

Senate Bill No. 654

CHAPTER 613

An act to amend Section 12562 of the Water Code, and to amend Section 1 of Chapter 617 of the Statutes of 2002, relating to water, and making an appropriation therefor.

[Approved by Governor September 29, 2003. Filed with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 654, Machado. Water: Salton Sea: Colorado River.

(1) Existing law appropriates General Fund moneys to, among other things, line portions of the All American Canal and the Coachella Branch of the All American Canal. Existing law requires the lining projects to be completed not later than December 31, 2006, or such later date as may be required by extraordinary circumstances.

This bill would make legislative findings as to the extraordinary circumstances that prevent the lining projects from being completed by December 31, 2006, and would extend the date to December 31, 2008.

(2) Existing law makes legislative findings concerning the Salton Sea and a Quantification Settlement Agreement, including a finding that species previously designated as fully protected may be taken during activities intended to meet the state's commitment to reduce its use of Colorado River water, as long as those activities are found to comply with existing law.

This bill would, instead, make findings permitting the taking incidental to those activities.

(3) Existing law provides for a California's Colorado River Water Use Plan, and for a Quantification Settlement Agreement.

This bill would make a legislative finding and declaration that in order to resolve conflicts that have prevented the implementation of California's Colorado River Water Use Plan it is necessary to provide a mechanism to implement and allocate environmental mitigation responsibility between water agencies and the state for the implementation of the Quantification Settlement Agreement. The bill would permit the Department of Fish and Game to enter into a joint powers agreement for the purpose of providing for the payment of costs for environmental mitigation requirements, and would specify the costs to be paid by the agencies that are parties to the agreement. By authorizing the department to enter into the agreement, this bill would



make an appropriation by authorizing expenditures from the continuously appropriated Fish and Game Preservation Fund.

(4) This bill would become operative only if SB 277 and SB 317 are both chaptered and become effective on or before January 1, 2004.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12562 of the Water Code is amended to read:

12562. (a) (1) In furtherance of implementing and achieving the goals of the “California Plan,” the sum of two hundred million dollars (\$200,000,000) in the account shall be used by the director to finance and arrange for lining portions of the All American Canal and the Coachella Branch of the All American Canal.

(2) The canal lining projects shall be completed not later than December 31, 2008, or such later date as may be required by extraordinary circumstances.

(3) The allocation of the water conserved from the canal lining projects and to be made available to the Metropolitan Water District of Southern California shall be consistent with federal law and shall be determined by an agreement among the Metropolitan Water District of Southern California, the Imperial Irrigation District, the Palo Verde Irrigation District, the Coachella Valley Water District, and the San Luis Rey settlement parties, reached after consultation with the director and the United States Secretary of the Interior.

(b) (1) The sum of thirty-five million dollars (\$35,000,000) from the account shall be used by the director to finance the installation of recharge, extraction, and distribution facilities for groundwater conjunctive use programs necessary to implement the “California Plan.”

(2) Water stored in connection with the groundwater conjunctive use programs described in paragraph (1) shall be for the benefit of the member public agencies of the Metropolitan Water District of Southern California.

(3) Nothing in this subdivision limits the ability of the Metropolitan Water District of Southern California to enter into agreements regarding the sharing of any water made available under this subdivision.

(c) The Legislature finds that the extension of the date from December 31, 2006, to December 31, 2008, for completing the canal project linings under paragraph (2) of subdivision (a) during the 2003 portion of the 2003–04 Regular Session is required due to extraordinary circumstances. The Legislature finds that there have been unforeseen construction delays, contract award delays, and changed conditions



requiring design modifications for lining the All American Canal and the Coachella Branch of the All American Canal, and that these circumstances are extraordinary.

SEC. 2. Section 1 of Chapter 617 of the Statutes of 2002 is amended to read:

Section 1. (a) “Quantification Settlement Agreement” means the agreement, the provisions of which are substantially described in the draft Quantification Settlement Agreement (QSA), dated December 12, 2000, and submitted for public review by the Quantification Settlement Agreement parties, and as it may be amended, and that shall include as a necessary component the implementation of the Agreement for Transfer of Conserved Water by and between the Imperial Irrigation District and the San Diego County Water Authority, dated April 29, 1998 (IID/SDCWA Transfer Agreement), and as it may be amended, and any QSA-related program that delivers water at the intake of the Metropolitan Water District of Southern California’s Colorado River Aqueduct.

(b) It is the intent of the Legislature to allocate fifty million dollars (\$50,000,000) from funds available pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is approved by the voters at the statewide general election to be held November 5, 2002 (Proposition 50), as a minimum state contribution or matching contribution for federal funds or funds obtained from other sources to prepare the restoration study, to assist in the implementation of the preferred alternative or other related restoration activities, including the program referred to in paragraph (3) of subdivision (d) of Section 2081.7 of the Fish and Game Code, at the Salton Sea or the lower Colorado River, or to assist in the development of a natural community conservation plan that is consistent with the initiative and that is implemented to effectuate the QSA.

(c) The Legislature finds that it is important to the state to meet its commitment to reduce its use of water from the Colorado River to 4.4 million acre-feet per year. The Legislature further finds that it is important that actions taken to reduce California’s Colorado River water use are consistent with its commitment to restore the Salton Sea, which is an important resource for the state. The Legislature further finds that species previously designated as fully protected may be taken incidental to activities intended to meet the state’s commitment to reduce its use of Colorado River water as long as those activities are found to comply with existing law, including Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(d) California’s Colorado River Water Use Plan is a framework developed to allow California to meet its Colorado River needs from



within its basic annual apportionment. California will be required to reduce the amount of Colorado River water it uses by up to 800,000 acre-feet per year.

(e) California's basic apportionment of Colorado River water is 4.4 million acre-feet per year, but until recently, due to the availability of surplus river water and apportioned but unused water of Nevada and Arizona, California has used up to 5.2 million acre-feet per year over the past ten years. About 700,000 acre-feet of this additional water has been used to fill the Colorado River Aqueduct, which transports water to the southern California urban coast. Nevada and Arizona are now using, or are close to using, their full apportionments, and California can no longer rely on that surplus of water.

(f) The Salton Sea will eventually become too saline to support its fishery and fish-eating birds unless a restoration plan is adopted and implemented. The transfer of water from the Imperial Irrigation District to the San Diego County Water Authority and the other Quantification Settlement Agreement (QSA) parties pursuant to the QSA could result in an acceleration of the rate of salinization of the Salton Sea.

(g) Restoration of the Salton Sea is in the state and national interest. Congress recognized in the Salton Sea Reclamation Act of 1998, Public Law 105-372, that appropriate federal agencies should offer alternative restoration options to Congress and the public in order to avoid further deterioration of the internationally significant habitat and wildlife values of the Salton Sea and to protect the wide array of economic and social values that exist in the immediate vicinity of the Salton Sea. The failure to issue that report in a timely fashion has unnecessarily constrained the Legislature's ability to consider fully the costs and benefits of various options to restoration that should be undertaken at the Salton Sea.

SEC. 3. The Legislature hereby finds and declares that in order to resolve conflicts that have prevented the implementation of California's Colorado River Water Use Plan it is necessary to provide a mechanism to implement and allocate environmental mitigation responsibility between water agencies and the state for the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, as follows:

(a) Notwithstanding any other provision of law, the Department of Fish and Game may enter into a joint powers agreement for the purpose of providing for the payment of costs for environmental mitigation requirements. The Director of the Department of Fish and Game or his or her designee shall chair the authority created by the joint powers agreement. The joint powers agreement shall include the following agencies:

- (1) Coachella Valley Water District.



- (2) Imperial Irrigation District.
- (3) San Diego County Water Authority.

(b) Costs for environmental mitigation requirements shall be allocated based on an agreement among Imperial Irrigation District, the Coachella Valley Water District, the San Diego County Water Authority and the Department of Fish and Game and shall include the following:

(1) Costs up to, and not to exceed, one hundred thirty-three million dollars (\$133,000,000) shall be paid by the Imperial Irrigation District, the Coachella Valley Water District, and the San Diego County Water Authority for environmental mitigation requirements. Those costs may be paid to a joint powers authority established pursuant to this section. The amount of the obligation established in this paragraph shall be adjusted for inflation.

(2) Thirty million dollars (\$30,000,000) shall be paid by the Imperial Irrigation District, Coachella Valley Water District, and the San Diego County Water Authority to the Salton Sea Restoration Fund as provided in paragraph (6) of subdivision (c) of Section 2081.7 of the Fish and Game Code. This amount shall be adjusted for inflation.

(c) Except for the requirements of subdivision (c) of Section 2081.7 of the Fish and Game Code, subdivision (f) of Section 1013 of the Water Code, and the provisions of subdivision (b), no further funding obligations or in-kind contributions of any kind for restoration of the Salton Sea shall be required of the Imperial Irrigation District, the Coachella Valley Water District, the Metropolitan Water District of Southern California, and the San Diego County Water Authority, including federal cost-sharing or other federal requirements. Any future state actions to restore the Salton Sea will be the sole responsibility of the State of California.

(d) As used in this section, “environmental mitigation requirements” means any measures required as a result of any environmental review process for activities which are part of the project described in the final Environmental Impact Report/Environmental Impact Statement for the Imperial Irrigation District Water Conservation and transfer project certified by the Imperial Irrigation District on June 28, 2002, as modified and supplemented by the addendum thereto prepared to assess subsequent revisions to the Quantification Settlement Agreement, but excluding measures required to address environmental impacts:

(1) Within the service areas of the Coachella Valley Water District, other than impacts related to the Salton Sea, the San Diego County Water Authority, and the Metropolitan Water District of Southern California.

(2) Associated with the All American Canal and the Coachella Canal Lining Projects, and measures to address socioeconomic impacts.



(e) As used in this section, “environmental review process” means any of the following:

(1) The conducting of any required environmental review or assessment, or both.

(2) The obtaining of any permit, authorization, opinion, assessment or agreement.

(3) The study or design of any required mitigation pursuant to the California Environmental Quality Act, the National Environmental Protection Act, the Endangered Species Act, the California Endangered Species Act, the California Water Code, the public trust doctrine, or any other federal or California environmental resource protection law, or applicable federal or California regulations regarding their implementation.

(f) As used in this section, “environmental review process” does not include the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada, as it may address impacts to the Colorado River.

SEC. 4. This act shall become operative only if SB 277 and SB 317 of the 2003–04 Regular Session are both chaptered and become effective on or before January 1, 2004.

