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SB-615 Salton Sea restoration. (2017-2018)

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Senate Bill No. 615

CHAPTER 859

An act to amend Sections 2930 and 2940 of, and to add Section 2931.5 to, the Fish and Game Code, relating to the Salton Sea.

[Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 615, Hueso. Salton Sea restoration.

The Salton Sea Restoration Act requires the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. The act, to the extent that funding is appropriated to the Department of Fish and Wildlife for Salton Sea restoration activities, authorizes the Department of Water Resources, in coordination and under agreement with the Department of Fish and Wildlife, to undertake certain restoration efforts.

This bill would specify that any barrier in the Salton Sea within or below a certain elevation would not be considered a dam and would provide that the construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to the act shall not be subject to review, approval, inspection, or fees associated with certain laws relating to dams and reservoirs. The bill would state various legislative findings and declarations relating to the Salton Sea, would name the state's comprehensive management plan for the Salton Sea the "John J. Benoit Salton Sea Restoration Plan," and would recognize the State Water Resources Control Board's role in the restoration of the Salton Sea, as specified.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Salton Sea, located in the Counties of Imperial and Riverside, is California's largest lake. Once an intermittent freshwater sea that formed and evaporated several times over thousands of years, the modern-day sea formed in 1905 when the Colorado River breached an inadequate diversion structure and flowed into the basin for two years.

(b) The Salton Sea is a terminal lake, with inflows from the New River, the Alamo River, and the Whitewater River, and no natural outflows. The New River, which has primarily been used to convey agricultural runoff as well as treated and raw sewage, is considered one of the most polluted rivers in the United States.

(c) The Salton Sea loses approximately one million acre-feet per year to evaporation, and, as a result, is becoming increasingly saline and exposing more playa. This presents a variety of environmental and public health concerns.

(d) More than 95 percent of California's historical wetlands have been converted to other land uses, making the Salton Sea a critical wetland area in California for migratory waterfowl and shorebirds. The Salton Sea supports more than 400 species of birds and is an internationally significant stopover site for hundreds of thousands of birds migrating along the Pacific Flyway. Fishery resources in the Salton Sea have also declined significantly due to increasing salinity and evaporation and declining water quality. Absent remediation efforts, health conditions at the Salton Sea will rapidly deteriorate for both humans and wildlife, especially with a future decrease in runoff flows to the Salton Sea.

(e) The shrinking Salton Sea also poses significant air quality concerns for residents in the region as more playa is exposed. According to the Pacific Institute, more than 100 square miles of dusty lake bed could be exposed to the desert winds. That would cause fine particles to blow over the Coachella and Imperial Valleys, with the latter already suffering from the highest childhood asthma hospitalization rate in the state and both areas containing high numbers of seniors who are especially susceptible to poor air quality.

(f) Signed in 2003, the Quantification Settlement Agreement (QSA) is a historic water agreement that limited California's Colorado River water usage to 4.4 million acre-feet annually. Key elements of the QSA include water conservation measures, water transfers from the Imperial Irrigation District to the San Diego County Water Authority and to the Coachella Valley Water District, environmental mitigation obligations, regulatory provisions, and funding agreements.

(g) The Salton Sea Restoration Act (Chapter 13 (commencing with Section 2930) of Division 3 of the Fish and Game Code) includes numerous provisions for habitat and species protection, air quality, and the eventual restoration of the Salton Sea by the state. Specifically, the Salton Sea Restoration Act commits the state to undertake the restoration of the Salton Sea ecosystem and the permanent protection of the wildlife dependent on that ecosystem.

(h) Section 2081.7 of the Fish and Game Code required the Secretary of the Natural Resources Agency, in consultation with the Department of Fish and Wildlife, the Department of Water Resources, the Salton Sea Authority, air quality districts, and the Salton Sea Advisory Committee, to undertake a restoration study to determine a preferred alternative for Salton Sea restoration, to prepare a programmatic environmental impact report (PEIR) analyzing the alternatives, and to submit a preferred alternative to the Legislature on or before December 31, 2006. The resulting report indicated that the preferred alternative would cost nearly \$9 billion.

(i) The Legislature has not acted on the preferred alternative, but has taken steps to restore the Salton Sea. The Legislature appropriated funds for the Salton Sea Species Conservation Habitat Project, which is similar to the early start habitat projects described as Phase 1 in the 2006 PEIR. In the Budget Act of 2013, the Legislature appropriated funds available from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) for initial restoration projects at the Salton Sea. In the Budget Act of 2016, the Legislature appropriated \$80,000,000 from funds available from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) to restore habitat and suppress dust at the Salton Sea in the near term.

(j) In 2015, the Governor created the Salton Sea Task Force and directed agencies to develop a comprehensive management plan for the Salton Sea that will meet a short-term goal of 9,000 to 12,000 acres of habitat and dust suppression projects. The Governor also set a medium-term plan to construct 18,000 to 25,000 acres of habitat and dust suppression projects.

(k) On March 16, 2017, the Governor's administration released its draft 10-year plan. Funding for the first four years of the plan has been secured with the \$80,000,000 in Proposition 1 funding. The last six years of the plan are unfunded, with an estimated cost of upwards of \$300,000,000.

(l) All viable proposals for restoration of habitat at the Salton Sea involve separating highly saline effluent from fresh water more able to support fish and wildlife.

(m) Berms, levees, or other barriers to separate fresh water from effluent would hold fresh water along the exterior of the Salton Sea, preventing it from draining inward to the center of the Salton Sea.

(n) Since any seepage or other drainage from berms, levees, or barriers would flow inward, there is no risk to lives or property from the seepage or drainage.

SEC. 2. Section 2930 of the Fish and Game Code is amended to read:

2930. (a) This chapter shall be known, and may be cited, as the Salton Sea Restoration Act.

(b) The state's comprehensive management plan for the Salton Sea, established pursuant to the Governor's directive of May 2015, shall be known, and may be cited, as the John J. Benoit Salton Sea Restoration Plan.

SEC. 3. Section 2931.5 is added to the Fish and Game Code, to read:

2931.5. (a) The construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to this chapter shall not be subject to review, approval, inspection, or any fees associated with implementing Division 3 (commencing with Section 6000) of the Water Code.

(b) No barrier in the Salton Sea within or below the minus 220 foot contour based on the North American Vertical Datum of 1988 shall be considered a dam.

SEC. 4. Section 2940 of the Fish and Game Code is amended to read:

2940. The Legislature finds and declares all of the following:

(a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.

(b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.

(c) The Salton Sea is threatened by increasing salinity and reduced inflows. Mitigation water inflows ordered by the State Water Resources Control Board in 2002 will expire at the end of 2017. Combined, these changes increasingly threaten the unparalleled wildlife resources at the sea, as well as air quality in the region.

(d) In cooperation with local governments, nonprofit organizations, private businesses, and the public, the State of California can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.

(e) The State of California and the United States Department of the Interior committed through a memorandum of understanding signed on August 31, 2016, to protect the ecological values of the Salton Sea and to prevent dust emissions from at least 25,000 acres of lakebed exposed by reduced agricultural inflows resulting from the implementation of the Quantification Settlement Agreement.

(f) In restoring the Salton Sea, it is the intent of the Legislature to do all of the following:

(1) Protect and provide long-term conservation of fish and wildlife that are dependent on the Salton Sea ecosystem.

(2) Restore the long-term stable aquatic and shoreline habitat for fish and wildlife that depend on the Salton Sea.

(3) Mitigate air quality impacts from restoration projects using the best available technology or best available control measures, as determined by the South Coast Air Quality Management District and the Imperial County Air Pollution Control District.

(4) Protect water quality.

(5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

(6) Preserve local tribal heritage and cultural values associated with the Salton Sea.

(7) Minimize noxious odors and other water and air quality problems.

(8) Coordinate with local, state, and federal agencies that are responsible for air quality, endangered species, and other environmental mitigation implementation requirements of the Quantification Settlement Agreement.

(9) Enhance economic development opportunities that will provide sustainable financial improvements benefiting the local environment and the economic quality of life for communities around the Salton Sea.

SEC. 5. Owing to the critical importance of a viable roadmap for the future of the Salton Sea, the Legislature recognizes the essential role of the State Water Resources Control Board in the exercise of its original jurisdiction with regard to the restoration of the Salton Sea. To this end, the Legislature further recognizes that timely implementation of a 10-year plan for a smaller but sustainable Salton Sea is best served and effectuated through the State Water Resources Control Board's continuing jurisdiction over this evolving subject matter and its attendant restoration efforts.