

Date of Hearing: July 7, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

SB 821 (Committee on Natural Resources and Water) – As Amended July 5, 2021

Policy Committee: Water, Parks and Wildlife

Vote: 14-0

Urgency: Yes

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill re-establishes the independence of the Delta Independent Science Board (DISB) by providing its members are not state employees and specifying the DISB member's contracted rate of hourly compensation. Specifically this bill:

- 1) Requires the Delta Stewardship Council (DSC) to contract for the services of the members of the DISB at an hourly rate of \$150, increased annually based on inflation and cost of living adjustments.
- 2) Provides that members of the DISB are not employees of DSC and shall perform their duties independent of the DSC.

FISCAL EFFECT:

DSC costs are absorbable within existing resources.

COMMENTS:

- 1) **Purpose.** This bill is intended to address a change in policy by clarifying that members of the DISB are not state employees, but independent consultants. This bill will also ensure members are adequately compensated for their important work in independently and impartially reviewing scientific research, monitoring and assessment programs to support the adaptive management of the Sacramento-San Joaquin Delta.
- 2) **Background.** Prior to August 2020, members of the DISB were treated as "independent contractors" and compensated as much as \$4,000 per month (\$200/hour), depending on their workload. After the Natural Resources Agency reexamined the question of whether members of the DISB were "independent contractors" or "employees" in summer 2020, the Natural Resources Agency concluded that members of the DISB are, indeed, "employees" of the state. Given this interpretation of the law and the fact that salaries for members of the DISB are not specified in law, the DSC began compensating members of the DISB at a rate of \$100 per meeting, the standard per diem for other members of state boards.

Although there is wide disagreement on the interpretation made by the Natural Resources Agency, this bill clarifies the independence of the DISB and provides statutory authority to pay the scientists at a fair and reasonable rate.

- 3) **Delta Reform Act of 2009.** This legislation was intended to chart a path to help resolve the conflicts within and over the Delta. It was the culmination of the work of many stakeholders and experts to change how the Delta is managed so that the coequal goals of water supply and environmental protection will be realized. An overarching and continuous theme of these efforts (i.e., the Delta Vision Blue Ribbon Task Force, Delta Vision report, Delta Strategic Plan, and legislative deliberations) was that the ultimate Delta plan must be informed by the best independent science and reviewed by the best available scientists. The goal was to ensure the science behind the Delta plan was beyond reproach. In creating the DISB, the Delta Reform Act was explicit that its members not be state employees but, rather, independent and impartial arbiters of scientific research pertaining to the Sacramento-San Joaquin Delta: the members shall not be directly affiliated with a program or agency subject to the review activities of the Delta Independent Science Board (Water Code § 85208(a)(2). This bill ensures the original intent of the act is preserved.

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