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**SB-214 San Diego River Conservancy.** (2017-2018)

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**Senate Bill No. 214**

**CHAPTER 306**

An act to amend Sections 32632, 32633, 32634, 32639, 32643, 32645, 32649, and 32651 of the Public Resources Code, relating to the San Diego River Conservancy.

[ Approved by Governor September 26, 2017. Filed with Secretary of State September 26, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 214, Atkins. San Diego River Conservancy.

The San Diego River Conservancy Act establishes the San Diego River Conservancy in the Natural Resources Agency, and prescribes the territory, membership, functions, and duties of the conservancy with regard to, among other things, the acquisition, protection, and management of public lands within the San Diego River area, as defined. The act provides that the conservancy has all rights and powers, expressed or implied, necessary to carry out the purposes of the act. The act authorizes the conservancy to award grants to any local public agency, state agency, and nonprofit organization consistent with the purposes of the act, and subjects a grant from the conservancy to specified conditions.

This bill would specify that the powers of the conservancy include improving, developing, and preserving lands for the purpose of protecting the natural, cultural, and historical resources, and entering into a joint powers agreement, as specified. The bill would additionally authorize the conservancy to award grants to a joint powers agency, special district, or tribal nation, as defined, and would subject these entities to the specified conditions. The bill would also provide that the conservancy is authorized to seek repayment of grant moneys if the terms and conditions of the grant agreement are not met.

Under the act, the governing board of the conservancy consists of 11 voting members and 2 nonvoting members, as specified, and the conservancy is required to establish and maintain an office within the San Diego River area.

This bill would increase the number of voting members to 15 members, as specified. The bill would instead require that the conservancy establish an office within the San Diego River watershed.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 32632 of the Public Resources Code is amended to read:

**32632.** For the purposes of this division, the following terms have the following meanings:

(a) "Conservancy" means the San Diego River Conservancy established by this division.

(b) "Fund" means the San Diego River Conservancy Fund established pursuant to Section 32657.

(c) "Governing board" means the governing board of the conservancy.

(d) "Historic flumes" means both of the following:

(1) The Padre Dam flume built by Native Americans along the San Diego River to convey water from the Mission Dam to the Mission San Diego de Alcalá in the early 1800s.

(2) The flume built by the San Diego Flume Company in the late 1880s to convey water from a diverting dam on the upper San Diego River to the eastern edge of the City of San Diego.

(e) "Local public agency" means a city, county, district, or joint powers agency.

(f) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of the Internal Revenue Code, as amended, and that has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities, the protection of the natural environment, or preservation or enhancement of wildlife.

(g) "San Diego River area" or "area" means those lands or other areas that are donated to, or otherwise acquired by, or operated by, the conservancy, which are located within one-half mile on either side of the thread of the river and its tributaries including the historic flumes emanating from the river, from its headwaters near Julian to the Pacific Ocean at Dog Beach in San Diego, and other properties within the watershed of the San Diego River that meet the intent of this division as approved on a case-by-case basis by a two-thirds majority vote of the governing board.

(h) "Tribal nation" means a federally recognized tribe traditionally and culturally affiliated with the County of San Diego.

**SEC. 2.** Section 32633 of the Public Resources Code is amended to read:

**32633.** There is in the Natural Resources Agency, the San Diego River Conservancy, which is created for the following purposes:

(a) To acquire and manage public lands within the San Diego River area, and to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, protection of historical and cultural resources, and protection, maintenance, and improvements of the quality of the waters in the San Diego River and its watershed, its tributaries, and historic flumes emanating from the river for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance.

(b) To provide for the public's enjoyment, and to enhance the recreational and educational experience and cultural and historic interpretation on public lands in the territory in a manner consistent with the protection of land and natural resources, as well as economic resources, in the area.

**SEC. 3.** Section 32634 of the Public Resources Code is amended to read:

**32634.** (a) The governing board of the conservancy shall consist of 15 voting members and two nonvoting members.

(b) The voting members of the board shall consist of the following:

(1) The Secretary of the Natural Resources Agency, or his or her designee.

(2) The Director of Finance, or his or her designee.

(3) The Director of Parks and Recreation, or his or her designee.

(4) The Director of Fish and Wildlife, or his or her designee.

(5) A representative of the Colorado Desert District of the Department of Parks and Recreation, or his or her designee.

(6) Five members of the public at large, three of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly.

(7) The Mayor of San Diego, or his or her designee.

(8) One member of the City Council of San Diego, elected by a majority of the membership of the council.

(9) One member of the Board of Supervisors of the County of San Diego, whose district includes the preponderance of the San Diego River watershed.

(10) One member of the Kumeyaay Diegueño Land Conservancy board of directors, elected by a majority of the membership of that board, or his or her designee.

(11) One member of the City Council of Santee, elected by a majority of the membership of the council.

(c) The two nonvoting members shall consist of the following:

(1) The Executive Director of the Wildlife Conservation Board, or his or her designee.

(2) A representative selected by the San Diego Regional Water Quality Control Board.

(d) Two of the three initial appointments by the Governor pursuant to paragraph (4) of subdivision (b) shall be for three-year terms and the third appointment shall be for a two-year term. All subsequent appointments shall be for four-year terms.

(e) A person shall not continue as a member of the governing board if that person ceases to hold the office that qualifies that person for membership. Upon the occurrence of those events, the person's membership on the governing board shall automatically terminate.

**SEC. 4.** Section 32639 of the Public Resources Code is amended to read:

**32639.** The conservancy shall establish an office within the San Diego River watershed. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations. The conservancy shall not levy a tax or regulate land use.

**SEC. 5.** Section 32643 of the Public Resources Code is amended to read:

**32643.** The conservancy may do any of the following to provide necessary services:

(a) Select and hire private consultants or contractors.

(b) Enter into memorandums of understanding with state and local public agencies.

(c) Enter into a joint powers agreement pursuant to the Joint Exercise of Powers Act, as described in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

**SEC. 6.** Section 32645 of the Public Resources Code is amended to read:

**32645.** The conservancy may take any of the following actions for the purposes of this division:

(a) Select and acquire real property or interests in real property in the name of the state pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The conservancy may coordinate the acquisition with public agencies or partner organizations if the site is under immediate development pressure.

(b) Acquire interests in land by various means, including, but not limited to, land exchanges, easements, development rights, life estates, leases, and leaseback agreements.

(c) Accept and hold real property or an interest in real property that is acquired through acquisition, gift, exchange, donation, or dedication.

(d) Local public agencies shall retain exclusive authority over all zoning or land use regulations within their jurisdiction.

**SEC. 7.** Section 32649 of the Public Resources Code is amended to read:

**32649.** (a) The conservancy may award grants to any local public agency, state agency, joint powers agency, special district, tribal nation, and nonprofit organization consistent with the purposes of this division.

(b) A grant from the conservancy to an entity described in subdivision (a) for the acquisition of real property or an interest in real property is subject to all of the following conditions:

(1) The purchase price of any interest in land acquired may not exceed fair market value, as established by an appraisal that is approved by the conservancy.

(2) The conservancy shall approve the terms under which the interest in land is acquired.

(3) An interest in land acquired through the use of a grant may not be used as security for any debt to be incurred by the entity.

(4) A transfer of land acquired through the use of a grant is subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interest of the people of the state.

(5) The state shall have the right of entry and power of termination over any interest in real property acquired with state funds, and may exercise those rights if any material term or condition of the grant is violated.

(6) If the entity receiving the grant ceases to exist for any reason, the title to all interests in real property acquired with state funds shall immediately vest in the state, except that, prior to that termination, any other public agency or nonprofit organization may receive, upon approval by the conservancy, title to all or a portion of that interest, by recording a written acceptance of title and the conservancy's written approval with the county recorder's office of the county with jurisdiction over the property.

(7) If the terms and conditions of the grant are not met, the conservancy may seek repayment of moneys granted pursuant to that grant.

(c) Any deed or other instrument of conveyance evidencing the final acquisition of real property by an entity pursuant to this section shall be recorded with the county recorder's office in the county with jurisdiction over the property, and shall detail the state's right of entry and power of termination of any interest in the property.

**SEC. 8.** Section 32651 of the Public Resources Code is amended to read:

**32651.** The conservancy may take any of the following actions for the purposes of this division:

(a) Initiate, negotiate, and participate in agreements for the management of land under its ownership or control with a local public agency, state agency, federal agency, nonprofit organization, tribal nation, individual, corporate entity, and partnership, and enter into any other agreement authorized by state or federal law.

(b) Improve, develop, and preserve lands for the purpose of protecting the natural, cultural, and historical resources, or otherwise meeting the purposes of this division. Those purposes include protecting environmental resources by preserving and enhancing the state's most valuable natural resources in the San Diego River area, including natural lands such as wetlands, watersheds, wildlife habitat, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open-space lands, and landscapes with locally unique features and areas identified by the state as deserving special protection.

(c) Merge or split parcels, adjust boundary lines, or take similar actions as part of the acquisition of land, or as needed in order to facilitate the management of land under its ownership or control.

(d) Fix and collect fees for any service rendered by the conservancy. The amount of the fee may not exceed the reasonable cost of providing the service rendered by the conservancy.