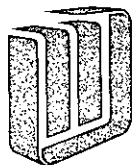


MAY 12 1992



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Karen E. Duff
EXECUTIVE SECRETARY

8-11

April 28, 1992

(Executive Committee--Action)

To: Board of Directors (Special Committee on Legislation--Action)

From: General Manager

Subject: Support of Senate Bill 1866 (Johnston--San Joaquin, Amador, Alpine, Calaveras, Mono, Tuolumne, Sacramento & Yolo Counties), if Amended

Report

Senator Johnston has introduced SB 1866, "The Delta Protection Act of 1992", which could, with some amendment, help preserve the rural character and resources of the Sacramento-San Joaquin Delta (Delta), without interfering with existing resource management and development programs of other relevant state agencies or with the various existing uses of Delta resources, including environmental, water supply and water quality uses.

The bill makes a number of findings regarding the value of the Delta in its present rural condition for various uses and calls for regional planning and management by local governments to preserve that condition. It would create a Delta Protection Commission, representing a variety of local interests, authorized to prepare and maintain a comprehensive long-term resource management plan for the Delta and its resources. The Commission would have the authority to approve all general plans of local agencies within the Delta area. A local general plan could be approved only if it is consistent with the management plan, would not result in wetland or riparian loss and would not degrade water quality.

A comprehensive land use management plan to protect the various uses of the Delta, including environmental, water quality and water supply uses, would be beneficial. However, while the bill appears to be limited to land use and related regulation, it is not expressly so limited. As presently drafted, it could create questions regarding the true scope of the bill and its relationship to the existing resource protection and development programs, and the jurisdiction, of agencies such as the Department of Water Resources, the State and Regional Water Resources Control Boards and the Department of Fish and Game.

Staff has developed proposed amendments which would clarify the scope of the bill, expressly limiting it to land use and related activities, while leaving intact its purpose of preserving the Delta's rural character and protecting its various uses. It is our understanding that Senator Johnston intended that the bill would be limited to land use activities and is amenable to considering amendments that would clarify that intent.

Board Committee Assignments

This letter is referred for action to:

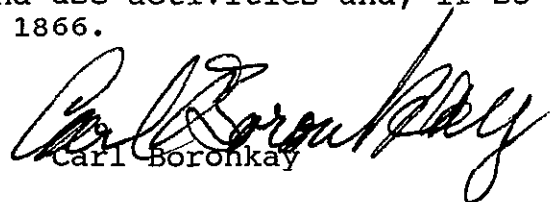
The Executive Committee because of its responsibility for legislation affecting the District pursuant to Administrative Code Section 2417(a); and

The Special Committee on Legislation because of its responsibility to review staff recommendations for positions on legislation that may affect the District pursuant to Administrative Code Section 2581(b).

Recommendation

EXECUTIVE COMMITTEE AND SPECIAL COMMITTEE ON LEGISLATION FOR ACTION.

It is recommended that the Board authorize the General Manager to seek amendment of SB 1866 to expressly limit the scope of such legislation to land use activities and, if so amended, to support enactment of SB 1866.


Carl Boronkay

AMENDED IN SENATE APRIL 28, 1992
AMENDED IN SENATE MARCH 31, 1992
AMENDED IN SENATE MARCH 19, 1992

SENATE BILL**No. 1866**

Introduced by Senators Johnston, Keene, and
McCorquodale
(Coauthor: Assembly Member Isenberg)

February 21, 1992

An act to add Division 19.5 (commencing with Section 29700) to the Public Resources Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 1866, as amended, Johnston. Sacramento-San Joaquin Delta.

(1) Under existing law, the area of the Sacramento-San Joaquin Delta is defined by statute for specified purposes relating to water rights protections. Under existing law, there is no special planning agency for the delta.

This bill would enact the Delta Protection Act of 1992 to create the Delta Protection Commission consisting of 19 members, as prescribed, and would specify the powers and duties of the commission. The bill would require the commission, by July 1, 1994, to prepare and adopt, in accordance with prescribed procedures, and thereafter review and maintain, a comprehensive long-term resource management plan for the delta, which meets specified requirements for the primary zone, as defined.

The bill would require, within 90 days of the adoption of that regional plan by the commission, that all general plans of local government, as to land located within the primary zone, be consistent with the regional plan and be submitted to the

commission for approval, thereby imposing a state-mandated local program.

The bill would permit, prior to adoption of the plan, approval of development within the primary zone only after making specified findings on the basis of substantial evidence in the record. The bill would prescribe procedures for administrative appeal and judicial review by any aggrieved person.

The bill would require the commission, commencing January 1, 1995, to annually submit to the Governor and the Legislature a report describing the progress in achieving the objectives of the bill, including specified matters.

The bill would make legislative findings and declarations.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Division 19.5 (commencing with Section
2 29700) is added to the Public Resources Code, to read:

3
4 DIVISION 19.5. DELTA PROTECTION ACT OF
5 1992

6
7 CHAPTER 1. FINDINGS AND DECLARATIONS

8
9 29700. This division shall be known, and may be cited,
10 as the Delta Protection Act of 1992.

11 29701. The Legislature finds and declares that the
12 Sacramento-San Joaquin Delta is a natural resource of
13 statewide, national, and international significance,
14 containing irreplaceable resources, and it is the policy of
15 the state to recognize, preserve, and protect those
16 resources of the delta for the use and enjoyment of

1 current and future generations.

2 29702. The Legislature further finds and declares that
3 the basic goals of the state for the delta are the following:

4 (a) Protect, maintain, and, where possible, enhance
5 and restore the overall quality of the delta environment,
6 including, but not limited to, agriculture, wildlife habitat,
7 and recreational activities.

8 (b) Assure orderly, balanced conservation and
9 development of delta resources.

10 (c) Improve flood protection by structural and
11 nonstructural means to ensure an increased level of
12 public health and safety.

13 29703. The Legislature further finds and declares as
14 follows:

15 (a) The delta is an agricultural region of great value to
16 the state and nation and the retention and continued
17 cultivation and production of fertile peatlands and prime
18 soils are of significant value.

19 (b) The agricultural land of the delta, while adding
20 greatly to the economy of the state, also provides a public
21 value as open space and habitat for water fowl using the
22 Pacific Flyway, as well as other wildlife, and the
23 continued dedication and retention of that delta land in
24 agricultural production contributes to the preservation
25 and enhancement of open space and habitat values.

26 (c) Agricultural lands located within the primary zone
27 should be protected from the intrusion of nonagricultural
28 uses, except where conversion to other uses is in the
29 long-term public interest.

30 29704. The Legislature further finds and declares that
31 the leveed islands and tracts of the delta and portions of
32 its uplands are floodprone areas of critical statewide
33 significance due to the public safety risks and the costs of
34 public emergency responses to floods, and that
35 improvement and ongoing maintenance of the levee
36 system is a matter of continuing urgency to protect
37 farmlands, population centers, the state's water quality,
38 and significant natural resource and habitat areas of the
39 delta. The Legislature further finds that improvements
40 and continuing maintenance of the levee system will not

1 resolve all flood risks and that the delta is inherently a
2 floodprone area wherein the most appropriate land uses
3 are agriculture, wildlife habitat, and, where specifically
4 provided, recreational activities, and that most of the
5 existing levee systems are degraded and in need of
6 restoration, improvement, and continuing management.

7 29705. The Legislature further finds and declares that
8 the delta's wildlife and wildlife habitats, including
9 waterways, vegetated unleveed channel islands,
10 wetlands, and riparian forests and vegetation corridors,
11 are highly valuable, providing critical wintering habitat
12 for waterfowl and other migratory birds using the Pacific
13 Flyway, as well as certain plant species, various rare and
14 endangered wildlife species of birds, mammals, and fish,
15 and numerous amphibians, reptiles, and invertebrates,
16 that these wildlife species and their habitat are valuable,
17 unique, and irreplaceable resources of critical statewide
18 significance, and that it is the policy of the state to
19 preserve and protect these resources and their diversity
20 for the enjoyment of current and future generations.

21 29706. The Legislature further finds and declares that
22 the public trust and other resource values of the delta
23 have deteriorated, and that deterioration threatens the
24 maintenance and sustainability of the delta's fish and
25 wildlife, recreational opportunities, and economic
26 productivity.

27 29707. The Legislature further finds and declares that
28 there exists no resource management plan or process by
29 which state and national interests and values can be
30 protected and enhanced for the delta, and that, to protect
31 the regional, state, and national interests for the
32 long-term productivity and economic vitality of the delta
33 resources, it is necessary to provide and implement delta
34 planning and management by local governments.

35 29708. The Legislature further finds and declares that
36 the cities, towns, and settlements within the delta are of
37 significant historical, cultural, and economic value and
38 that their continued protection is important to the
39 economic and cultural vitality of the region.

40 29709. The Legislature further finds and declares as

1 follows:

2 (a) The integrity of the delta's resources can best be
3 advanced through reliance on local government in its
4 local land use planning procedures and enforcement.

5 (b) In order to protect regional, state, and national
6 interests in the long-term productivity and economic
7 vitality of delta resources, it is important that there be a
8 coordination and integration of activities by the various
9 agencies whose activities and decisions impact the delta
10 and that local governments provide for delta planning
11 and management in their land use decisionmaking, that
12 recognizes and acknowledges the cumulative impact of
13 land use decisions on the delta.

14 29710. The Legislature further finds and declares that
15 agricultural, recreational, and other uses of the delta can
16 best be protected by planning in advance and
17 implementing projects that protect and restore
18 endangered species habitat before conflicts arise.

19 29711. The Legislature further finds and declares that
20 the inland ports of Sacramento and Stockton constitute
21 economic and water dependent resources of statewide
22 significance, fulfill essential functions in the maritime
23 industry, and have long been dedicated to transportation,
24 commercial, industrial, manufacturing, and navigation
25 uses consistent with federal, state, and local regulations,
26 and that those uses should be maintained and enhanced.

27 29712. The Legislature further finds and declares that
28 the delta's waterways and marinas offer recreational
29 opportunities of statewide and local significance, and that
30 because of increasing demand and usage there are
31 increased public safety problems which require
32 coordinated attention by all levels of government in
33 order to maintain, enhance, and protect the recreational
34 values of the delta.

35 29713. The Legislature further finds and declares that
36 the acquisition of wildlife and agricultural conservation
37 easements in the delta promotes and enhances the
38 traditional delta values of agriculture, habitat, and
39 recreation.

40 29714. The Legislature further finds and declares

1 that, in enacting this division, it is not the intent of the
2 Legislature to authorize any governmental agency acting
3 pursuant to this division to exercise their power in a
4 manner which will take or damage private property for
5 public use, without the payment of just compensation
6 therefor. This section is not intended to increase or
7 decrease the rights of any owner of property under the
8 California Constitution or the United States Constitution.

9 29715. It is the intent of the Legislature that the costs
10 of the organization and initial operation of the Delta
11 Protection Commission shall be paid from a loan from the
12 California Environmental License Plate Fund in the
13 amount of two hundred fifty thousand dollars (\$250,000).
14 It is the intent of the Legislature to repay the loan and to
15 finance future operations by a penalty assessment to be
16 imposed on fish and game and boating violations that
17 occur within the delta.

18 29716. *It is the intent of the Legislature that to the*
19 *extent of any conflict between this division and any*
20 *provision of the Water Code, the provisions of the Water*
21 *Code shall prevail.*

22 CHAPTER 2. DEFINITIONS

23 29720. Unless the context otherwise requires, the
24 definitions set forth in this chapter govern the
25 construction of this division.

26 29721. "Commission" means the Delta Protection
27 Commission created by Section 29735.

28 29722. "Delta" means the Sacramento-San Joaquin
29 Delta, as defined in Section 12220 of the Water Code, for
30 all provisions of this division, other than Chapter 3
31 (commencing with Section 29735). For the purposes of
32 Chapter 3 (commencing with Section 29735), "delta"
33 means the area of the delta minus the area contained in
34 Alameda County.

35 29723. (a) "Development" means on, in, over, or
36 under land or water, the placement or erection of any
37 solid material or structure; discharge of any dredged
38 material or of any gaseous, liquid, solid, or thermal waste;

1 grading, removing, dredging, mining, or extraction of
2 any materials; change in the density or intensity of use of
3 land, including, but not limited to, subdivisions pursuant
4 to the Subdivision Map Act (Division 2 (commencing
5 with Section 66410) of Title 7 of the Government Code),
6 and any other division of land including lot splits, except
7 where the land division is brought about in connection
8 with the purchase of the land by a public agency for
9 public recreational or fish and wildlife uses or
10 preservation; construction, reconstruction, demolition, or
11 alteration of the size of any structure, including any
12 facility of any private, public, or municipal utility; and the
13 removal or harvesting of major vegetation other than for
14 agricultural purposes.

15 (b) "Development" does not include any of the
16 following:

17 (1) Normal farming and ranching activities, such as
18 plowing, seeding, cultivating, draining, or harvesting for
19 the production of food, fiber, or forest products, or soil
20 and water conservation practices.

21 (2) The maintenance, including the reconstruction of
22 damaged parts, of structures, such as marinas, dikes,
23 dams, levees, riprap (consistent with Chapter 1.5
24 (commencing with Section 12306) of Part 4.8 of Division
25 6 of the Water Code), breakwater, causeways, bridges,
26 ferries, bridge abutments, docks, berths, and boat sheds.
27 "Maintenance" includes, for this purpose, the
28 rehabilitation and reconstruction of levees to meet
29 applicable standards of the United States Army Corps of
30 Engineers or the Department of Water Resources.

31 (3) The construction, repair, or maintenance of farm
32 dwellings, buildings, stock ponds, or irrigation or
33 drainage ditches, including those structures and uses
34 permitted under the California Land Conservation Act of
35 1965 (Chapter 7 (commencing with Section 51200) of
36 Part 1 of Division 1 of Title 5 of the Government Code).

37 (4) The construction or maintenance of farm roads, or
38 temporary roads for moving farm equipment, if those
39 roads are constructed and maintained, in accordance
40 with best management practices, to ensure that flow and

1 circulation patterns and chemical and biological
2 characteristics of the navigable waters are not impaired,
3 that the reach of the navigable waters is not reduced, and
4 that any adverse effect on the aquatic environment will
5 be otherwise minimized.

6 (5) The dredging or discharging of dredged materials,
7 including maintenance dredging or removal, as engaged
8 in by any port or reclamation district, in conjunction with
9 the normal scope of their customary operations,
10 consistent with existing federal, state, and local laws.

11 (6) The replacement or repair of pilings in existing
12 marinas and ports.

13 (7) The movement, grading, or removal of bulk
14 materials within port district facilities.

15 (8) *The operation, maintenance, and reconstruction*
16 *of water aqueduct facilities.*

17 29724. "Local agency" means any local agency, other
18 than a local government, formed pursuant to general law
19 or special act for the local performance of governmental
20 or proprietary functions within limited boundaries or
21 which maintains facilities within the delta. "Local
22 agency" includes, but is not limited to, a port, water
23 agency, flood control district, county service area,
24 maintenance district or area, improvement district or
25 improvement area, mosquito abatement district,
26 resource conservation district, irrigation district,
27 reclamation district, sanitary or sewer district, or any
28 other zone or area, formed for the purpose of designating
29 an area within which either an assessment or a property
30 tax rate will be levied to pay for a service or improvement
31 benefiting that area or a special function will be carried
32 out within that area.

33 29725. "Local government" means the Counties of
34 Contra Costa, Sacramento, San Joaquin, Solano, and Yolo,
35 and the Cities of Sacramento, Stockton, Tracy, Antioch,
36 Lodi, Pittsburg, Isleton, Lathrop, Brentwood, Rio Vista,
37 and West Sacramento.

38 29726. "Pacific Flyway" means the identified
39 migratory bird flight path, including feeding and nesting
40 habitat, as described in the Migratory Bird Treaty Act (16

1 U.S.C. Sec. 703 et seq.).

2 29727. "Port" means the Port of Sacramento and the
3 Port of Stockton, including all the land owned or leased
4 by those ports.

5 29728. "Primary zone" means the delta land and
6 water area of primary state concern and statewide
7 significance which is situated within the boundaries of
8 the delta, as described in Section 12220 of the Water
9 Code, but which is not within either the urban limit line
10 or sphere of influence line of any local government's
11 general plan or currently existing studies, as of January 1,
12 1992. The precise boundary lines of the primary zone
13 includes the land and water areas as shown on the map
14 titled "Delta Protection Zones" dated March 4, 1992, and
15 on file with the Secretary of State. Where the boundary
16 between the primary zone and secondary zone is a river,
17 stream, channel, or waterway, the boundary line shall be
18 the middle of that river, stream, channel, or waterway.

19 29729. "Regional plan" means the resource
20 management plan prepared and adopted pursuant to
21 Section 29760.

22 29730. "Restoration" means actions which return a
23 degraded or deteriorated area to a level of productivity,
24 environmental quality, or beneficial values similar or
25 equal to its original condition or exceeding it.

26 29731. "Secondary zone" means all the delta land and
27 water area within the boundaries of the delta not
28 included within the primary zone, subject to the land use
29 authority of local government, and which includes the
30 land and water areas as shown on the map titled "Delta
31 Protection Zones" dated March 4, 1992, and on file with
32 the Secretary of State.

33 29732. "Sphere of influence line" refers to those
34 boundaries of local governments as defined in Sections
35 56425 and 56426 of the Government Code.

36 29733. "Urban limit line" means that general plan line
37 established and approved by any local government
38 within the delta which delineates boundaries beyond
39 which urban development is not publicly proposed by
40 local government, as of January 1, 1992.

CHAPTER 3. ORGANIZATION

29735. There is hereby created the Delta Protection Commission consisting of 19 members as follows:

(a) One member of the board of supervisors of each of the five counties within the delta who shall be appointed by the board of supervisors of the county.

(b) Three city representatives who shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:

(1) One from the north delta, consisting of the Counties of Yolo and Sacramento.

(2) One from the south delta, consisting of the County of San Joaquin.

(3) One from the west delta, consisting of the Counties of Contra Costa and Solano.

(c) One member each from the board of directors of three different reclamation districts which are located within the primary zone, appointed by the Secretary of the Resources Agency.

(d) The Secretary of the Resources Agency or the secretary's designee.

(e) The Director of Parks and Recreation or the director's designee.

(f) The Director of Fish and Game or the director's designee.

(g) The Director of Food and Agriculture or the director's designee.

(h) The executive officer of the State Lands Commission or the executive officer's designee.

(i) The Director of Boating and Waterways or the director's designee.

(j) The Director of Water Resources or the director's designee.

(k) The Director of the Office of Planning and Research or the director's designee.

29736. The term of office of the members of the commission shall be for four years. No member may serve

1 in excess of two terms.

2 29737. Members shall serve without compensation,
3 but the expenses of each member incurred in connection
4 with official duties shall be paid by the commission.

5 29738. The position of a member of the commission
6 shall be considered vacated upon the loss of any
7 qualification required for appointment, and in that event
8 the appointing authority shall appoint a successor within
9 30 days of the occurrence of the vacancy.

10 ~~29739.~~

11 29739. The commission shall elect from its own
12 members a chairperson and vice chairperson whose
13 terms of office shall be two years, and who may be
14 reelected. If a vacancy occurs in either office, the
15 commission shall fill the vacancy for the unexpired term.

16 29740. One Member of the Senate, appointed by the
17 Senate Committee on Rules, and one Member of the
18 Assembly, appointed by the Speaker of the Assembly,
19 shall meet with, and participate in the activities of, the
20 commission to the extent that the participation is not
21 incompatible with their respective positions as Members
22 of the Legislature. For the purpose of this division, those
23 Members of the Legislature shall constitute a joint
24 interim investigating committee on the subject of this
25 division, and as such shall have the powers and duties
26 imposed upon those committees by the Joint Rules of the
27 Senate and Assembly.

28 29741. The time and place of the first meeting of the
29 commission shall be prescribed by the Governor, but in
30 no event shall it be scheduled for a date later than
31 January 31, 1993. All meetings after the first meeting shall
32 be held in a city within the delta.

33
34 CHAPTER 4. POWERS AND DUTIES OF THE
35 COMMISSION

36
37 29750. The commission shall meet at least monthly.
38 All meetings shall be open to the public as required by
39 law. Notice of the time and place of all regular and special
40 meetings shall be published at least once in a newspaper

1 of general circulation whose area of circulation is
2 throughout the delta. Notice of any meeting shall be
3 published at least seven days prior to the meeting date.

4 29751. A majority of the members of the commission
5 shall constitute a quorum for the transaction of the
6 business of the commission. A majority vote of the
7 members present shall be required to take action with
8 respect to any matter. The vote of each member shall be
9 individually recorded.

10 29752. The commission shall adopt its own rules,
11 regulations, and procedures.

12 29753. The commission may appoint committees
13 from its membership and appoint advisory committees
14 from members of other interested public agencies and
15 private groups.

16 29754. The commission shall establish and maintain
17 an office within the delta, and for this purpose the
18 commission may rent or own property and equipment.
19 Any rule, regulation, procedure, plan, or other record of
20 the commission which is of such a nature as to constitute
21 a public record under state law shall be available for
22 inspection and copying during regular office hours.

23 29755. The commission shall appoint and fix the salary
24 of an executive director who shall have charge of
25 administering the affairs of the commission, including
26 entering into contracts, subject to the directions and
27 policies of the commission. The executive director shall,
28 subject to the approval of the commission, appoint those
29 employees that are necessary to carry out the functions
30 of the commission.

31 29756. The commission may promote, facilitate, and
32 administer the acquisition of private and public wildlife
33 and agricultural conservation easements in the delta.

34 CHAPTER 5. RESOURCE MANAGEMENT PLAN

35
36
37 29760. (a) Not later than July 1, 1994, the commission
38 shall prepare and adopt, and thereafter review and
39 maintain, a comprehensive long-term resource
40 management plan for the primary zone of the delta. The

1 regional plan shall consist of the map of the primary zone
2 and text or texts setting forth a description of the needs
3 and goals for the delta and a statement of the policies,
4 standards, and elements of the regional plan.

5 (b) The regional plan shall meet the following
6 requirements:

7 (1) Protect and preserve the cultural values that
8 represent the historic and natural heritage of the delta.

9 (2) Conserve and enhance the quality of renewable
10 resources, including soil and water.

11 (3) Preserve and restore delta dependent fisheries
12 and their habitat.

13 (4) Preserve and restore riparian and wetlands
14 habitat, and ensure a net increase in both the acreage and
15 values of riparian and wetland resources.

16 (5) Preserve and enhance the water quality.

17 (6) Preserve and expand open-space and outdoor
18 recreational opportunities.

19 (7) Protect private property interests from trespassing
20 and vandalism.

21 (8) Preserve and expand opportunities for controlled
22 public access and use of public lands and waterways
23 consistent with the protection of natural resources and
24 private property interests.

25 (9) Restore, improve, and manage levee systems.

26 (10) Preserve and enhance agriculture.

27 (11) Preserve, enhance, and maintain navigation.

28 (12) Protect the delta from any development that
29 results in any significant loss of habitat or agricultural
30 land.

31 (13) Promote and enhance strategies which create
32 wildlife habitat preserves, including, but not limited to,
33 voluntary cooperative arrangements between property
34 owners and conservation groups that establish
35 conservation easements.

36 (c) The regional plan shall not supersede the authority
37 of local governments over areas within the secondary
38 zone.

39 29761. The commission shall adopt the regional plan
40 after at least three public hearings, with at least one

1 hearing held in a city in the north delta, the south delta,
2 and the west delta.

3 29762. Within 90 days of the adoption of the regional
4 plan by the commission, all general plans of local
5 government, as to land located within the primary zone,
6 shall be consistent with the regional plan and shall be
7 submitted to the commission for approval.

8 29762.5. The commission may approve a general plan of
9 a local government, as to land located within the primary
10 zone, only after making all of the following written
11 findings, based on substantial evidence in the record:

12 (a) The plan, and any development approved
13 consistent with the plan, will not result in wetland or
14 riparian loss.

15 (b) The plan, and development approved consistent
16 with the plan, will not result in the degradation of water
17 quality.

18 (c) The plan, and any development approved
19 consistent with the plan, will not result in increased
20 nonpoint source pollution.

21 29763. Nothing in this division shall confer permitting
22 authority upon the commission, nor shall anything in this
23 division require local governments to conform their
24 general plan, or land use entitlement decisions, to that of
25 the regional plan, except as to those areas within the
26 primary zone. *The regional plan, as it relates to lands
27 within the secondary zone, shall not preempt local
28 general plans for areas within the secondary zone in
29 effect on January 1, 1993.*

30 29764. Prior to the adoption of the regional plan, a
31 local government may approve development within the
32 primary zone only after making all of the following
33 written findings on the basis of substantial evidence in
34 the record:

35 (a) The development will not result in wetland loss.

36 (b) The development will not result in the
37 degradation of water quality.

38 (c) The development will not result in increased
39 nonpoint source pollution or soil erosion, including
40 subsidence or sedimentation.

1 (d) The development will not result in degradation or
2 reduction of Pacific Flyway habitat.

3 (e) The development will not result in reduced public
4 access.

5 (f) The development will not expose the public to
6 increased flood hazards.

7 (g) The development will not adversely impact
8 agricultural lands or increase the potential for vandalism,
9 trespass, or the creation of public or private nuisances on
10 private or public land.

11 (h) The development will not result in the
12 degradation or impairment of levee integrity.

13 (i) The development will not adversely impact
14 navigation.

15 29765. Nothing in this division shall deny the right of
16 private or public property owners and local governments
17 to establish agriculture preserves and enter into contracts
18 pursuant to the California Land Conservation Act of 1965
19 (Chapter 7 (commencing with Section 51200) of Part 1 of
20 Division 1 of Title 5 of the Government Code).

21 CHAPTER 6. APPEAL AND JUDICIAL REVIEW

22
23
24 29770. (a) Any person aggrieved by any action taken
25 by a local government in implementing the regional plan
26 or otherwise taken pursuant to this division may file an
27 appeal with the commission. The appeal shall be heard by
28 the commission within 60 days of the filing of the appeal,
29 unless the commission, either itself or by delegation to
30 the executive director, determines that the issue raised
31 on appeal is not within the commission's jurisdiction or
32 does not raise an appealable issue.

33 (b) The commission shall, by regulation, adopt
34 administrative procedures governing these appeals.

35 29771. After a hearing on the appeal, held in
36 accordance with regulations adopted pursuant to Section
37 29770, the commission shall either deny the appeal or
38 remand the matter to the local government, after making
39 specific findings, for reconsideration. Upon remand, the
40 local agency may modify the permit or approval and

1 resubmit the matter for review to the commission. The
 2 permit or approval shall not be effective until the
 3 commission adopts written findings based on substantial
 4 evidence in the record that the permit or approval is
 5 consistent with the regional plan and the approved local
 6 general plan.

7 29772. An aggrieved person may seek judicial review
 8 of any action taken by a local government that is
 9 appealable pursuant to subdivision (a) of Section 29770,
 10 by filing a petition for writ of mandate in accordance with
 11 Section 1094.5 of the Code of Civil Procedure within 60
 12 days after the date that the action was taken or, if
 13 appealed to the commission, within 60 days after the final
 14 decision of the commission.

15 16 CHAPTER 7. ANNUAL REPORT 17

18 29775. Commencing on January 1, 1995, and every
 19 year thereafter, the commission shall submit to the
 20 Governor and the Legislature a report describing the
 21 progress in achieving the objectives of this division. The
 22 report shall include, but not be limited to, all of the
 23 following:

24 (a) An evaluation of the effectiveness of the regional
 25 plan in preserving agricultural lands, restoring delta
 26 habitat, improving levee protection and water quality,
 27 providing increased public access and recreational
 28 opportunities, and in undertaking other functions
 29 prescribed in this division.

30 (b) Identification of additional funding, legislation, or
 31 other resources that are required to more effectively
 32 carry out the objectives and purposes of this division.

33 (c) An update of the regional plan, using baseline
 34 conditions set forth in the original regional plan.

35 (d) The status of the environmental thresholds
 36 established by the commission in the original regional
 37 plan.

38 SEC. 2. No reimbursement is required by this act
 39 pursuant to Section 6 of Article XIII B of the California
 40 Constitution because the local agency or school district

1 has the authority to levy service charges, fees, or
 2 assessments sufficient to pay for the program or level of
 3 service mandated by this act. Notwithstanding Section
 4 17580 of the Government Code, unless otherwise
 5 specified in this act, the provisions of this act shall become
 6 operative on the same date that the act takes effect
 7 pursuant to the California Constitution.