



● **Board of Directors**  
**Legislation Committee**

3/8/2011 Board Meeting

---

**8-7**

**Subject**

---

Express opposition, unless amended, to AB 576 (Dickinson, D-Sacramento) - Delta Stewardship Council: planning and administration: fee

**Description**

---

**Background**

In November 2009, the California Legislature passed a historic package of legislation to address the water supply and ecosystem challenges in the Sacramento-San Joaquin Delta as well as advance statewide water management reforms. Among the bills in the package was SB X7-1 by Senator Joseph Simitian (D-Palo Alto), which enacted the Sacramento-San Joaquin Delta Reform Act of 2009. SB X7-1 created two new governing bodies for the estuary, the Delta Stewardship Council (Council) and the Delta Conservancy. The Council, which was formed in early 2010, is required to develop, adopt and commence implementation of a new Delta Plan on or before January 1, 2012, that furthers the coequal goals of Delta ecosystem restoration and a reliable water supply. The Delta Conservancy will advance ecosystem restoration activities as well as economic development initiatives in the region.

The legislation did not establish a short-term or long-term financing mechanism for the two new agencies. A combination of funding from the state General Fund, bonds and/or federal reimbursements are currently providing the seed funding for the two new agencies in the current fiscal year. Another element of the legislative package, SB X7-2 authored by then-Senator Dave Cogdill (R-Modesto), would have put before the voters an \$11.14 billion general obligation bond on the November 2010 ballot. In August 2010, the Legislature passed, and the Governor signed, AB 1265 by then-Assembly Member Anna Caballero (D-Salinas), to postpone the \$11.14 billion bond measure to the November 2012 general election. While this bond would provide \$2.5 billion to fund Delta sustainability projects that could help implement Delta ecosystem restoration and Delta Plan activities, the bond is not a long-term funding source for the operations and planning activities of either the Council or the Delta Conservancy.

AB 576, as introduced February 16, 2011, (Attachment 1) by Assembly Member Dickinson (D-Sacramento) directs the Council, by March 31, 2012, to adopt a fee on water supply contractors of the State Water Project (SWP) and federal Central Valley Project (CVP) to fund a portion of the planning and administrative costs of the Council.

**Analysis**

AB 576 would impose costs for the funding of the Council on SWP and CVP contractors *only*, avoiding any attempt at cost recovery from the vast majority of water and other users within the Delta watershed. This approach is contrary to Metropolitan's "beneficiaries pay" policy principles. There is no indication within the bill that any other Delta watershed users would be required in the future to help pay the Council's planning and administrative costs, or that other funding resources would be identified. While the fee on the water contractors is only to fund a "portion" of the Council's costs, since the water contractor fee is the only funding source identified,

there is concern that the fee could be unnecessarily high and once initiated, it might prove difficult to include other beneficiaries in a long-term financing plan.

### **Proposed Amendment**

Staff recommends that Metropolitan oppose the bill unless it is amended to be consistent with the beneficiaries pay approach. Specifically, the bill should be amended to include other beneficiaries besides the water contractors in the proposed fee, and to spread the Council's planning and administrative costs more broadly to all persons or groups that benefit from or cause impacts to the Delta watershed.

### **Policy**

---

This board action is consistent with the Board's Delta policy principles memorialized in the following prior policy adoptions:

By Minute Item 45753, dated May 11, 2004, and Minute Item 46637, dated April 11, 2006, the Board adopted a set of Delta policy principles to ensure a solid foundation for development of future Metropolitan positions and to provide guidance to Metropolitan staff.

By Minute Item 47135, dated May 25, 2007, the Board supported, in principle, the proposed Delta Action Plan.

By Minute Item 47232, dated September 11, 2007, the Board adopted criteria for support of conveyance options in implementation of a long-term Delta improvement plan.

By Minute Item 47605, dated August 19, 2008, the Board approved Delta Governance Principles as outlined in the board letter.

### **California Environmental Quality Act (CEQA)**

---

CEQA determination for Options #1 and #2:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #3:

None required

### **Board Options**

---

#### **Option #1**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's opposition to AB 576, unless amended to spread the Council's planning and administrative costs more broadly to all persons or groups that benefit from or cause impacts to the Delta watershed.

**Fiscal Impact:** Unknown

**Business Analysis:** Protects Metropolitan from paying a disproportionate amount of Council planning and administrative costs

#### **Option #2**

Adopt the CEQA determination and authorize the General Manager to express Metropolitan's opposition to AB 576.

**Fiscal Impact:** None

**Business Analysis:** Protects Metropolitan from paying fees to support the Council

**Option #3**

Take no position on AB 576.

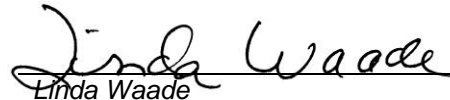

**Fiscal Impact:** Unknown, but potentially significant costs to Metropolitan to pay fees to support the Council planning and administrative costs

**Business Analysis:** Potential for fees to be charged to Metropolitan for an undetermined amount of time to pay Council costs

**Staff Recommendation**

---

Option #1

 Linda Waade Deputy General Manager, External Affairs	<u>3/1/2011</u> Date
 Jeffrey Kightlinger General Manager	<u>3/2/2011</u> Date

**Attachment 1 – Assembly Bill 576**

Ref# ea12611026

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL****No. 576****Introduced by Assembly Member Dickinson**

February 16, 2011

An act to add Section 85215 to the Water Code, relating to the Sacramento-San Joaquin Delta.

## LEGISLATIVE COUNSEL'S DIGEST

AB 576, as introduced, Dickinson. Delta Stewardship Council: planning and administration: fee.

The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, and requires the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Sacramento-San Joaquin Delta (Delta Plan), meeting specified requirements.

This bill would require the council, by March 31, 2012, to adopt a fee on water supply contractors of the State Water Project and the federal Central Valley Project to fund a portion of the planning and administrative costs of the council.

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

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

- 1 SECTION 1. Section 85215 is added to the Water Code, to
- 2 read:
- 3 85215. On or before March 31, 2012, the council shall adopt
- 4 a fee on water supply contractors of the State Water Project and

**AB 576**

— 2 —

- 1 the federal Central Valley Project to fund a portion of the planning
- 2 and administrative costs of the council.

O