

Assembly Bill No. 2954

CHAPTER 690

An act to add and repeal Title 7.25 (commencing with Section 66700) of the Government Code, relating to the San Francisco Bay Restoration Authority.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2954, Lieber. San Francisco Bay Restoration Authority.

(1) Existing law establishes the San Francisco Bay Area Conservancy Program, administered by the State Coastal Conservancy, to address the resource and recreational goals of the San Francisco Bay area in a coordinated, comprehensive, and effective manner and authorizes the conservancy to undertake projects and award grants in the San Francisco Bay area to achieve various goals, including the improvement of public access to the coast and the protection, restoration, and enhancement of natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources.

Existing law also establishes the San Francisco Bay Conservation and Development Commission and requires a person or governmental agency wishing to place fill, extract materials, or make a substantial change in the use of any water, land, or structure within the area of the commission's jurisdiction, as defined, to secure a permit from the commission. Existing law also authorizes the commission to amend, or repeal and adopt, the San Francisco Bay Plan, which is a comprehensive and enforceable plan for the conservation of the water in the San Francisco Bay and the development of its shoreline.

This bill would enact the San Francisco Bay Restoration Authority Act, which would establish the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along its shoreline. The act would establish a governing board of the authority composed of a resident of the San Francisco Bay Area, as defined, who would be required to serve as chair, and specified local and regional governmental officials, impose membership requirements for the board, and require the board to, among other things, establish policies for the operation of the authority and convene a Bay Restoration Advisory Committee to assist and advise the board in carrying out its functions.

The act would authorize the authority to raise funds and award grants to public and private entities for eligible projects, including projects that restore, protect, or enhance tidal wetlands, managed ponds, or natural habitat on the

San Francisco Bay shoreline. The act would authorize the authority to, among other things, levy a benefit assessment, apply for and receive grants from federal and state agencies, solicit and accept gifts, fees, grants, and allocations from public and private entities, issue revenue bonds, incur bond indebtedness, and enter into joint powers agreements.

Because this bill would impose additional duties on local governmental agencies relating to the membership of the governing board of the authority, the bill would impose a state-mandated local program.

This bill would repeal the act on January 1, 2029.

(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.

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

SECTION 1. Title 7.25 (commencing with Section 66700) is added to the Government Code, to read:

TITLE 7.25. SAN FRANCISCO BAY RESTORATION AUTHORITY
ACT

CHAPTER 1. FINDINGS AND DECLARATIONS

66700. This title shall be known and may be cited as the San Francisco Bay Restoration Authority Act.

66700.5. The Legislature hereby finds and declares all of the following:

(a) The nine counties surrounding the San Francisco Bay constitute a region with unique natural resource and outdoor recreational needs. The San Francisco Bay is the region's greatest natural resource and its central feature and contributes greatly to California's economic health and vitality. The bay is a hub of an interconnected open-space system of watersheds, natural habitats, scenic areas, agricultural lands, and regional trails.

(b) As the largest estuary on the West Coast of the United States, the San Francisco Bay is home to hundreds of fish and wildlife species and provides many outdoor recreational opportunities. The San Francisco Bay is home to 105 threatened species and 23 endangered species of wildlife. The San Francisco Bay and its tidal and seasonal wetlands and other natural shoreline habitats are a significant part of the state's coastal resources and a healthy bay is necessary to support the state's human and wildlife populations.

(c) The Legislature has declared, in the California Ocean Protection Act, that California's coastal and ocean resources are critical to the state's environmental and economic security and integral to the state's quality of life.

(d) A healthy San Francisco Bay is essential to a healthy ocean ecosystem. Forty percent of the land in the state drains to the San Francisco Bay. Pollution from cars, homes, and neighborhoods around the bay, as well as from communities as far away as Fresno, Redding, and Sacramento, drains into creeks, streams, and rivers that flow to the bay before entering the Pacific Ocean.

(e) The San Francisco Bay is an estuary that is a critical nursery for many ocean species, and the bay's wetlands, which are sheltered from high winds, big waves, and fast-moving water, provide plentiful food and protection from ocean predators. The bay's fertile mixing zone of fresh and salty water also generates the ocean's food chain base.

(f) The restoration, preservation, and maintenance of vital wetlands and San Francisco Bay habitat, improvement of bay water quality, provision of public access to the bay shoreline, and enhancement of shoreline recreational amenities for the growing population of the San Francisco Bay Area are immediate state and regional priorities that are necessary to address continuing serious threats posed by pollution and sprawl and to improve the region's quality of life.

(g) Wetland restoration in the San Francisco Bay is necessary to address the growing danger that global warming and rises in sea level pose to the economic well-being, public health, natural resources, and environment of California. Tidal wetlands can both assist with tidal and fluvial flood management and adapt to rises in sea level by accreting additional sediment and rising in elevation. Leading scientists from the Intergovernmental Panel on Climate Change and the United States government have found that the restoration of lost wetlands represents an immediate and large opportunity for enhancing terrestrial carbon sequestration.

(h) The importance of protecting and restoring the San Francisco Bay's tidal wetlands and other natural habitat was underscored by the 2007 Cosco Busan oil spill, and the critical importance of restoration projects and the long-term health of the bay are well-documented in regional plans and reports, including the San Francisco Estuary Project's Comprehensive Conservation and Management Plan, the San Francisco Bay Conservation and Development Commission's San Francisco Bay Plan, the Baylands Ecosystem Habitat Goals Report, the San Francisco Bay Joint Venture's "Restoring the Estuary" Implementation Strategy, the Resources Agency report, "California's Ocean Economy," and the Save The Bay's "Greening the Bay" report.

(i) The protection and restoration of the San Francisco Bay require efficient and effective use of public funds, leveraging of local funds with state and federal resources, and investment of significant resources over a sustained period for habitat restoration on shoreline parcels, parks, and recreational facilities, and public access to natural areas.

(j) The protection and restoration of the San Francisco Bay and the enhancement of its shoreline confer special benefits on property proximate to the bay. Properties proximate to the bay receive special benefits from the contribution of a healthy and vibrant bay to the region's economy and quality

of life, including improved access to the bay's shoreline, enhanced recreational amenities in the area, and protection from flooding.

(k) The San Francisco Bay Area needs to develop regional mechanisms to generate and allocate additional resources to address threats to the San Francisco Bay and to secure opportunities for the improvement of the bay and its shoreline, natural areas, and recreational facilities.

(l) It is in the public interest to create the San Francisco Bay Restoration Authority as a regional entity to generate and allocate resources for the protection and enhancement of tidal wetlands and other wildlife habitat in and surrounding the San Francisco Bay.

CHAPTER 2. DEFINITIONS

66701. Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) "Advisory committee" means the Bay Restoration Advisory Committee convened by the governing board of the San Francisco Bay Restoration Authority pursuant to Section 66703.7.

(b) "Authority" means the San Francisco Bay Restoration Authority established as a regional entity pursuant to Section 66702.

(c) "Bayside city or county" means a city or county with a geographical boundary that touches San Francisco Bay, and includes the City and County of San Francisco.

(d) "Board" means the governing board of the San Francisco Bay Restoration Authority created pursuant to Section 66703.

(e) "Elected official" means an elected member of a city council or an elected member of a county board of supervisors.

(f) "Member" means a person appointed as a member of the governing board of the San Francisco Bay Restoration Authority pursuant to Section 66703.

(g) "San Francisco Bay" means the area described in subdivision (a) of Section 66610.

(h) "San Francisco Bay Area" means the area within the State Coastal Conservancy's San Francisco Bay Area Conservancy Program created pursuant to Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code and includes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

CHAPTER 3. SAN FRANCISCO BAY RESTORATION AUTHORITY

66702. (a) The San Francisco Bay Restoration Authority is hereby established as a regional entity with jurisdiction extending throughout the San Francisco Bay Area.

(b) The jurisdiction of the authority is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(c) The authority's purpose is to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay and along its shoreline.

66702.5. It is the intent of the Legislature that the authority should complement existing efforts by cities, counties, districts, the San Francisco Bay Conservation and Development Commission, the State Coastal Conservancy, and other local, regional, and state entities, related to addressing the goals described in this title.

CHAPTER 4. GOVERNING BODY

66703. (a) The authority shall be governed by a board composed of seven voting members, as follows:

(1) One member shall be a resident of the San Francisco Bay Area with expertise in the implementation of Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code and shall serve as the chair.

(2) One member shall be an elected official of a bayside city or county in the North Bay. For purposes of this subdivision, the North Bay consists of the Counties of Marin, Napa, Solano, and Sonoma.

(3) One member shall be an elected official of a bayside city or county in the East Bay. For purposes of this subdivision, the East Bay consists of the portion of Contra Costa County that is west of the City of Pittsburg and the portion of Alameda County that is north of the southern boundary of the City of Hayward.

(4) One member shall be an elected official of a bayside city or county in the South Bay. For purposes of this subdivision, the South Bay consists of Santa Clara County, the portion of Alameda County that is south of the southern boundary of the City of Hayward, and the portion of San Mateo County that is south of the northern boundary of Redwood City.

(5) One member shall be an elected official of a bayside city or county in the West Bay. For purposes of this subdivision, the West Bay consists of the City and County of San Francisco and the portion of San Mateo County that is north of the northern boundary of Redwood City.

(6) Two members shall be elected officials of one or more of the following:

(A) A bayside city or county.

(B) A regional park district, regional open-space district, or regional park and open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code that owns or operates one or more San Francisco Bay shoreline parcels.

(b) The Association of Bay Area Governments shall appoint the members.

(c) Each member shall serve at the pleasure of his or her appointing authority.

(d) A vacancy shall be filled by the Association of Bay Area Governments within 90 days from the date on which the vacancy occurs.

66703.1. The members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

66703.2. A member shall exercise his or her independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title.

66703.4. (a) A member appointed pursuant to subdivision (b) of Section 66703 may receive a per diem for each board meeting that he or she attends. The board shall set the amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars (\$100) per meeting. A member may not receive a payment for more than two meetings in a calendar month.

(b) A member may waive a payment authorized by this section.

66703.5. The board shall elect from its own members a vice chair who shall preside in the absence of the chair.

66703.6. (a) The time and place of the first meeting of the board shall be at a time and place within the San Francisco Bay Area fixed by the chair of the board.

(b) After the first meeting described in subdivision (a), the board shall hold meetings at times and places determined by the board.

(c) Meetings of the board are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

66703.7. (a) Not later than six months after the date of the board's first meeting described in subdivision (a) of Section 66703.6, the board shall convene a Bay Restoration Advisory Committee to assist and advise the board in carrying out the functions of the board. The advisory committee shall meet on a regular basis.

(b) The membership of the advisory committee shall be determined by the authority based upon criteria that provide a broad representation of community and agency interests within the authority's jurisdiction over the restoration of wetland areas in the San Francisco Bay and along its shoreline. The membership of the advisory committee may include, but is not limited to, representatives from the following:

- (1) The Department of Fish and Game.
- (2) The State Coastal Conservancy.
- (3) The San Francisco Bay National Wildlife Refuge Complex operated by the United States Fish and Wildlife Service.
- (4) Open space and park districts that own or operate shoreline parcels in the San Francisco Bay Area.
- (5) The San Francisco Bay Regional Water Quality Control Board.
- (6) The San Francisco Bay Conservation and Development Commission.
- (7) The San Francisco Bay Joint Venture Management Board.
- (8) The San Francisco Bay Trail Project.
- (9) The San Francisco Estuary Project.

(10) Nongovernmental organizations working to restore, protect, and enhance San Francisco Bay wetlands and wildlife habitat.

(11) Members of the public from bayside cities and counties in the San Francisco Bay Area.

66703.8. (a) The board is the legislative body of the authority and, consistent with this title, shall establish policies for the operation of the authority.

(b) The board may act either by ordinance or resolution in order to regulate the authority and to implement this title.

(c) Four voting members of the board shall constitute a quorum for the purpose of transacting any business of the board. A recorded majority vote of the total voting membership of the board is required on each action.

CHAPTER 5. POWERS AND DUTIES OF THE AUTHORITY

Article 1. General Provisions

66704. The authority has, and may exercise, all powers, expressed or implied, that are necessary to carry out the intent and purposes of this title, including, but not limited to, the power to do all of the following:

(a) (1) Levy a benefit assessment, special tax, or property-related fee consistent with the requirements of Articles XIII C and XIII D of the California Constitution, including but not limited to, a benefit assessment levied pursuant to paragraph (2), except that a benefit assessment, special tax, or property-related fee shall not be levied pursuant to this subdivision after December 31, 2028.

(2) The authority may levy a benefit assessment pursuant to any of the following:

(A) The Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code.

(B) The Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code.

(C) The Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code.

(D) The Landscaping and Lighting Assessment Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code, notwithstanding Section 22501 of the Streets and Highways Code.

(E) Any other statutory authorization.

(b) Apply for and receive grants from federal and state agencies.

(c) Solicit and accept gifts, fees, grants, and allocations from public and private entities.

(d) Issue revenue bonds for any of the purposes authorized by this title pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5).

(e) Incur bond indebtedness, subject to the following requirements:

(1) The principal and interest of any bond indebtedness incurred pursuant to this subdivision shall be paid and discharged prior to January 1, 2029.

(2) For purposes of incurring bond indebtedness pursuant to this subdivision, the authority shall comply with the requirements of Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code except where those requirements are in conflict with this provision. For purposes of this subdivision, all references in Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code to a board of directors shall mean the board and all references to a district shall mean the authority.

(3) The total amount of indebtedness incurred pursuant to this subdivision outstanding at any one time shall not exceed 10 percent of the authority's total revenues in the preceding fiscal year.

(f) Receive and manage a dedicated revenue source.

(g) Deposit or invest moneys of the authority in banks or financial institutions in the state in accordance with state law.

(h) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(i) Engage counsel and other professional services.

(j) Enter into and perform all necessary contracts.

(k) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(l) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.

(m) Use interim or temporary staff provided by appropriate state agencies or the Association of Bay Area Governments. A person who performs duties as interim or temporary staff shall not be considered an employee of the authority.

66704.1. The authority shall not acquire or own real property.

66704.3. All records prepared, owned, used, or retained by the authority are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

Article 2. Grant Program

66704.5. (a) The authority may raise funds and award grants to public and private entities, including, but not limited to, owners or operators of San Francisco Bay shoreline parcels, for eligible projects in the counties within the authority's jurisdiction.

(b) An eligible project shall do at least one of the following:

(1) Restore, protect, or enhance tidal wetlands, managed ponds, or natural habitats on the San Francisco Bay shoreline.

(2) Build or enhance shoreline levees or other flood management features that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).

(3) Provide or improve public access or recreational amenities that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).

(c) In awarding grants pursuant to subdivision (a), the authority shall give priority to projects that, to the greatest extent possible, meet the selection criteria of the State Coastal Conservancy's San Francisco Bay Area Conservancy Program in accordance with subdivision (c) of Section 31163 of the Public Resources Code, and are consistent with the San Francisco Bay Conservation and Development Commission coastal management program for the San Francisco Bay segment of the California coastal zone and the San Francisco Bay Joint Venture implementation strategy updated list of Ongoing and Potential Wetland Habitat Projects.

(d) In reviewing and assessing projects, the authority shall solicit input from the advisory committee convened pursuant to Section 66703.7. The authority shall adopt a procedure for evaluating proposals in consultation with the advisory committee.

(e) Grants awarded pursuant to subdivision (a) may be used to support all phases of planning, construction, monitoring, operation, and maintenance for projects that are eligible pursuant to subdivision (b).

CHAPTER 6. FINANCIAL PROVISIONS

66705. (a) The board shall provide for regular audits of the authority's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally accepted accounting principles adopted by the Government Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

(b) The board shall provide for annual financial reports. The board shall make copies of the annual financial reports available to the public.

66705.5. The authority shall be funded through gifts, donations, grants, state or local bonds, assessments, other appropriate funding sources, and other types of financial assistance from public and private sources.

CHAPTER 7. REPEAL

66706. This title shall remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2029, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments

sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O