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Dems call handoff

GEORGE SKELTON
FROM SACRAMENTO

Take a good look because you won't see this often: The Legislature's majority party trying to surrender power.

It's power that Democrats have been incapable or unwilling to exercise anyway. And it's not like they're giving it to Republicans.

They're attempting to create an independent governing body to decide how to restore the ecosystem and remodel the waterworks of the deteriorating Sacramento-San Joaquin River Delta, a major source of drinking water for Southern Californians and irrigation for San Joaquin Valley farms.

Wealth, livelihoods and ways of life are at stake. Some of California's most combative interests -- agricultural, business, urban, environmental -- have been battling over the delta for decades. Because these stakeholders can't agree, neither can the politicians whose policies tend to be shaped by their patron interests. That's the system.

Handing off the decision-making authority to an outside entity was suggested by a special commission -- the Delta Vision Blue Ribbon Task Force -- created by Gov. Arnold Schwarzenegger and headed by attorney Philip Isenberg, a former high-ranking legislator and Sacramento mayor.

More than 200 federal, state and local entities have their fingers in delta water, the panel noted in its report last October. "Everyone is involved but no one is in charge. . . . Continuation of the current system of governance . . . guarantees continued deadlock and inevitable litigation."



Sen. Joe Simitian (D-Palo Alto), author of a bill to create a powerful Delta Stewardship Council, blames California's "reform tradition" for much of Sacramento's gridlock.

"In response to big-city machine politics on the East Coast, California created lots of checks and balances so nothing bad can happen," Simitian says. "The flip side is nothing good gets done. At some point, you have to let go and let somebody make the hard decisions.

"Those decisions would be better made in a less political environment by people who know what the hell they're talking about. The lesson of the last 25 years is that political institutions are not very well equipped to make plumbing decisions. We need to provide for independence and expertise."

The senator's mention of the last 25 years refers roughly to the last time the Legislature and governor had the courage to step up and make a major water decision. They were slapped down by voters.

Gov. Jerry Brown and the Legislature authorized a "peripheral canal" to funnel Sacramento River water around the brackish delta and directly into a southbound aqueduct. But in 1982 an unlikely coalition of rich farmers and skittish environmentalists talked voters into repealing the legislation. Farmers thought the canal's operation would be too friendly to the environment, while environmentalists believed it wouldn't be friendly enough.

Voters actually had approved the canal in 1960 when they authorized bonds for Gov. Pat Brown's State Water Project. But by the time Oroville Dam and the California Aqueduct were built, the state had run out of money for the canal.

The canal originally was proposed by state wildlife officials to protect fish from being sucked into pumps draining delta water

into the aqueduct. But many environmentalists, delta farmers and Bay Area cities over the decades have fought the canal, envisioning it as a giant straw to siphon additional northern water into valley irrigation ditches and Southland swimming pools. But things have changed. We've entered a new era in the perpetual water wars.

The fishery has tanked and courts have curtailed deliveries to save the remaining fish. Delta levees are crumbling and are vulnerable to flooding or the inevitable big earthquake that could cut off all water shipments for years.

Global warming threatens to reduce the Sierra snowpack and melt it faster, requiring more water storage -- reservoirs and underground -- to prevent worse droughts and flooding. Scientists also predict that climate change will raise the sea level, swamping the delta with salt water.

The new fight against time is to restore the ecosystem while providing a reliable water supply -- emphasis on reliable, even if the supply is reduced from previous commitments.

There's a growing consensus among farm, urban and many environmental interests -- but still not delta farmers who rely on fresh Sacramento River water -- that some peripheral canal is needed. Or perhaps a peripheral tunnel. Or a combo of both. Or both combined with a more secure water route through the delta -- a route that could devastate one of the estuary's most scenic boating areas. Whatever the "conveyance" -- new water lingo for the emotional word "peripheral" -- Democratic legislators want it to be decided by a seven-member Delta Stewardship Council. The governor would appoint four members and the Legislature two. The chairman of a Delta Protection Commission would be the seventh member.

The council's co-equal mission would be to improve both the ecosystem and water supply. It would assess fees on users of delta water to pay for the billions in upgrades.

The Simitian bill is part of a comprehensive Democratic package that also would, among other things, require a 20% reduction in urban water consumption by 2020. Crop irrigation likewise would have to be more efficient. And all groundwater levels would be monitored by local agencies and reported to the state.

"This is the most profound, the most radical change in water policy in my lifetime," says Rande Kanouse, veteran lobbyist for the East Bay Municipal Utility District. He says much tinkering is needed and urges the Legislature to delay final action until next year.

But Democrats are holding weekly committee hearings in hopes of passing legislation by Sept. 11, the end of this year's regular session. Schwarzenegger, backed by Republicans, dampened optimism by vowing not to sign legislation that doesn't include bonds for dams. A bond bill would require a two-thirds majority vote, a generator of gridlock. The other water bills need only a simple majority vote.

"The governor has to decide whether he wants to solve this problem or have another food fight," says Assemblyman Jared Huffman (D-San Rafael), who heads the water committee. Dams are needed. But they'd be of little use without a healthy delta. This is a once-in-a-generation chance to heal the estuary. Critics might accuse Democrats of passing the buck. But it's a wise move that recognizes the Legislature's limitations.



November 18, 2009

Simitian's bill

Governor signs a water bill

Governor Arnold Schwarzenegger has signed legislation by State Senator Joe Simitian (D-Palo Alto), which aims to restore the Sacramento-San Joaquin Delta and ensure an adequate supply of water for California in the years ahead.

Simitian's Senate Bill 1 (in the Seventh Extraordinary Session) was praised by Governor Schwarzenegger.

"For four decades California has been in the midst of a Holy Water War and now the legislators came together to approve a comprehensive historic water agreement," said Schwarzenegger. "I am excited to be signing the final bill of package that will leave our children and grandchildren a safe, clean and reliable water supply for the next 40, 50, 60 years and beyond."

Senate Bill 7X 1 lays out a clear path for governance of the Delta, and establishes the two co-equal goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem.

Mindful of California's worsening water crisis and the continued deterioration of the Delta, Simitian has been pursuing a water fix for the past four years. In presenting his legislation on the floor of the Senate, Simitian noted that, "a long history of benign neglect has not served the Delta or the state well."

San Francisco Chronicle

June 27, 2010

New direction for the delta

By Wyatt Buchanan

SACRAMENTO – Over the past 10 years, California spent more than \$3.5 billion on an agency that failed to solve the water crisis in the Sacramento-San Joaquin River Delta.

Now, the state is trying again - with a newly formed agency.

This new agency is much like the old one with a different set of rules: It has the same staff of about 50 employees who were transferred over from the failed organization, and it has hired the same consulting firm to do much of the ground work, raising questions of whether it will succeed where its predecessor failed or whether it will be another expensive boondoggle.

The stakes are enormous: the ecosystem of the delta - which provides water for 25 million Californians and millions of acres of farmland - is on the verge of collapsing, water users have seen their yearly allotments slashed, and a major earthquake could destroy the levee system protecting islands, communities and farmland in the region.

Sen. Joe Simitian, D-Palo Alto, author of the bill that created the new agency - the Delta Stewardship Council - said there is no guarantee the council will succeed where the old agency, CalFed, failed.

But something needs to be done. Decades of "benign neglect and ineffective governance have not served the state well," Simitian said. "There's always some risk with a new direction, but I think the old model was a proven failure."

CalFed's failure

CalFed began in 1994 as an agreement between the federal and state governments to work together on delta water issues. But the pact proved ineffective almost from the start.

In 2000, the state and federal governments created a more formal process that was supposed to fix the delta for everyone - its motto was "everyone gets better together." They pledged to improve water supply and quality and strengthen the ecosystem and levees.

Ultimately, CalFed became an amalgamation of 25 local, state and federal agencies and other organizations with disparate interests in the delta. The idea was to unite - and spend big - for a common cause.

But, created under the Clinton administration, interest in CalFed waned during the Bush years. To worsen matters, CalFed was enormous, with so many agencies involved that it struggled under its own weight to create a structure to make decisions.

In 2002, the Legislature created a new governing board to oversee CalFed: the Bay-Delta Authority. But the authority stopped meeting in the past few years because not enough members showed up for the scheduled sessions.

No consistent funding

Perhaps contributing most significantly to CalFed's failure is that it lacked the force of law in its decisions and did not have a consistent source of funding to operate. An audit of the program determined that the state spent \$217 million in general fund dollars from 2000 to 2004, along with \$813 million in bond funds. The federal government was supposed to contribute significant money, too, but in the same period spent just \$242 million.

Later in 2004, the program released a controversial 10-year financing plan totaling \$8 billion, which drew wide criticism and led the Legislature to slash its budget. Then, in early 2007, the Public Policy Institute of

California concluded in a report on the delta that CalFed "is now widely perceived as having failed to meet its objectives."

The Delta Stewardship Council was created via a bill the Legislature approved as part of last fall's comprehensive package of legislation to overhaul California's water infrastructure. Among the other bills that passed was one for an \$11 billion water bond that voters will decide in November.

In crafting the stewardship council, lawmakers sought to avoid the pitfalls that doomed CalFed. They made the council small and powerful - a panel of only seven individuals - as opposed to the more than two dozen agencies that made up CalFed.

This group, appointed largely by the governor, is charged with creating a comprehensive plan to revive the delta - with the "co-equal goals" of restoring the ecosystem and ensuring water supply reliability for the state - by Jan. 1, 2012, an extremely tight deadline by government bureaucracy standards.

Final plan will become law

One key difference from CalFed is that the council's final plan will actually be state law.

Simitian said some lawmakers were wary about how much power to give the council, as it would limit the Legislature's authority. But he said he believes giving it real legal teeth is essential for success.

"I would suggest to you that if everyone is a bit nervous, that is a good thing," Simitian said.

The council first met in April and has had four meetings since, including last week.

"This is a bigger step than the kind of limping along of the last 30 or 40 years," said Phil Isenberg, the chairman

of the stewardship council who is a well-regarded former mayor of Sacramento and a former state assemblyman.

As for the similarities to CalFed, Isenberg defended the decision to transfer the staff and said it is important to retain them to meet the new timelines. "I think they are competent, and I don't think there is any way the state deadlines would be met without" them, he said.

State water experts agree that California needed a new direction for the delta and that putting decisions into the hands of a limited council is a better process.

"The way it has been set up, the decision will come to seven people working on a council rather than getting a bunch of agencies to form a consensus," said Ellen Hanak, director of research for the Public Policy Institute of California, adding, "You have more of a sense of who is in charge."

And even though it ultimately failed to solve the crisis in the delta, CalFed did fund a lot of research about the delta estuary that gives the council a better starting point for making decisions than its predecessor, Hanak said.

What is yet to be resolved, however, is how the council will fund its ongoing operations - a key reason CalFed failed. The governor's proposed budget for the year beginning July 1 sets aside nearly \$50 million to fund the stewardship council, money that previously was budgeted for CalFed.

Long-term finance plan

But future funding was not specified in the water legislation, Simitian said, because determining who would pay and how much they would pay probably would have overwhelmed and doomed the debate over the package of water bills.

Last week, a Senate committee approved a bill by Assemblyman Jared Huffman, D-San Rafael, to require the Delta Stewardship Council to create a long-term finance plan with fees assessed to the beneficiaries of the council's delta plan. The fee plan would need approval by the Legislature.

Huffman called his legislation "a critical missing piece" of the water legislation and the lack of funding a "critical flaw" in CalFed.

Whether the council succeeds where CalFed failed will depend largely on the members of the council, said James Mayer, executive director of California Forward and former executive director of the Little Hoover Commission, a state body that investigates state operations.

That commission published a damaging assessment of CalFed in 2005.

People key to success

Mayer said he believes the ultimate success of the council could have more to do with who is on the panel than the law creating it, and predicted the council would be successful if its members take action that "represents the long-term public interest."

"Regardless of what's in the law, the question is whether the stewardship council will develop the political authority to compel cooperation and alignment of otherwise competing public agencies," Mayer said.

Environmental organizations themselves were split on whether they supported the legislation creating the council and that divide has continued in predictions of the council's success.

"We felt that this was CalFed redux," said Jim Metropulos, senior advocate for the Sierra Club California. "I just think the council is not really empowered to make wholesale changes to the delta and improve water supply reliability."

Cynthia Koehler, California water legislative director at the Environmental Defense Fund, said she is optimistic about the council's prospects.

"This is clearly a time-will-tell kind of thing," she said. "This is the next experiment."

Delta Stewardship Council members

» **Phil Isenberg**, chairman, is a former state assemblyman and mayor of Sacramento. He is a lawyer and, until recently, a registered lobbyist. He also chaired the Delta Blue Ribbon Task

Force, which called for creating an independent body to oversee the delta.

» **Randy Fiorini** of Turlock (Stanislaus County) is the managing partner of Fiorini Ranch and managing partner of FarmCo. He is the past president and board member of the Association of California Water Agencies.

» **Gloria Gray** of Inglewood (Los Angeles County) is a member of the board of directors of the West Basin Municipal Water District. She previously spent 36 years at the Los Angeles County departments of Human Services and Health Services.

» **Patrick Johnston** of Stockton is president of the California Association of Health Plans and spent 20 years in the Legislature. He is a former member of the Bay-Delta Authority and the Delta Protection Commission.

» **Hank Nordhoff** of Del Mar (San Diego County) is chairman of Gen-Probe Inc., a biotechnology company.

» **Don Nottoli** of Galt is a member of the Sacramento County Board of Supervisors and is chairman of the Delta Protection Commission.

» **Richard Roos-Collins** of Berkeley is director of legal services for the Natural Heritage Institute. He is co-chair of the Agricultural Water Management Council and was a member of the Bay Delta Conservation Plan Steering Committee.