

## SENATE THIRD READING

STR Bill Id:SB 650 Author:(Cabaldon)

As Amended Ver:August 18, 2025

Majority vote

**SUMMARY**

Makes clarifying changes regarding consistency certifications and legal challenges under the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) and specifies that provisions of the Delta Plan are severable.

**Major Provisions**

- 1) States legislative intent that appointees to the Delta Stewardship Council (DSC) have knowledge about the Delta.
- 2) Clarifies the definition of "person" under the Delta Reform Act so that local public agencies may appeal a consistency certification by DSC.
- 3) Requires a legal challenge to DSC's adoption of, or amendment to, the Delta Plan or action to change the appeal procedure for a consistency certification to follow writ of mandate procedures for quasi-legislative decisions [per Code of Civil Procedure (CCP) Section 1085] and to be filed within 90 days.
- 4) Requires a legal challenge to DSC's determination regarding an appeal of a consistency certification to follow writ of mandate procedures for quasi-judicial decisions (per CCP Section 1094.5) and to be filed within 90 days of DSC's adoption of written findings on the appeal.
- 5) Provides that provisions of the Delta Plan are severable, meaning that if any provision of the Delta Plan is held invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

**COMMENTS**

The Delta is formed by the confluence of the Sacramento and San Joaquin rivers and covers about 1,150 square miles in Sacramento, San Joaquin, Contra Costa, Solano, and Yolo counties. It is the largest estuary on the West Coast and contains a variety of habitat types for over 700 species of fish and wildlife. There are about 70 islands in the Delta that have been created from what was historically tidal marshland through the construction of over 1,100 miles of levees. The Delta is the largest single source of water supply for California, conveying water from Northern California to agricultural lands and communities in Southern California. The region itself supports a productive agricultural and recreational economy and is home to unique cultural and historic resources. The Delta and the values it provides to Californians have long been in crisis.

In 2009, the Legislature enacted the Delta Reform Act to improve conditions in, and achieve the state's co-equal goals for, the Delta. These co-equal goals are: (1) to provide a reliable water supply and (2) to protect, restore, and enhance the Delta ecosystem. Among other provisions, the Delta Reform Act established DSC and charged it with developing, adopting, and beginning

implementation of a Delta Plan by January 1, 2012 that will lead to the achievement of the co-equal goals.

Certain actions by state and local agencies ("covered actions") must be consistent with the Delta Plan. To determine consistency, a state or local agency must submit a written consistency certification to DSC. "Covered action" refers broadly to programs or projects implemented by a state or local agency within the Delta that have an impact on achieving the co-equal goals. Various actions by state and local agencies are excluded from the definition of "covered action," including: regulatory actions, routine maintenance of water and transportation infrastructure, and most actions in the Delta secondary zone. Delta conveyance is a "covered action" and the Department of Water Resources and the Delta Conveyance Design and Construction Authority will need to submit a consistency determination to DSC before building and operating it.

A consistency certification submitted to DSC by a state or local agency is deemed valid unless it is appealed. Under the Delta Reform Act, a person who believes a "covered action" is inconsistent with the Delta Plan may file an appeal with DSC. The appeal must contain detailed information as to why the action is inconsistent and must be filed within 30 days of the submittal of a consistency certification. This bill clarifies that local agencies are able to file appeals with DSC and clarifies procedures for legal challenges to actions of DSC.

This bill includes a severability clause that states if any provision of the Delta Plan is held invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application. This provision is included as a response to the 2016 superior court decision that invalidated the entire Delta Plan, though DSC appealed the decision and ultimately had the plan reinstated [*Delta Stewardship Council Cases* (2020) 48 Cal. App. 5<sup>th</sup> 1014].

### **According to the Author**

"With fifteen years of experience implementing the Delta Reform Act, there are clear lessons on how we can improve the framework to provide more certainty for needed projects and facilitate the implementation of the Delta Plan.... [This bill] will provide critical updates to the Delta Reform Act, clarifying the ability of public entities to engage in appeal processes, establishing a time limit for challenging [DSC] actions to provide certainty for beneficial public projects to move forward, and ensuring an enforceable state plan for the Delta continues to protect the Delta even if part of the Plan is challenged in court.... These changes will strengthen overall protections for the Delta ecosystem, affirm the ability for all parties to fairly participate, and create more certainty for projects that advance the goals of the Delta Plan." The author worked with DSC to develop the language in this bill.

### **Arguments in Support**

DSC supports this bill noting that its provisions "are based on lessons learned over the past 15 years of Delta management under the Delta Reform Act." DSC asserts the changes in this bill will increase efficiency and clarity in DSC's regulatory and review processes. Specifically regarding this bill's provisions regarding legal challenges under the Delta Reform Act, DSC maintains "presently, [DSC] actions are potentially subject to the default three-year statute of limitations under the [CCP].... The statute of limitations proposed in [this bill] provides certainty to projects who have undertaken years of review and permitting, and is similar, yet somewhat longer, than that of similar state agencies such as the Delta Protection Commission and the Tahoe Regional Planning Authority."

**Arguments in Opposition**

None on file.

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee, this bill will result in minor and absorbable costs to DSC.

**VOTES****SENATE FLOOR: 34-0-6**

**YES:** Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNERney, Menjivar, Niello, Ochoa Bogh, Pérez, Richardson, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Alvarado-Gil, Cervantes, Grove, Padilla, Reyes, Rubio

**ASM WATER, PARKS, AND WILDLIFE: 10-0-3**

**YES:** Papan, Jeff Gonzalez, Bains, Bennett, Boerner, Caloza, Hart, Celeste Rodriguez, Rogers, Tangipa

**ABS, ABST OR NV:** Alvarez, Ávila Farías, Macedo

**ASM JUDICIARY: 12-0-0**

**YES:** Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Macedo, Pacheco, Papan, Sanchez, Stefani, Zbur

**ASM APPROPRIATIONS: 13-0-2**

**YES:** Wicks, Sanchez, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Solache, Ta, Tangipa

**ABS, ABST OR NV:** Arambula, Pellerin

**UPDATED**

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