



SB-277 Water: Salton Sea. (2003-2004)

Senate Bill No. 277

CHAPTER 611

An act to add Chapter 13 (commencing with Section 2930) to Division 3 of the Fish and Game Code, and to amend Section 9 of Chapter 617 of the Statutes of 2002, relating to water, and making an appropriation therefor.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 277, Ducheny. Water: Salton Sea.

(1) Under existing law, various agencies carry out responsibilities relating to the Salton Sea.

This bill would enact the Salton Sea Restoration Act. The bill would establish the Salton Sea Restoration Fund and would require the fund to be administered by the Director of Fish and Game. The bill would require the money deposited in the fund to be expended, upon appropriation by the Legislature, for various purposes relating to the restoration of the Salton Sea. The bill would authorize the Department of Water Resources to contract with water suppliers to purchase and sell water made available by specified means to achieve the goals of the act.

(2) Existing law requires the Resources Agency and the Technology, Trade, and Commerce Agency, in consultation with others, to review and report to the Governor and the Legislature, on or before June 30, 2003, on the nature and extent of any economic impacts related to the use of land following in the Imperial Valley in connection with the Quantification Settlement Agreement, measures taken by the Imperial Irrigation District in formulating a fallowing program to minimize those economic impacts, whether the provision of certain funds would minimize those economic impacts, and the amount of additional funds required to mitigate those economic impacts. Existing law requires the report to include recommendations to the Governor and the Legislature, if the report indicates that additional funds are required, relating to the formulation of a program to administer those funds and requires that program to be developed in consultation with certain agencies.

This bill, instead, would require the Department of Food and Agriculture, if funds are appropriated for this purpose, and in consultation with others, to prepare that report. The bill would revise the list of agencies to be consulted for purposes of formulating that program.

(3) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the Fish and Game Commission to pay all necessary expenses incurred in carrying out the Fish and Game Code and other state laws.

By imposing new duties on the department, the bill would make an appropriation.

(4) The bill would become operative only if SB 654 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. Chapter 13 (commencing with Section 2930) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 13. Salton Sea Restoration Act

2930. This chapter shall be known and may be cited as the Salton Sea Restoration Act.

2931. (a) It is the intent of the Legislature that the State of California undertake the restoration of the Salton Sea ecosystem and the permanent protection of the wildlife dependent on that ecosystem.

(b) This restoration shall be based on the preferred alternative developed as a result of the restoration study and alternative selection process described in Section 2081.7 and using the funds made available in accordance with that section to be deposited in the Salton Sea Restoration Fund and other funds made available by the Legislature and the federal government.

(c) The preferred alternative shall provide the maximum feasible attainment of the following objectives:

(1) Restoration of long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife that depend on the Salton Sea.

(2) Elimination of air quality impacts from the restoration projects.

(3) Protection of water quality.

2932. There is hereby established the Salton Sea Restoration Fund which shall be administered by the director. Money deposited in the fund shall be expended, upon appropriation by the Legislature, for the following purposes:

(a) Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.

(b) Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Section 2081.7. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta.

(c) Implementation of the preferred Salton Sea restoration alternative.

(d) Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

2933. The Department of Water Resources may contract with water suppliers to purchase and sell water made available pursuant to Section 1745.02 of the Water Code to achieve the goals of this chapter.

SEC. 2. Section 9 of Chapter 617 of the Statutes of 2002 is amended to read:

Sec. 9. (a) The Department of Food and Agriculture, if funds are appropriated for this purpose, and in consultation with the Imperial Irrigation District, Imperial County, and any other entities, organizations, and individuals deemed appropriate by the Secretary of Food and Agriculture, shall review and report to the Governor and the Legislature, on or before June 30, 2005, on all of the following:

(1) The expected nature and extent of any economic impacts related to the use of land following in the Imperial Valley in connection with the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1.

(2) Measures taken by the Imperial Irrigation District in formulating a following program to minimize as far as practicable those economic impacts.

(3) Whether and to what extent funds provided to the Imperial Irrigation District for transferred water under the Quantification Settlement Agreement, together with any other funds that have been made available for these purposes would mitigate those economic impacts.

(4) The amount of any additional funds required to mitigate the economic impacts.

(b) If the report required under this section indicates that additional funds are required, the report shall include recommendations to the Governor and the Legislature on all of the following:

(1) Proposed means for providing those additional funds, including, but not limited to, funding by the state.

(2) Formulation of a program to administer those funds in the most effective manner. The program shall be developed in consultation with the Department of Finance, the Resources Agency, the Employment Development Department, the Imperial Irrigation District, Imperial Valley area governments, and any other entities deemed appropriate by the Secretary of Food and Agriculture.

SEC. 3. This act shall become operative only if SB 654 and SB 317 of the 2003–04 Regular Session are both chaptered and become effective on or before January 1, 2004.



Senate Bill No. 317

CHAPTER 612

An act to amend Section 2081.7 of the Fish and Game Code and to amend Section 1013 of the Water Code, relating to the resources, and making an appropriation therefor.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 317, Kuehl. Resources.

(1) Existing law authorizes the Department of Fish and Game, contingent upon, among other things, a determination by the Department of Fish and Game and the execution of a specified Quantification Settlement Agreement on or before December 31, 2003, to authorize the take of species resulting from certain environmental impacts attributable to the implementation of the agreement.

This bill, for the purposes of that provision, would require that agreement be executed on or before October 12, 2003, and would revise that contingency relating to a determination by that department.

(2) Existing law requires the Secretary of the Resources Agency to use all available authority to enter into a memorandum of understanding, with certain components, for the purposes of developing, selecting, and implementing alternatives for projects that realize specified objectives of the Salton Sea Reclamation Act. Existing law requires the secretary, with respect to this memorandum, to establish an advisory committee and specifies the composition of that committee.

This bill would require the secretary to undertake a study relating to the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. The bill would require the secretary to use all available authority to enter into a memorandum of understanding with the Secretary of the Interior to obtain federal participation in the restoration of the Salton Sea. The bill would revise the composition of that advisory committee.

(3) Existing law requires that, for the purposes of evaluating the use of water by the Imperial Irrigation District during the term of the Quantification Settlement Agreement and for 6 years thereafter, it shall be conclusively presumed that any water conserved or used for mitigation purposes through land following conservation measures has been conserved in the same amount as if conserved by efficiency improvements.

Existing law prohibits the forfeiture or impairment of a right to use water that is conserved in a described manner to carry out a transfer pursuant to the Quantification Settlement Agreement or to mitigate environmental impacts of that transfer. Existing law provides that during the period that the Quantification Settlement Agreement is in effect and the Imperial Irrigation District is meeting its water delivery obligations under that agreement, if the Imperial Irrigation District uses land following conservation measures that ensure compliance with certain criteria, no person may seek to obtain additional conserved Colorado River water from the district until the district has adopted a resolution offering to make conserved Colorado River water available.

Existing law makes the operation of these provisions subject to the execution of the Quantification Settlement Agreement on or before December 31, 2002.

This bill would make the operation of these provisions, as modified, subject to the execution of that agreement on or before October 12, 2003. The bill would provide that during the period in which the Quantification Settlement Agreement is in effect and the Imperial Irrigation District is meeting its water delivery obligations under that agreement and certain other water delivery obligations, no person may seek to obtain additional conserved Colorado River water from the district until the district has adopted a resolution offering to make conserved Colorado River water available. The bill, with certain exceptions and subject to the execution of that agreement on or before October 12, 2003, would subject any water transferred by the district to an ecosystem restoration fee during the initial term in which that agreement is in effect.

(4) Existing law establishes the Fish and Game Preservation Fund, a fund that is continuously appropriated to the department to carry out the Fish and Game Code.

By imposing new duties on the department, this bill would make an appropriation.

(5) This bill would become operative only if SB 277 and SB 654 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 2081.7 of the Fish and Game Code is amended to read:

2081.7. (a) Notwithstanding Sections 3511, 4700, 5050, and 5515, and contingent upon the fulfillment of the conditions listed in subdivisions (b), (c), and (d), the department may authorize, under Chapter 1.5 (commencing with Section 2050) or Chapter 10 (commencing with Section 2800), the take of species resulting from impacts attributable to the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of the act that added this section during the 2001-02 Regular Session, on all of the following:

- (1) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.
 - (2) The quantity and quality of water flowing in the All American Canal, the Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat sustained by those flows.
 - (3) Agricultural lands in the Imperial Valley.
 - (4) The quantity and quality of water flowing in the Colorado River, the habitat sustained by those flows, and the collection of that water for delivery to authorized users.
- (b) The Quantification Settlement Agreement is executed by the appropriate parties on or before October 12, 2003.
- (c) The department has determined that the appropriate agreements have been executed to address environmental impacts at the Salton Sea that include enforceable commitments requiring all of the following:
- (1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources on a mutually agreed upon schedule in exchange for payment of one hundred seventy-five dollars (\$175) per acre-foot. The price shall be adjusted for inflation on an annual basis.
 - (2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources during the first 15 years of the Quantification Settlement Agreement on the schedule established for the mitigation water that was previously to be transferred to the San Diego Water Authority, or on a mutually agreed upon schedule, at no cost for the water in addition to the payment for the water from the mitigation fund described in paragraph (1) of subdivision (b) of Section 3 of Senate Bill 654 of the 2003-04 Regular Session.
 - (3) As a condition to acquisition of the water described in paragraph (1), the Department of Water Resources

shall be responsible for any environmental impacts, including Salton Sea salinity, related to use or transfer of that water. As a condition to acquisition of the water described in paragraph (2), the Department of Water Resources shall be responsible for environmental impacts related to Salton Sea salinity that are related to the use or transfer of that water.

(4) The Metropolitan Water District of Southern California (MWD) to purchase up to 1.6 million acre-feet of the water provided in accordance with paragraphs (1) and (2) from the Department of Water Resources at a price of not less than two hundred fifty dollars (\$250) per acre-foot on a mutually agreed upon schedule. The price shall be adjusted for inflation on an annual basis. The Department of Water Resources shall deposit all proceeds from the sale of water pursuant to this paragraph, after deducting costs and reasonable administrative expenses, into the Salton Sea Restoration Fund.

(5) The Metropolitan Water District of Southern California to pay not less than twenty dollars (\$20) per acre-foot for all special surplus water received by MWD as a result of reinstatement of access to that water under the Interim Surplus Guidelines by the United States Department of Interior subtracting any water delivered to Arizona as a result of a shortage. The money shall be paid into the Salton Sea Restoration Fund. The price shall be adjusted for inflation on an annual basis. Metropolitan Water District of Southern California shall receive a credit against future mitigation obligations under the Lower Colorado River Multi-Species Conservation Plan for any funds provided under this paragraph to the extent that those funds are spent on projects that contribute to the conservation or mitigation for species identified in the Lower Colorado River Multi-Species Conservation Plan and that are consistent with the preferred alternative for Salton Sea restoration.

(6) Coachella Valley Water District, Imperial Irrigation District, and San Diego County Water Authority to pay a total of thirty million dollars (\$30,000,000) to the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of Section 3 of Senate Bill 654 of the 2003-04 Regular Session.

(d) All of the following conditions are met:

(1) The requirements of subdivision (b) and (c) of Section 2081 are satisfied as to the species for which take is authorized.

(2) The take authorization provides for the development and implementation, in cooperation with federal and state agencies, of an adaptive management process for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take. The adjusted measures are subject to Section 2052.1.

(3) The take authorization provides for the development and implementation in cooperation with state and federal agencies of an adaptive management process that substantially contributes to the long-term conservation of the species for which take is authorized. Preparation of the adaptive management program and implementation of the program is the responsibility of the department. The department's obligation to prepare and implement the adaptive management program is conditioned upon the availability of funds 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), or other funds that may be appropriated by the Legislature or approved by the voters for that purpose. The failure to appropriate funds does not relieve the applicant of the obligations of paragraphs (1) and (2). However, the applicant shall not be required to fund any program pursuant to this paragraph.

(4) The requirements of paragraph (1) may be satisfied if the take is authorized under Chapter 10 (commencing with Section 2800).

(e) (1) The Secretary of the Resources Agency, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, shall undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. The restoration study shall be conducted pursuant to a process with deadlines for release of the report and programmatic environmental documents established by the secretary, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee. The secretary shall use all available authority to enter into a memorandum of understanding (MOU) with the Secretary of the Interior, as provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998 (P.L. 105-372) for the purpose of obtaining federal participation in the restoration of the Salton Sea.

(2) The restoration study shall establish all of the following:

(A) An evaluation of and suggested criteria for the selection of alternatives that will allow for consideration of a range of alternatives including, but not limited to, an alternative designed to sustain avian biodiversity at the Salton Sea, but not maintain elevation for the whole sea, an alternative to maintain salinity at or below current conditions and elevation near 230 feet below mean sea level under a variety of inflow conditions, and a most cost-effective technical alternative.

(B) An evaluation of the magnitude and practicability of costs of construction, operation, and maintenance of each alternative evaluated.

(C) A recommended plan for the use or transfer of water provided by paragraph (2) of subdivision (c). No water may be transferred pursuant to that subdivision unless the secretary finds that transfer is consistent with the preferred alternative for Salton Sea restoration.

(D) The selection of a preferred alternative consistent with Section 2931, including a proposed funding plan to implement the preferred alternative.

(3) The study identifying the preferred alternative shall be submitted to the Legislature on or before December 31, 2006.

(4) The Secretary of the Resources Agency shall establish an advisory committee for purposes of this subdivision as follows:

(A) The advisory committee shall be selected to provide balanced representation of the following interests:

(i) Agriculture.

(ii) Local governments.

(iii) Conservation groups.

(iv) Tribal governments.

(v) Recreational users.

(vi) Water agencies.

(vii) Air pollution control districts.

(B) Appropriate federal agency representatives may be asked to serve in an ex officio capacity.

(C) The Resources Agency shall consult with the advisory committee throughout all stages of the alternative selection process.

(f) This section shall not be construed to exempt from any other provision of law the Quantification Settlement Agreement and 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.

SEC. 2. Section 1013 of the Water Code is amended to read:

1013. (a) The Imperial Irrigation District, acting under a contract with the United States for diversion and use of Colorado River water or pursuant to the Constitution or to this chapter, or complying with an order of the Secretary of the Interior, a court, or the board, to reduce through conservation measures, the volume of the flow of water directly or indirectly into the Salton Sea, shall not be held liable for any effects to the Salton Sea or its bordering area resulting from the conservation measures.

(b) For the purposes of this section, and during the term of the Quantification Settlement Agreement as defined in subdivision (a) of Section 1 of the act amending this section during the 2001-02 Regular Session, "land fallowing conservation measures" means the generation of water to be made available for transfer or for environmental mitigation purposes by fallowing land or removing land from agricultural production regardless of whether the fallowing or removal from agricultural production is temporary or long term, and regardless of whether it occurs in the course of normal and customary agricultural production, if both of the following apply:

(1) The measure is part of a land fallowing conservation plan that includes mitigation provisions adopted by the Board of Directors of the Imperial Irrigation District.

(2) Before the Imperial Irrigation District adopts a land fallowing conservation plan, the district shall consult with the Board of Supervisors of the County of Imperial and obtain the board's assessment of whether the proposed land fallowing conservation plan includes adequate measures to avoid or mitigate unreasonable economic or environmental impacts in the County of Imperial.

(c) In order to minimize impacts on the environment, during the term of the Quantification Settlement Agreement and for six years thereafter, in any evaluation or assessment of the Imperial Irrigation District's use of water, it shall be conclusively presumed that any water conserved, or used for mitigation purposes, through land fallowing conservation measures has been conserved in the same volume as if conserved by efficiency improvements, such as by reducing canal seepage, canal spills, or surface or subsurface runoff from irrigation fields.

(d) If a party to the Quantification Settlement Agreement engages in water efficiency conservation measures or land fallowing conservation measures to carry out a Quantification Settlement Agreement transfer or to mitigate the environmental impacts of a Quantification Settlement Agreement transfer, there may be no forfeiture, diminution, or impairment of the right of that party to use of the water conserved.

(e) During the period that the Quantification Settlement Agreement is in effect and the Imperial Irrigation District is meeting its water delivery obligations under the Quantification Settlement Agreement and its water delivery obligations under subdivision (c) of Section 2081.7 of the Fish and Game Code, no person or local agency, as defined in Section 21062 of the Public Resources Code, may seek to obtain additional conserved Colorado River water from the district, voluntarily or involuntarily, until the district has adopted a resolution offering to make conserved Colorado River water available.

(f) During the initial term in which the Quantification Settlement Agreement is in effect, any water transferred by the Imperial Irrigation District shall be subject to an ecosystem restoration fee established by the Department of Fish and Game, in consultation with the board, to cover the proportional impacts to the Salton Sea of the additional water transfer. The fee shall not exceed 10 percent of the amount of any compensation received for the transfer of the water. The fee shall be deposited in the Salton Sea Restoration Fund. This fee shall not apply to the following transfers:

(1) Transfers to meet water delivery obligations under the Quantification Settlement Agreement and related agreements, as defined in that agreement.

(2) Transfers to comply with subdivision (c) of Section 2081.7 of the Fish and Game Code.

(3) Transfers pursuant to a Defensive Transfer Agreement as defined in the Agreement for Acquisition of Conserved Water between the Imperial Irrigation District and the Metropolitan Water District of Southern California.

(g) Subdivisions (c), (d), (e), and (f) shall not become operative unless the parties have executed the Quantification Settlement Agreement on or before October 12, 2003.

(h) This section may not be construed to exempt the Imperial Irrigation District from any requirement established under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 3. This act shall only become operative if SB 277 and SB 654 of the 2003-04 Regular Session are both chaptered and become effective on or before January 1, 2004.



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.

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