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Re: 2009 Comprehensive Delta/ Water Package

Over the course of the last week, Governor Arnold Schwarzenegger signed the Delta/ water reform legislative package, which was passed in the Seventh Extraordinary Session on Water by the Legislature in the early morning hours of November 4th. The agreement came less than one month into the special session on water, called by the Governor in mid-October.

The package totals five bills, and includes an \$11.14 billion bond bill that will head to the November 2010 ballot to be approved by voters. The bills address a variety of water issues, including the management of the Delta, groundwater monitoring, water conservation, water diversion/use reporting, and governance of the Delta.

Intense negotiations surrounded the package up until the final hour. The last two sticking points of the all-night session related to the water rights enforcement measure and the further parsing out of the water bond dollars. In the end, the controversial water rights language was dropped, and other provisions regarding water diversions in the Delta were amended into another bill. In addition, the water bond gained the necessary support with the addition \$1 billion sought by Los Angeles for conservation and monitoring.

The package makes substantial changes to the management of the Delta, and while it does not specifically authorize a peripheral canal, supporters have stated that the package sets the stage for major decisions on Delta conveyance. The legislation does create a new Sacramento-San Joaquin Delta Conservancy, a new Delta Stewardship Council, and establishes a statewide water conservation program, among other things.

Specifically to counties, the package includes a new statewide groundwater monitoring program. The program will require groundwater monitoring by local agencies, the county, water replenishment districts, or a groundwater management agency or association. If these entities choose not to perform the monitoring, they would exclude themselves from receiving any water grants or loans administered by the state, and the Department of Water Resources would assume the responsibility of monitoring. There is an exemption included in the bill from this penalty for a service area that qualifies as a disadvantaged community.

The following is a summary of the 2009 Delta/Water Package.

Delta Management – Public Resources

SBX7 1 (Simitian) – Chaptered Chapter No. 5, Statues of 2009, Seventh Extraordinary Session

SBX7 1, the Delta management reform bill by Senator Joe Simitian, makes changes to the management of the Delta and establishes guidelines for the creation of a new Delta plan. Specifically, the bill will do the following:

- Place into statute the concept of co-equal goals; providing a more reliable water supply for California and protecting and restoring the Delta ecosystem.
- Make changes to the Delta Protection Commission (DPC), including changes to its membership and scope. The DPC would be required to develop an economic sustainability plan for the Delta and will study and recommend whether to change the boundaries of the Primary Zone. The DPC will retain its existing authority to consider appeals of Primary Zone land-use decisions.
- Create a new Sacramento- San Joaquin Delta Conservancy. The Conservancy is charged primarily with Delta eco-system restoration. Funding for the Conservancy will be appropriated from Proposition 84 and 1E funds, with no ongoing source of funding identified.
- Repeal the Bay-Delta Authority Act.
- Create a new Delta Stewardship Council (Council), and establish the legal framework for the management of the Delta. The Council is charged with developing a Delta plan, to further the co-equal goals, promote a reliable water supply, promote conservation and attempt to reduce risks to people, property and state interests in the Delta. The Council will also determine if a state or local agency's project in the Delta is consistent with the Delta Plan and the co-equal goals, and act as the appellate body in the event of a claim that such a project is inconsistent with the goals. There are exemptions to this consistency determination, including routine operation and maintenance, regulatory actions, regional transportation plans and State Water Project and / Central Valley Project operations. The Council will also determine the consistency of the Bay-Delta Conservation Plan (BDCP) with the co-equal goals
- Create a Delta Independent Science Board and Delta Science Program.
- Require the Council to consider the Bay-Delta Conservation Plan (BDCP) for incorporation into the larger Delta Plan.
- Ensure that the Department of Fish and Game and the State Water Resources Control Board identify the water supply needs of the Delta estuary for use in determining the appropriate water diversion amounts associated with BDCP.

As urged by CSAC and others, the bill does not include any provisions that would impact local land use decisions outside of the legal Delta.

Bond Bill – Safe, Clean and Reliable Drinking Water Supply Act of 2010

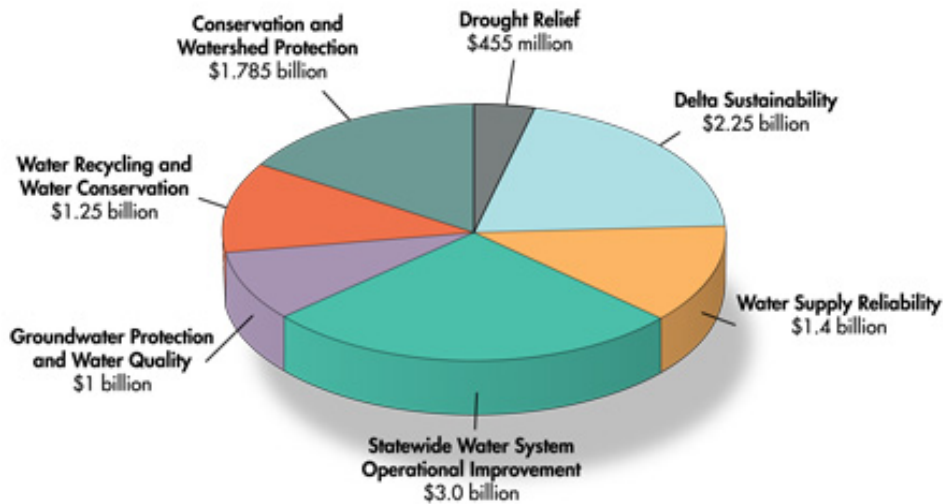
SBX7 2 (Cogdill) – Chaptered Chapter No. 3, Statues of 2009, Seventh Extraordinary Session

SBX7 2, by Senator Dave Cogdill, will place before the voters an \$11.14 billion bond for the purposes of financing a variety of water programs, including water supply, Delta

sustainability, water system operational improvement, conservation and watershed protection, groundwater protection and water recycling. The bond does **not** include any funding for the proposed peripheral canal. The bond would also be issued in at least two stages, by authorizing the sale of no more than half of the bond by 2015.

CSAC will take a position on the bond measure next year following review and approval by the CSAC Agriculture and Natural Resources Committee, Executive Committee and CSAC Board of Directors.

The following is a summary of the bond's funding categories:



WATER BOND -- SBX7 2 (Cogdill)	
CHAPTER 5 - Drought Relief	\$455,000,000
- Drought Relief Projects	\$90,000,000
- Economic Impact from Drought	\$90,000,000
- Small Community Wastewater	\$75,000,000
- Safe Drinking Water Revolving Loan	\$80,000,000
- New River	\$20,000,000
- Local and Regional Projects in San Diego	\$100,000,000
CHAPTER 6 - Regional Supply	\$1,400,000,000
- IRWMP - allocated	\$1,000,000,000
- (Unallocated/Interregional)	\$50,000,000
- Local Conveyance	\$350,000,000
CHAPTER 7 - Delta	\$2,250,000,000
- Projects	\$750,000,000
- Ag Economy (out of project pot)	[\$250,000,000]
- Eco/ BDCP	\$1,500,000,000
CHAPTER 8 - Statewide Flexibility/Storage	\$3,000,000,000

CHAPTER 9 - Watershed and Water Quality	\$1,785,000,000
CHAPTER 10 - Groundwater	\$1,000,000,000
CHAPTER 11 - Recycling	\$1,250,000,000
Recycling	\$1,000,000,000
Conservation	\$250,000,000
TOTALS	\$11,140,000,000

**SBX7 6 (Steinberg) – Chaptered
Chapter No. 1, Statues of 2009, Seventh Extraordinary Session**

SBX7 6, by Senator Darrell Steinberg will create a statewide groundwater monitoring program. The bill states legislative intent to have systematic monitoring and public reporting of groundwater information in all groundwater basins and sub-basins. However, the bill does authorize the Department of Water Resources (DWR) to prioritize groundwater basins for the purposes of monitoring.

Specifically, this bill allows local groundwater management entities, including counties, water replenishment districts, local agencies, groundwater management agencies, or associations to volunteer to assume the responsibility of monitoring all or part of a basin. SBX7 6 does not specifically require counties to assume this responsibility. However, if local entities, including counties, choose not to assume this responsibility they would exclude themselves from receiving water grants and loans administered by the state, and DWR would assume the responsibility of groundwater monitoring. There is an exemption included in the bill for disadvantaged communities. Additionally, the bill requires DWR, if no local agency volunteers, to directly perform groundwater monitoring functions and charge well owners for the costs of such activity.

CSAC communicated to the Legislature and the Administration it's concerns with the bill's approach to groundwater monitoring. Although SBX7 6 now names DWR as the default groundwater monitor, the bill still penalizes the counties and other local entities over situations in which they have no control.

**Water Conservation
SBX7 7 (Steinberg) – Chaptered
Chapter No. 4, Statues of 2009, Seventh Extraordinary Session**

SBX7 7, by Senate Pro Tem Darrell Steinberg, will set water conservation targets. Specifically, this bill will:

- Require the state to achieve a 10% reduction in urban per capita water use in California by December 31, 2015, and a 20% statewide reduction by December 31, 2020.
- Require each urban retail water supplier to develop urban water use targets and an interim urban water use target by July 1, 2011, and specifies methodologies for

achieving the targets. Public hearing requirements are also included to allow community input on the supplier's water use target implementation plan.

- Prohibit urban suppliers from requiring changes that reduce process water and allows urban water supplier to exclude process water from the development of the urban water target if substantial amount of its water deliveries are for industrial use, but allows for reductions in emergencies. "Process water" is defined as water used for producing a product or product content.
- Require, on or before July 31, 2012, agricultural water suppliers to implement efficient water management practices.
- Require the Department of Water Resources (DWR) to prepare reports to the Legislature regarding the progress of urban water management plans and agricultural efficient water management practices.
- Require DWR to promote implementation of regional water resources management practices.
- Condition state water grants/loans for urban and agricultural water suppliers on compliance with provisions of the bill, but allow funding for water conservation under certain conditions and funding by the federal American Recovery and Reinvestment Act of 2009.
- Provide that all costs incurred by a water utility, as a result of the bill's requirements, may be recoverable in rates subject to review and approval by the Public Utilities Commission.
- Reauthorize the Agricultural Water Management Planning Program.
- Exempt from the bill's water conservation and water management planning requirements any agricultural supplier serving less than 25,000 of irrigated land if the state does not provide funding for those purposes.
- Provide an exemption from the bill's provisions for agricultural water suppliers that are parties to the Colorado River Quantification Settlement Agreement.

**Water Diversion Reporting/Reallocation of Bond Funding
SBX7 8 (Steinberg) – Chaptered
Chapter No. 2, Statutes of 2009, Seventh Extraordinary Session**

SBX7 8, by Senate Pro Tem Darrell Steinberg, will authorize the State Water Resources Control Board and DWR to adopt emergency regulations for the filing of reports of water diversion or use. Specifically, the bill will:

- Repeal water diversion reporting exemptions for diverters in the Sacramento-San Joaquin Delta.
- Increase fines and penalties relating to reporting of diversions.

- Redirect funds from Proposition 84 (2006) and 1E (2006) to pay for various Delta-related projects and purposes.
- Authorize the addition of 25 water rights enforcement staff at the State Water Resources Control Board, to be paid for from the Water Rights Fee Fund.