

Date of Hearing: April 26, 2022

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Rebecca Bauer-Kahan, Chair

AB 1811 (Mike Fong) – As Amended April 7, 2022

SUBJECT: Delta Plan: multispecies conservation plan

SUMMARY: Deletes references to “Bay-Delta Conservation Plan” (BDCP) and “BDCP” in existing law and replaces them with “multispecies conservation plan;” likewise, deletes obsolete references to “Department of Fish and Game” in existing law and replaces them with “Department of Fish and Wildlife.”

EXISTING LAW:

- 1) Establishes coequal goals of providing a reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem pursuant to the Delta Protection Act (Public Resources Code § 29702 and Water Code § 85054).
- 2) Establishes, pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), the Delta Stewardship Council (Council) as a state agency to develop and implement the Delta Plan to guide state and local agency actions in the Delta to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place in a manner consistent with the coequal goals of the Delta Protection Act (Water Code § 85200 *et seq.*).
- 3) Requires state and local agencies proposing specified projects (or “covered actions”) in the Delta to certify to the Council that the covered action is consistent with the Delta Plan. Any person that believes a covered action is inconsistent with the Delta Plan may file an appeal with the Council to review its consistency with the Delta Plan (Water Code § 85225 *et seq.*).
- 4) Provides that the BDCP shall not be included in the Delta Plan unless it complies with CEQA and includes a comprehensive review (Water Code § 85320).
- 5) Establishes DFW and vests it with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish and Game Code § 1700 and § 1802).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, this bill will help to leverage “the statutory framework created by the Sacramento-San Joaquin Delta Reform Act of 2009 to enable relevant state authorities with the ability to consider creating multispecies conservation plans.” The author maintains the existing references to the BDCP are obsolete.
- 2) **Background.** The Delta Reform Act reformed several state policies and programs, as well as governance, relating to the Delta. Among its provisions, the Delta Reform Act created the seven-member Council, whose purpose is to advance two co-equal goals in a manner that

protects and enhances the Delta's unique characteristics. The two co-equal goals are: 1) a more reliable statewide water supply; and 2) a healthy and protected ecosystem. Toward this end, in 2013, the Council developed its "Delta Plan," which detailed several policies and numerous recommendations to achieve the co-equal goals. Among the Delta Plan's recommendations was the completion of BDCP.

BDCP. State and federal agencies proposed the BDCP in 2007 to meet federal Endangered Species Act (ESA) permit requirements for operations of the Federal Central Valley Project (CVP) and the State Water Project (SWP) within the Delta. BDCP would have covered proposals for new points of diversion in the North Delta, new operations criteria, a new conveyance facility around the Delta, extensive floodplain and tidal marsh restoration, and new governance, oversight and adaptive management programs. BDCP sought to obtain permit coverage under both the federal ESA and the California Endangered Species Act for a period of 50 years. A draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for BDCP was released in December 2013; however, BDCP soon after attracted numerous lawsuits by local agencies and non-governmental organizations. In 2015, state and federal agencies abandoned BDCP and instead switched their focus to the "California WaterFix" which contemplates the construction of new water conveyance facilities under the Delta and "EcoRestore" which aims to restore as much as 30,000 acres of habitat in the Delta.

- 3) **Related legislation.** SBx7 1 (Simitian), Chapter 5, Statutes of 2009-10 Seventh Extraordinary Session, enacts the Delta Reform Act.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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