joaquin Delta sustainability	2,250
Conservation and watershed protection	1,785
Regional water supply	1,400
Water recycling and conservation	1,250
Groundwater protection and water quality	1,000
Drought relief	455
Total	\$11,140

- The legislative package includes an \$11.1 billion general obligation bond measure to be placed on the November 2010 ballot. The multiple provisions fund some of the other elements of the legislative package (such as providing funding for capital improvements that help in meeting urban water conservation goals).
- The bond was not designed to be a financing mechanism for the whole package. For example, other sources of funding must be found for ongoing administrative functions of the new Delta Stewardship Council.
- The bond explicitly does not provide funding for the design, construction, operation, or maintenance of Delta conveyance facilities (facilities involving the movement of water through or around the Delta).



Governor’s Proposed Budget—CALFED

Proposed CALFED Budget—State Funds Only	
<i>(In Millions)</i>	
State	2010-11 (Proposed)
Department of Water Resources	\$206.2
Department of Fish and Game	69.2
State Water Resources Control Board	11.5
CALFED Bay-Delta Program (Delta Stewardship Council)	8.7
Department of Public Health	3.9
Department of Conservation	3.8
San Francisco Bay Conservation and Development Commission	0.1
California Department of Forestry and Fire Protection	—
Total	\$303.5

- **CALFED Roles Continue.** State boards and departments continue to fulfill the roles and responsibilities laid out by the CALFED “Record of Decision” signed in 2000 through ongoing and capital programs.
- **CALFED Oversight Transferred.** The passage of Chapter 5 in the water package results in the new Delta Stewardship Council assuming the lead role in providing oversight for CALFED. To this end, Chapter 5 provided for the transfer to the council of positions, base funding, and contracts from various CALFED agencies, including the Secretary for Natural Resources and Department of Forestry and Fire Protection, that had previously been involved in CALFED program oversight and fiscal administration.



Governor's Budget Proposal to Implement Legislative Package

Governor's Budget Proposal to Implement the New Legislative Package	
<i>(In Millions)</i>	
State Agency/Major Activities	Proposed 2010-11 Expenditures
Delta Stewardship Council	
• Creation of the Delta Plan, establishment of the Council, continuation of Delta science programs.	\$49.1
Department of Water Resources	
• Reactivation of the California Water Commission, groundwater monitoring, water conservation projects, and the \$28 million Two-Gates Fish Protection Demonstration Project.	35.0
Wildlife Conservation Board	
• Continuous appropriation authority for Natural Communities Conservation Planning projects.	24.0
State Water Resources Control Board	
• Increased water rights enforcement, new water diversion reporting, Delta Watermaster Program, and water conservation activities.	5.4
Delta Protection Commission	
• Preparation of an economic sustainability plan.	2.0
Delta Conservancy	
• Establishment of the conservancy and early action projects.	1.3
Department of Fish and Game	
• Development of Delta flow criteria.	1.0
Total	\$117.8



Major Components of the Governor's Budget Proposal

- ☑ There are two major components of the Governor's budget proposal:
 - **Capital Projects: \$52 Million.** The budget would allocate \$28 million to DWR for the Two-Gates Fish Demonstration Project and \$24 million to the Wildlife Conservation Board for Natural Communities Conservation Planning projects (both sets of projects are supported with existing bond funds).
 - **Delta Stewardship Council: \$49 Million.** The proposed funding would come mainly from existing bond funds and reimbursements from other state agencies. The budget would for the most part continue funding for CALFED activities—relating to CALFED program oversight, fiscal administration, and science program—at the same level that they were supported before their shift to the council.



Proposed Delta Stewardship Council Budget

The budget proposes \$49.1 million and 58 positions for the council, of which 50 are positions transferred by statute from other various state agencies. Eight new positions include the seven-member council and an assistant to the chair.

Positions Proposed for Delta Stewardship Council	
Executive	19
Administration	14
Science	12
Planning and accountability	8
External affairs	5
Total	58

- **Most of Budget Is for Contract Expenditures.** The majority of the council's budget (\$42.7 million) is proposed to be contracted with outside contractors and other state agencies. Of that total, \$16 million (paid for from reimbursements with DWR) would be earmarked for the development of the Delta Plan.
- **Contract for Project Direction.** The council proposes to contract for a project director (at an as-yet undetermined amount) who would develop a process and schedule to develop the Delta Plan, make presentations to the council, and ensure integration of the Delta Plan. The position would report to one of the 19 executive-level positions budgeted at the council.
- **Contract for BDCP Liaison.** The council proposes to continue an existing contract arrangement for the BDCP liaison. This position would coordinate Delta-related activities among various state and federal agencies, as well as manage public and legislative outreach for the council. Currently this contract is with the Metropolitan Water District, a major stakeholder of the BDCP.



LAO's Budget Recommendations Summary of Recommendations:

- ***Financing Plan Necessary.*** We recommend the Legislature adopt statutory language as a part of the budget directing the council to develop a comprehensive long-term financing plan for state expenditures to implement the Delta Plan once developed, including for operations of the council and the Delta Conservancy.
- ***Zero-Based Budget for All Delta (Including CALFED) Expenditures.*** We recommend the council be directed to submit, in conjunction with the submittal of the Governor's 2011-12 budget, a zero-based budget for the state's CALFED and Delta-related expenditures. This should include a comprehensive workload justification for the council's own budget.
- ***Reduce Contracts at Delta Stewardship Council.*** We recommend reducing the council's budget by (1) \$79,000 to eliminate the contract for the remaining six months of the BDCP liaison contract and (2) \$200,000 (our estimate) to eliminate the contracted project director. In both cases, these functions should be conducted by one of the 19 internal executive-level staff the council is budgeted for. In addition, the BDCP liaison contract with a major stakeholder of the BDCP process raises concerns whether such a contract could compromise the council's ability to conduct its work objectively.
- ***Put Hold on Two-Gates Project.*** We recommend the Legislature (through budget actions we detail in our recently released budget analysis) put a hold on the state's funding contribution to the Two-Gates project, due to the uncertainty of when and if the project's federal funding partner will resume its funding participation. (The federal government has put this project on hold due to concerns about a scientific review of the project proposal.)