

Date of Hearing: July 1, 2021

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Eduardo Garcia, Chair

SB 821 (Committee on Natural Resources and Water) – As Amended June 8, 2021

SENATE VOTE: 37-0

SUBJECT: Sacramento-San Joaquin Delta: Delta Independent Science Board

SUMMARY: Provides that members of the Delta Independent Science Board (DISB) are not state employees and specifies the rate of members' 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 equivalent to that of a "Research Specialist V" as described in the Department of Human Resources Pay Scale document.
- 2) Provides that members of the DISB are not employees of DSC and shall perform their duties independent of the DSC.

EXISTING LAW:

- 1) Establishes DSC as an independent state agency with seven members with diverse expertise that reflect a statewide perspective [Water Code (WC) § 85200].
- 2) Requires DSC to develop and commence implementation of the Delta Plan by January 1, 2012. The intent of the Delta Plan is to restore the Delta ecosystem and maintain a reliable water supply (the "coequal goals") while protecting and sustaining the unique cultural, historical, recreational, and agricultural values of the Delta as a place (WC § 85300 *et seq.*).
- 3) Establishes the DISB and specifies that it shall have no more than ten members that are nationally or internationally prominent scientists with expertise to evaluate a broad range of scientific programs to support adaptive management of the Delta. Provides that members of the DISB shall not be directly affiliated with a program or agency subject to its review (WC § 85280).
- 4) Permits DSC to contract for consultant services and architectural and engineering services to assist DSC in various functions, including performance of scientific review to inform water and environmental decision-making in the Delta. Contracts for these services are exempt from review by the State Personnel Board and requirements of the public contracting law (WC § 85213).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill is intended to address a change in policy by clarifying that members of the DISB are not state employees, but independent consultants and ensure that 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.

California Civil Service Pay Scales – [Online Manual \(54th Edition\)](#). This handbook stipulates that a “Research Specialist V” earns an hourly rate of approximately \$59 to \$74.

Sacramento-San Joaquin Delta. The Delta is both the hub of the California water system and one of the most valuable estuary and wetland ecosystems on the west coast of the Americas. The Delta provides water to more than 27 million Californians and 3 million acres of agricultural land. It supports a four hundred billion dollar a year economy, is part of the Pacific Flyway, is critical habitat to 700 native plant and animal species, and is home to more than 500,000 people. Its ecosystem has been in a state of long-term decline; this situation has led to seemingly endless conflict over the management of the Delta to sustain its rich ecosystem, historical, cultural, and recreational values while guaranteeing a reliable water supply for much of California.

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 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)].

- 3) **Proposed committee amendments.** To ensure members of the DISB are able to continue to carry out their role as soon as possible, the committee proposes the following amendments:

Amendment 1

Specify that the compensation of the DISB members shall be \$150/hour rather than the equivalent of a “Research Specialist V” and that this rate shall adjust with inflation.

Amendment 2

Add an urgency clause to this bill.

- 4) **Arguments in support.** A coalition of environmental and other interests write, “The crisis with the funding of the Delta Independent DISB must be addressed as soon as possible.”

5) Related legislation.

SBx7 1 (Simitian), Chapter 5, Statutes of 2009-10 Seventh Extraordinary Session, among other things, established the DSC to develop a plan for the Delta and the DISB to develop and implement an impartial science program for the Delta.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies
California Water Research

Opposition

None on file.

Analysis Prepared by: Pablo Garza / W., P., & W. / (916) 319-2096