

2009 Proposed Delta/Water Legislative Package

Association of Water Agencies of Ventura County
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Update on Delta/Water Management Legislative Package

- September 1: 14 member Delta/Water Policy Conference Committee appointed
- September 8: Conference Committee adopts conference report
- September 11: Proposed amendments to SB 68 (Steinberg) circulated to reflect five-bill package
- September 11: Passed Assembly Water, Parks and Wildlife Committee; held on Assembly floor
- “Big 5” negotiations ongoing
- October 12: Governor calls for Special Session

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Establishes New Delta Policy
 - Reducing Delta reliance to meet future water supply met through strategy of investments in regional supplies and conservation
 - Sets forth coequal goals of providing more reliable water supply and protecting, restoring and enhancing Delta ecosystem
 - States fundamental goals for managing land use in Delta
 - Reasonable use and public trust doctrine as foundation of state water management policy

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Delta Stewardship Council
 - Seven members: 4 appointed by Governor, 2 by Legislature and Chair of DPC
 - Successor to CA Bay-Delta Authority
 - By 1/11/12, develops , adopts and commences implementation of Delta Plan
 - May incorporate other Delta-related plans into Delta Plan
 - Determines if “covered actions” are consistent with Delta Plan, on appeal
 - Appoints Delta Independent Science Board
 - Considers DWR plan for coordinated flood and water supply operations

SB 68 (Steinberg)

9/11/09 Proposed Amendments

● Delta Plan

- Furthers coequal goals of Delta ecosystem restoration and reliable water supply
- Requires new flow criteria necessary to protect public trust prior to SWRCB approval of new SWP/CVP diversion
- Geographic scope defined as legal Delta, Suisun Marsh and Yolo Bypass
- Based on best available scientific data from Science Board; must be consistent with CZMA
- To include quantified targets for achieving objectives, measurement of progress and adaptive management strategies

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Bay Delta Conservation Plan/Approval of Conveyance
 - If DFG determines BDCP meets requirements of NCCP Act and CEQA, including specifically required analyses, Council incorporates into Delta Plan and BDCP is eligible for state funding
 - DFG determinations appealable to Council
 - Defines specified analyses under CEQA
 - Must be transparent, real-time operational decision-making process

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- State Water Resources Control Board
 - Creates Delta Watermaster as enforcement officer
 - Develops flow criteria
 - Must approve SWP/CVP change in point of diversion
 - SWP/CVP contractors pay costs for instream flow analysis
 - Required to submit prioritized schedule and costs for instream flow studies for Delta and other high priority streams

SB 68 (Steinberg)

9/11/09 Proposed Amendments

● Delta Conservancy

- Primary state agency for ecosystem restoration
- 11 appointees – 5 from Delta counties; 2 from Administration; 2 from Legislature; and 2 public members appointed by Governor
- Develops Strategic Plan consistent with Delta Plan
- Jurisdiction limited to Delta and Suisun Marsh, unless findings made to expand
- Can acquire property and hold fee title; no eminent domain authority

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Delta Protection Commission
 - Reconstitutes DPC
 - Reduces membership from 23 to 15
 - Creates regional economic sustainability plan
 - Develops proposal to protect, enhance and sustain Delta as evolving place for Council consideration
 - Submits recommendations to Legislature for potential expansion of Delta's primary zone
 - "Significant project" recommendations by DPC shall be adopted by Council if feasible and consistent

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Water rights enforcement
 - Increases consequences for non-reporting water diversions or use
 - Imposes or increases penalties for violating water rights laws
 - Expands SWRCB authority to enforce water rights laws
 - Expands list of filing fees
 - Authorizes SWRCB to initiate statutory stream adjudications
 - Authorizes SWRCB to issue interim relief orders
 - Establishes statewide groundwater program similar to programs commonly in place in So. California

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Urban water use efficiency
 - Requires 20% reduction in statewide urban per capita water use by 2020
 - Provides three methodologies for compliance to maximize local flexibility
 - Requires 5% minimum efficiency requirement
 - Provides credit for use of recycled water
 - Provides protections for use of industrial process water
 - Creates CII task force to develop BMPs and assess potential statewide water savings
 - Allows individual or regional compliance

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Agricultural water use efficiency
 - Requires ag water management plans by suppliers serving 10,000 or more irrigated acres , excluding recycled water; updates every 5 years
 - Exempts suppliers serving less than 25,000 irrigated acres from plans unless funding available
 - Requires implementation of two critical efficient ag water management practices and 10 additional practices, if locally cost-effective
- Promotes regional water resource management

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- Statewide groundwater monitoring
 - Engages local groundwater management interests to volunteer to monitor groundwater elevations
 - Groundwater monitoring to commence 1/1/12
 - If no local party volunteers, DWR monitors groundwater elevations in critical basins and can assess fee on well owners to recover direct costs

SB 68 (Steinberg)

9/11/09 Proposed Amendments

● Early Action Mandates

- Directs Council to appoint Delta Independent Science Board and authorizes science program
- Develop strategy to engage federal government
- Develop instream flow needs in Delta
- Implement Delta ecosystem restoration projects including Two-Gates Fish Protection Demonstration Project
- Appropriates \$28 million for Two-Gates

SB 68 (Steinberg)

9/11/09 Proposed Amendments

● Finance

- During negotiations, upstream diverter fees, export fees, revenue bonds and new GO bonds identified as potential funding mechanisms
- New GO bond has most traction
- Hybrid of Governor/Feinstein bond, SB 371 (Cogdill) and AB 893 (Caballero)
- \$9.4 billion total funding

SB 68 (Steinberg)

9/11/09 Proposed Amendments

- What's next?
 - Governor calls special session
 - Legislative leadership briefing caucuses on potential "deal" points
 - Big 5 meeting to follow to assess elements of final deal
 - January 4, 2010: Legislature reconvenes regular session