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Water bills...and their loopholes

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Water laws signed by Gov. Arnold Schwarzenegger promise changes to the Sacramento-San Joaquin Delta, whether or not an accompanying \$11 billion bond is approved. The bills create agencies to oversee Delta management. According to critics, however, they also contain loopholes that could undermine water conservation and wildlife restoration. Here's a look:

SBx7-1, THE SACRAMENTO-SAN JOAQUIN DELTA REFORM

Creates the Delta Conservancy: 11 voting members, one each from five Delta counties – four appointed by the governor and two by legislators. This body will fund and oversee habitat restoration. It comes, however, with a loophole: If voters reject a November 2010 bond measure, the conservancy may have no money to operate.

Creates Delta Stewardship Council: Seven voting members – four appointed by the governor and two by legislators – with one serving as chair of the existing Delta Protection Commission. This council would replace the CalFed Bay-Delta Authority; by Dec. 31, 2010, it must build the "Two Gates" project in coordination with other agencies. And by Jan. 1, 2012, it must adopt a "Delta Plan" for ecosystem restoration and water management. The loophole: The council gets operational funds now allocated to the CalFed Authority, but no guarantee in future years. Also, the council must hear appeals of state and local projects, but lacks power to make changes.

Requires the State Water Resources Control Board to develop "flow criteria" to protect habitat in Delta waterways: The board must conduct instream flow studies for rivers in the Delta watershed by 2012, and for all rivers outside the Sacramento River watershed by 2018. The loophole: "Flow criteria" for Delta waterways are not binding.

SBx7-7, WATER CONSERVATION

Requires 10 percent urban conservation statewide by 2015, 20 percent by 2020: It imposes penalties of losing eligibility for state water grants and loans. Among the loopholes: Utilities could pick high baseline consumption rates, which would show they've already met the target and no new conservation is required, and there are no conservation targets for agriculture.

SBx7-6, GROUNDWATER

Requires statewide groundwater monitoring, starting Jan. 1, 2012: State officials must report results every five years. Failure to report could cost well owners eligibility for state water grants and loans. The loopholes: The law requires only reporting and doesn't provide groundwater regulation.

SBx7-8, ENFORCEMENT

Requires that anyone who began diverting surface water after Dec. 31, 1965, must file annual reports: The bill creates 25 state enforcement positions, funded initially by a 2009 budget amendment, and later by fee revenue. Penalties for not reporting include \$1,000 fines, plus \$500 more for each day the filing is late, and lost eligibility for state water grants and loans. The loopholes: Only reporting is required. There are no provisions to regulate diversions.

– Matt Weiser