



ACTION ITEM

Consideration and Possible Adoption of Regulations Relating to the Delta Stewardship Council's Meeting Procedures

Summary

During today's meeting, staff will recommend that the Delta Stewardship Council (Council) approve Resolution 2025-06 to adopt proposed regulatory changes to the California Code of Regulations, title 23, chapter 1, by adding article 2 (commencing with section 5000.10) relating to the conduct of Council meetings.

Background

The Council adopted its Public Participation Plan in June 2020. Public participation is fundamental to the role and mission of the Council. The Council's work involves numerous segments of the public including: Delta residents, California water users, conservation groups, the scientific community, and other state, federal, and local agencies that have responsibilities of the Delta. Ensuring equitable access regardless of background, location, ability, or status is a fundamental tenet of the Sacramento-San Joaquin Delta Reform Act of 2009 (Wat. Code, § 85000 et seq.; Delta Reform Act) and the Bagley-Keene Open Meeting Act. (Gov. Code, § 11120 et seq.)

The proposed regulations would codify Council meeting practices, raise transparency for the public, and increase efficiency, saving staff time and resources.

The entire proposed regulatory text is contained in Attachment A to Resolution 2025-06.

Delta Reform Act and Bagley-Keene Requirements and Authority

The Delta Reform Act, which established the Council, (a) requires the Council to meet once a month in a public forum with at least two meetings each year required to be held at a location within the Delta, (b) requires the Council to select a chair

from among the members to serve for not more than four years in that capacity, (c) authorizes the Council to select a vice chair, (d) authorizes any hearing by the Council to be conducted by any member of the Council upon authorization of the Council, (e) designates a majority of the voting members of the Council constitutes a quorum, (f) requires a majority vote of the voting membership to take action with respect to any other matter, unless otherwise specified in the Delta Reform Act, and (g) authorizes the Council to adopt regulations as needed to carry out its specified powers and duties.

Bagley-Keene declares it is the policy of the state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so the public may remain informed. (Gov. Code, § 11120.) Bagley-Keene also authorizes a state body to adopt reasonable regulations to limit the total amount of time allocated for public comment on particular issues and for each individual speaker. (Gov. Code, § 11125.7.) Bagley-Keene requires a state body to designate a clerk or other officer or employee of the state body to attend each closed session and keep and enter in a minute book a record of topics discussed and decisions made at the meeting, with the minute book being confidential and exempt from inspection (Gov. Code, § 11126.1.) pursuant to the California Public Records Act. (Gov. Code, § 7920.000 et seq.)

Prior Actions by the Council Concerning the Proposed Regulations

The Council adopted Procedures for Delta Stewardship Council Meetings at the April 22, 2010, Council meeting and adopted amendments to those procedures at the August 23, 2018, Council meeting. These adopted procedures helped inform the current proposed regulations.

The 2020 Public Participation Plan emphasizes that public participation is fundamental to what the Council is and does along with the orderly, equitable, and efficient conduct of Council meetings. The proposed regulations would support these stated Council priorities.

Proposed New Regulations

The proposed changes to the California Code of Regulations, title 23, chapter 1, by adding article 2 (commencing with section 5000.10) are provided on the Council's website and as Attachment A to Resolution 2025-06.

All proposed additions to the existing regulations are summarized below.

Section 5000.10.

This section establishes the scope of the article and outlines the orderly and effective conduct of Council meetings.

Section 5000.11, subd. (a)., Section 5000.11, subd. (b).

This section proposes definitions for terms in the regulations, clarifying the meaning of the defined term as used in the regulations, and making the regulations more readable and easier to understand.

Section 5000.12.

This section establishes what the Council may do when there is not a quorum present for the transaction of the business of the Council. Consistent with Robert's Rules of Order, this would allow the Council to meet as a committee of the Council when a quorum is not present and subsequently submit their recommendations to the Council when a quorum is present.

Section 5000.13, subd. (a).

Water Code section 85200 requires the Council to select a chair from the members and limits the term of the chair to not more than four years. Water code section 85201 authorizes the Council to select a vice chair. This section ensures the orderly election of the chair and vice chair and establishes the vice chair's term.

Section 5000.13, subd. (b).

Water Code section 85210 authorizes any hearing by the Council to be conducted by any member of the Council upon authorization of the Council. This section defines the primary responsibilities of the chair and specifies the chair's

responsibility to preside over all meetings and to decide questions of procedure at meetings.

Section 5000.13, subd. (c).

This section establishes the authority of the vice chair if the chair is absent or unable to preside during a Council meeting.

Section 5000.14.

Water Code section 85210.5 requires a majority vote of the voting membership of the Council to take action with respect to any matter. Robert's Rules of Order requires a majority vote of the body to overrule a chair. This section establishes how a majority of the full membership of the Council may overrule a decision of the chair.

Section 5000.15, subd. (a).

Government Code section 11125.7 requires the Council to provide an opportunity for members of the public to directly address the Council on each agenda item before the Council's discussion or consideration of the item. This section provides clear guidance to the public on how to submit written comments that address Council meeting agenda items. It establishes the deadline of noon, Pacific Time, the business day prior to the Council meeting to ensure all relevant comments are given due consideration by the Council members.

Section 5000.15, subd. (b).

Government Code section 11125.7 requires the Council to provide an opportunity for members of the public to directly address the Council on each agenda item during the Council's discussion or consideration of the item. This section defines the process by which a person may orally comment on an agenda item at a Council meeting.

Section 5000.15, subd. (c).

Government Code section 11125.7 authorizes the Council to adopt reasonable regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker. Robert's Rules of Order authorizes

a chair to enact speech limits in debate. This section authorizes the chair or other presiding member of the Council to limit or preclude comments as necessary for the orderly conduct of business.

Section 5000.16, subd. (a).

Robert's Rules of Order authorizes the appointment of a parliamentarian to serve in an advisory role to the presiding officer. This section further defines the role of the chief counsel at Council meetings to require the chief counsel to serve as parliamentarian and, as part of that role, to attend all meetings of the Council and advise the Council on any questions of law that may arise during a Council meeting.

Section 5000.16, subd. (b).

This section specifically designates the clerk to the Council or their designee to attend all meetings, ensure public comment is conducted pursuant to Bagley-Keene and these proposed regulatory requirements, and maintain the record of all meetings and each member's vote to ensure full public transparency.

Section 5000.16, subd. (c).

Government Code section 11126.1 requires the clerk or designee to attend each closed session and record the topics discussed and decisions made in a confidential minute book. This section designates the chief counsel to retain a confidential minute book maintained for topics discussed and decisions made by the Council during closed session.

Section 5000.17.

Water Code section 85200 requires the Council to hold monthly meetings in a public forum. Under general rules of evidence, original evidence is used to prove that a statement was made. This section establishes that the transcript, minutes, and resolutions approved at a Council meeting qualify as the original evidence of any action taken by the Council.

[Objectives and Benefits of the Proposed Regulations](#)

As discussed in the Initial Statement of Reasons (ISOR), the broad objectives of the proposed regulations are to establish the Council's regulations related to Council

meetings, improve public transparency, align with current practices surrounding original evidence, and make the conduct of Council meetings more efficient.

Fiscal Information

As discussed in the ISOR and the Economic and Fiscal Impact Statement, the Council has made an initial determination that the proposed regulations are unlikely to have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations would not create costs to, or mandates on, any local agency or school district or other nondiscretionary costs or savings to state or local agencies. The proposed regulations would also not create costs or savings in federal funding to the state.

Rulemaking Process under the Administrative Procedure Act

Council staff initiated a regular rulemaking under the Administrative Procedure Act (Gov. Code, § 11340 et seq.; APA) by filing a Notice of Proposed Action, published in the California Regulatory Notice Register on February 28, 2025 (Office of Administrative Law File No. 2025-0212-01). A required written public comment period began on March 1, 2025. The deadline for public comment was close of business on April 15, 2025. Interested parties were notified via listserv and the Council website. There were no requests for a hearing, no public comments were received, and no changes were made to the proposed regulations.

Public Comments and Responses

Council staff received no public comments.

Requested Action

Council staff recommends that the Council adopt Resolution 2025-06, which would allow changes to the California Code of Regulations, title 23, chapter 1, by adding article 2 (commencing with section 5000.10) and authorize Council staff to submit the final rulemaking package to the Office of Administrative Law (OAL).

If the Council adopts the resolution, staff anticipates the proposed regulations would take effect on October 1, 2025, depending on the review and approval timelines of the Department of Finance and OAL.

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