

**Delta Protection Commission Meeting
August 5, 2021**

AGENDA ITEM 6: Senate Bill 821 - Delta Independent Science Board

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Presented by: Erik Vink

Requested Action: **Receive report on S.B. 821 and consider support letter**

Type of Action: Action Item

Background:

Created by the Delta Reform Act of 2009 and appointed by the Delta Stewardship Council (Council), the Delta Independent Science Board (Delta ISB) is a standing board of nationally and internationally prominent scientists with expertise appropriate to evaluate the broad range of scientific programs that support adaptive management of the Sacramento-San Joaquin Delta.

The legislation specifically charged the Delta ISB to provide “independent science advice” to the Council (Water Code section 85280). The Delta ISB does so by reviewing programs by thematic areas or by reviewing specific products related to adaptive management. Among important products of Delta ISB reviews were early drafts of the Delta Plan, a workshop and report on “Earthquakes and High Water as Levee Hazards in the Sacramento-San Joaquin Delta,” a “Review of Research on the Sacramento-San Joaquin Delta as an Evolving Place,” a review and recommendations on the Delta Social Science Task Force’s report “A Social Science Strategy for the Sacramento-San Joaquin Delta,” a “Review of the Final EIR/EIS for California WaterFix”, and a letter commenting on the Notice of Preparation for the Delta Conveyance Project. All these important reviews were possible due to the independent nature of the Delta ISB.

Following the enactment of Assembly Bill 5 and subsequent approval of Proposition 22 relating to treatment of certain contract workers as employees, the Council was advised that the Delta ISB members were to be considered Council employees. As a result, contracts funding the Delta ISB members at professional scientific rates were replaced by standard state per diem payments (\$100 per day) in 2020. Currently, the Delta ISB’s vital work, including multi-year reviews on water supply reliability and the Delta monitoring enterprise, have been significantly delayed. Senate Bill (S.B.) 821 would amend Water Code sections 85213 and 85280 to require the Council to contract for the services of the Delta ISB members at a rate of \$150 per hour (with cost of living adjustment increases in the future), exempt the contracts from specified provisions of law that require a bid process for public contracting, specify that members of the

Delta ISB are not employees of the Council, and require members of the board to exercise their scientific judgement and perform their functions independently.

S.B. 821 is sponsored by the Senate Committee on Natural Resources and Water. The bill has passed both the Senate and Assembly on unanimous votes, and is awaiting a final Senate vote to concur with Assembly amendments. If passed by at least a 2/3 vote and signed by the Governor, the provisions will take effect immediately.

Requested Action: Staff recommends Commission endorsement of S.B. 821 and approval of the draft letter of support for transmittal to the Senate Committee on Natural Resources and Water, with copies to Delta legislators and Legislative Secretary Angie Wei.

Relationship to Vision 2030 (Commission strategic plan):

Education and Outreach (Strategic Theme)

O.1 Ensure consistent, proactive communication between and among Delta interests and decision-makers.

1.2 Respond to emerging issues of importance in the Delta in a prompt, effective and transparent manner, with a high degree of flexibility.