

DEPARTMENT OF BOATING AND WATERWAYS

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To: Boating and Waterways Commission Members
From: Department of Boating and Waterways, Legislative Unit
Subject: LEGISLATIVE REPORT, October 6, 2009

This report was prepared on September 22, 2009.

ASSEMBLY BILLS

AB 13 (Salas) Sacramento San-Joaquin Delta Conservancy. AB 13 would establish the Sacramento-San Joaquin Delta Conservancy to restore, maintain, and enhance ecosystems, including habitats, wildlife corridors, native species, and open space in the Sacramento-San Joaquin Delta; to oversee projects and economic viability issues consistent with a specific Delta Plan.

Sponsor: Author

Status: Amended 9/2/2009, in Senate Natural Resources and Water Committee 9/2/2009

Department Position: No approved position

AB 39 (Huffman) Sacramento-San Joaquin Delta: Delta Plan. This bill would require the Delta Stewardship Council, created pursuant to SB 12 of the 2009-10 Regular Session, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements. Part of a package of water policy bills.

Sponsor: Author

Status: Proposed amendments 9/9/2009, in Conference Committee 9/11/2009

Department Position: No approved position

AB 166 (Lieu) Vessels: abandonment: abatement. AB 166 would increase the minimum fine for abandonment of a vessel and would allow the Department of Boating and Waterways (DBW) to provide Abandoned Watercraft Abatement Fund (AWAF) grants to local agencies for disposal of surrendered vessels. This bill would allow DBW to adopt regulations for the AWAF program and would require DBW to track the grant program activity between January 1, 2010 and January 1, 2013, and to report that information to legislative committees, as specified, by July 1, 2013. This bill would also sunset all of the above requirements on January 1, 2014.

Sponsor: CA Association of Harbor Masters & Port Captains, Marine Parks & Harbors Association, CA Yacht Brokers, Marina Recreation Association, Northern CA Marine Association, Southern CA Marine Association, Western Boaters Safety Group

Status: Amended 9/2/2009, on the Governor's desk 9/11/2009

Department Position: Oppose unless amended

AB 248 (Lowenthal, Bonnie) Public resources: ballast water management. This bill would require the master, owner, operator, agent, or person in charge of a vessel carrying or capable of carrying ballast water to maintain on board the vessel, in written or electronic form, records that include the manufacturer and product name of the ballast water treatment system on board the vessel, the name of the organization that has approved the system, the approval or certification number of the system technology, and the number of tanks and the volume of each tank that is managed using the system. The bill would require the master, owner, operator, agent, or person in charge of the vessel to provide that information to the State Lands Commission in electronic or written form using a form developed by the commission upon the vessel's departure from a California port or place of call.

Sponsor: Author

Status: Amended 7/8/2009, on the Governor's desk 9/2/2009

Department Position: No approved position

AB 804 (Hall) Invasive aquatic species: mussels. As amended, this bill would provide that a water supply operator that has prepared, implemented and is in compliance with a dreissenid mussel control and eradication plan is exempt from any criminal or civil liability for introduction of dreissenid mussels as a result of a facility's operations. This bill would specify that an approved plan must allow DFG inspections. Qualified water supply operators would be exempt from the prohibition on possessing, importing, shipping and transporting mussels.

Sponsor: Association of California Water Agencies

Status: Amended 8/17/2009, on the Governor's desk 9/2/2009

Department Position: Oppose

SENATE BILLS

SB 12 (Simitian) Resources: Sacramento-San Joaquin Delta Council. This bill would expand existing fee exemptions to additional water uses, including the payment of fees to the State Water Resources Control Board (SWRCB) for official services relating to statements of water diversion and use.

This bill would establish a 7 member Delta Stewardship Council (Council) as an independent agency of the state and would specify its powers. The bill would require a state or local public agency proposing actions within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a certification of consistency with the Delta Plan, which would be created by AB 39. This would impose a state-mandated local program. The bill would establish an appeal process to determine if a proposed action is inconsistent with the Delta Plan.

The bill would require the Department of Water Resources to take certain actions in connection with preparation of a Bay Delta Conservation Plan (BDCP). The BDCP would only be permitted to be incorporated in the Delta Plan if certain requirements are met.

The bill would establish the Delta Independent Science Board, whose members would be selected by the Council. The bill would require the Science Board to develop a scientific program relating to the management of the Delta.

The bill would require the SWRCB to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The bill would require the SWRCB to develop new instream flow criteria for the Delta ecosystem. The SWRCB would be required to submit those determinations to the Council. The bill would require the SWRCB, in consultation with the Council, to appoint a special master for the Delta, referred to as the Delta Watermaster. The bill would grant specified authority to the Delta Watermaster.

This bill would repeal the California Bay-Delta Authority Act and would impose requirements on the Council in connection with the repeal of that act.

Sponsor: Author

Status: Proposed amendments 9/9/2009, in Conference Committee 9/11/2009

Department Position: No approved position

SB 21 (Simitian) Fishing Gear. This bill would require the Department of Fish and Game (DFG), with the Ocean Protection Council (OPC), by January 1, 2011, to recommend to the Fish and Game Commission sustainable funding sources for prevention of the loss of fishing gear and for the recovery of derelict fishing gear. DFG would be required, by January 1, 2011, to include on all fishing licenses and in all appropriate official brochures a toll-free telephone number for reporting derelict fishing gear and an Internet Web site for reporting derelict fishing gear. The bill, on and after July 1, 2012, would require a person who loses commercial fishing gear, and certain commercial passenger fishing vessels, to report it within 48 hours of losing the gear and returning to port. By July 1, 2012, the council would be required to identify and, if funding is available, establish and maintain, or support, a database of known derelict fishing gear. The council would be required by January 1, 2013, and annually thereafter, to take action to achieve specified targets for the removal and disposal of derelict fishing gear. On and after July 1, 2012, all traps and trawl nets deployed in the waters of the state would be required to be tagged or coded, in the manner prescribed by DFG and OPC, to aid in the identification of the source of any derelict fishing gear. The bill would provide that, if DFG does not have sufficient personnel to carry out any of these provisions, DFG would be authorized to contract with appropriate parties for those services if funds are available for that purpose.

Sponsor: Author

Status: Amended 3/25/2009, in Senate Appropriations Suspense File 5/28/2009 (2 year/dead bill)

Department Position: No approved position

SB 154 (Benoit) Vessel: operation of vessel. This bill would require, as a condition of probation, a person convicted of boating- under-the-influence (BUI) to participate in, and successfully complete, a licensed driving-under-the-influence (DUI) program. This bill would provide that a separate offense would result in suspension or revocation of driving privileges if a person has committed a prior BUI or DUI offense within a 7-year period.

Sponsor: Author

Status: Amended 7/8/2009, in Assembly Appropriations Suspense File 8/27/2009

Department Position: Neutral

SB 262 (Lowenthal) Coastal resources: California Coastal Commission: meeting. This bill would require the Coastal Commission to meet at least 10 times per year, rather than at least once a month. This bill would require the commission to provide a minimum of 10 days' public notice prior to canceling a meeting and would require the commission to consider cancellation of a meeting at a public hearing to allow for public comment. The bill would provide that if the commission cancels a meeting pursuant to this provision, a deadline for a commission hearing or action established pursuant to the California Coastal Act of 1976, the California Environmental Quality Act, or the Permit Streamlining Act is extended until the adjournment of the next regularly scheduled commission meeting after the deadline.

Sponsor: Author

Status: Amended 7/13/2009, on the Governor's Desk 9/11/2009

Department Position: Neutral

SB 457 (Wolk) Sacramento-San Joaquin Delta. This bill would revise and recast the provisions of the Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 to, among other things, reduce the number of members in the Delta Protection Commission to 15 members. The bill would require the commission to conduct its meetings in compliance with the Brown Act. The bill would require the commission to appoint at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the delta. The bill would require the commission to adopt, not later than July 1, 2011, a comprehensive resources management plan containing specified elements and would require the commission to update the plan every 5 years. The bill would require the Delta Stewardship Council, when developing a delta plan, to take into consideration recommendations made by the commission. The bill would require all general plans of cities and counties within the delta to be consistent with the resources management plan that would be created and adopted by the commission, and the delta plan created and adopted by the Delta Stewardship Council, and would thereby impose a state-mandated local program. The bill would revise and recast the process by which local government is to submit proposed general plan amendments and land use elements to ensure that the general plan is consistent with the resource management plan. The bill would require the commission to submit to the Legislature, by January 1, 2012, recommendations on the potential expansion of the primary zone. The bill would require the commission to develop a regional economic development plan for the delta region that is consistent with the delta plan.

This bill would establish the Delta Investment Fund within the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be used by the commission for the purposes of enhancing delta communities.

Sponsor: Author

Status: Amended 6/30/2009, in Assembly Water, Parks & Wildlife Committee 6/18/2009
(Superseded by SB 458)

Department Position: No approved position

SB 458 (Wolk) Conservancies: Sacramento-San Joaquin Delta Conservancy: Delta Protection Commission. This bill would revise and recast the provisions of the Delta Protection Act to, among other things, reduce the number of commission members to 15 members, as specified. The bill would require the commission to appoint at least one advisory committee consisting of representatives from specified entities to provide input regarding the diverse interests within the Delta. The bill would require the commission to adopt, not later than July 1, 2011, an economic sustainability plan containing specified elements and would require the commission to review and, as determined to be necessary, amend the plan every 5 years.

The bill would require the commission to prepare and submit to the Legislature, by July 1, 2010, recommendations on the potential expansion of or change to the primary zone or the Delta. The bill would establish the Delta Investment Fund in the State Treasury. Moneys in the fund, upon appropriation by the Legislature, would be required to be expended by the commission to implement the regional economic sustainability plan.

The bill would establish in the Natural Resources Agency the Sacramento-San Joaquin Delta Conservancy. The conservancy would be required to act as a primary state agency to implement ecosystem restoration in the Delta and to support efforts that advance environmental protection and the economic well-being of Delta residents. The bill would specify the composition of the conservancy and grant certain authority to the conservancy, including the authority to acquire real property interests from willing sellers or transferors. The conservancy would be required to use conservation easements to accomplish ecosystem restoration whenever feasible. The conservancy would be required to prepare and adopt a strategic plan to achieve the goals of the conservancy. The strategic plan would be required to be consistent with the Delta Plan and certain other plans. The bill would establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, to finance projects, including ecosystem restoration and economic sustainability projects. Part of a package of water/delta policy bills.

Sponsor: Author

Status: Proposed amendments 9/9/2009, in Conference Committee 9/1/2009

Department Position: No approved position

SB 459 (Wolk) Tidelands and submerged lands: removal of vessels. This bill would streamline administrative requirements to allow the State Lands Commission (SLC) to more easily remove and dispose of vessels and other watercraft from public lands or waterways under

its jurisdiction. Such a vessel or other watercraft would be removed if it is left on state lands without permission or when it poses a hazard to navigation, is a public nuisance or poses a significant threat to public health, safety, or welfare or to sensitive habitat, wildlife, or water quality. This bill would require the SLC to deposit any funds received via this program into the General Fund.

Sponsor: State Lands Commission

Status: Amended 7/14/2009, on the Governor's Desk 9/11/2009

Department Position: Oppose

SB 717 (Runner) Boating and Waterways: Department of Boating and Waterways. This bill would make several changes to update the Harbors and Navigation Code (HNC). This bill would help modernize, streamline and clarify DBW business processes, especially as related to boating facilities loans made to public and private entities. This bill would also clean up obsolete language, establish consistent penalties for HNC misdemeanor and felony violations, and amend provisions regarding life jacket minimum age requirements and court ordered boating safety courses.

Sponsor: Author

Status: Amended 7/14/2009, on the Governor's Desk 9/4/2009

Department Position: Neutral

SB 808 (Wolk) San Francisco Bay/Sacramento-San Joaquin Delta Estuary: strategic work plan. This bill would require the State Water Resources Control Board to implement its resolution entitled the Strategic Workplan for Actions to Protect Beneficial Uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary by commencing an investigation of the reasonableness of the methods of diversions from the Sacramento-San Joaquin Delta used by the State Water Project and the federal Central Valley Project, ensuring that the implementation is consistent with its duties to protect the public trust and prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, and taking other action. The state board would be required to prepare related quarterly reports, which the state board would be required to make available to the public and to post on the state board's Internet Web site.

Sponsor: Author

Status: Introduced 2/27/2009, in Senate Natural Resources and Water Committee 3/19/2009 (2 year/dead bill)

Department Position: No approved position

FEDERAL BILLS

H.R. 2548 (Pingree) Keep America's Waterfronts Working Act of 2009.

This bill would amend the Coastal Zone Management Act of 1972 to create a grant program for coastal states to implement working waterfronts. This bill is intended to protect and preserve and expand coastal access for water-dependent activities such as commercial and recreational fishing, aquaculture, boatbuilding and more. This bill includes an authorization for appropriations of \$25 million in 2010, \$50 million in 2011 and \$75 million in 2012 and 2013.

Sponsor: Author

Status: Introduced 5/21/2009, in Subcommittee on Insular Affairs, Oceans and Wildlife 6/1/2009

Department Position: No approved position