

AMENDED IN SENATE APRIL 17, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1201

Introduced by Senator De León

February 22, 2012

An act to add and repeal Section 12805.7 of the Government Code, and to amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles River.

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, as amended, De León. Los Angeles River.

Existing law establishes in state government the Natural Resources Agency, consisting of various departments, including ~~the Department of Fish and Game~~ and the State Lands Commission.

The Los Angeles County Flood Control Act establishes the Los Angeles County Flood Control District and authorizes the district to control and conserve the flood, storm, and other wastewater of the district.

This bill, until January 1, 2016, would establish in state government the Los Angeles River Interagency Access Council, with membership to include *representatives of* the above agencies, the California Environmental Protection Agency, ~~certain~~ *specified* municipalities, *local governments that request to participate*, and *appointed* Members of the Legislature, and to be chaired by the Secretary of the Natural Resources Agency, to coordinate the actions of state and local agencies with jurisdiction over, or otherwise involved in developing and administering public access and safety policies for, the Los Angeles River. The bill would specify that rules governing the liability of public employees and rules requiring public agencies to conduct open meetings

apply to the council. The bill would require the council to seek the maximum participation of all parties affected by the Los Angeles River, as specified, and the bill would authorize the council to establish technical or other advisory committees to achieve this goal. The bill would also prohibit the council from acquiring an interest in land or water, and from assuming any powers reserved to local jurisdictions.

The bill would amend the Los Angeles County Flood Control Act to include in the objects and purposes of the district to provide for public use of navigable waterways under the district’s control that are suitable for recreational and educational purposes, *when these purposes are not inconsistent with the use thereof by the district for flood control and water conservation.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 ~~SECTION 1. (a) The United States Environmental Protection~~
 2 ~~Agency’s~~
 3 *SECTION 1. The Legislature finds and declares all of the*
 4 *following:*
 5 *(a) Early Native American and Spanish settlements in the*
 6 *greater Los Angeles alluvial plain critically depended upon, and*
 7 *were in close proximity to, the Los Angeles River, which provided*
 8 *plentiful fresh water.*
 9 *(b) Multiple local, regional, state, and federal agencies, as well*
 10 *as municipal governments, have jurisdiction over or interests in*
 11 *the Los Angeles River. The United States Army Corps of Engineers,*
 12 *in particular, has been a longtime and fruitful partner in the*
 13 *stewardship and flood control operations of the Los Angeles River.*
 14 *(c) Planning over the decades has envisioned the Los Angeles*
 15 *River as a vital component of the life of the urban areas*
 16 *surrounding it by providing parkways, open space, bicycle and*
 17 *pedestrian paths, and other recreational opportunities, although*
 18 *more recently many neighborhoods have turned away from the*
 19 *concrete channel the river has largely become. Both Los Angeles*
 20 *County and the City of Los Angeles and other municipalities have*
 21 *developed master plans and other planning documents that call*
 22 *for the revitalization of the Los Angeles River with the multibenefit*
 23 *goals, among others, of enhancing the environment and habitat,*

1 *improving flood storage and water quality, generating economic*
2 *development, increasing community involvement, and providing*
3 *open space.*

4 *(d) The United States Environmental Protection Agency in 2011*
5 *named the Los Angeles River to its Urban Waters Federal*
6 *Partnership, and the Los Angeles River was also selected to be*
7 *part of the federal America’s Great Outdoors Initiative in 2012,*
8 *indicating strong federal interest in the ongoing revitalization of*
9 *the Los Angeles River.*

10 *(e) The United States Environmental Protection Agency’s July*
11 *2010 designation of the Los Angeles River as a “Traditional*
12 *Navigable Water” under the federal Clean Water Act (33 U.S.C.*
13 *Sec. 1251 et seq.), combined with the demonstrated recreational*
14 *navigability of the river, means that the river is subject to Section*
15 *4 of Article X of the California Constitution, which guarantees the*
16 *public a right of access to the navigable waters of the state, and*
17 *therefore that must not be obstructed by any individual,*
18 *partnership, or corporation, and to case law protecting the public*
19 *trust. Therefore, the river must be held in trust for the public and*
20 *managed for public access and use.*

21 ~~(b)~~

22 *(f) The public’s interest in use of the Los Angeles River for*
23 *recreational and educational purposes continues to increase*
24 *dramatically. However, since the river was channelized, it has been*
25 *managed for flood control purposes without adequate provision*
26 *for public access and use.*

27 ~~(e)~~

28 *(g) The current regulation and inconsistent enforcement of public*
29 *access to the Los Angeles River ~~by multiple state and federal~~*
30 *agencies ~~is at multiple levels of government are~~ inadequate to*
31 *ensure the public’s right of access to the river in a safe manner,*
32 *particularly considering the lack of a comprehensive safety warning*
33 *system.*

34 SEC. 2. Section 12805.7 is added to the Government Code, to
35 read:

36 12805.7. (a) There is hereby established in state government
37 the Los Angeles River Interagency Access Council to coordinate
38 the actions of state and local agencies with jurisdiction over, or
39 otherwise involved in developing and administering public access

1 and safety policies for, the Los Angeles River with membership
2 as follows:

3 (1) *The Secretary of the Natural Resources Agency, or his or*
4 *her local designee, who shall chair the council.*

5 ~~(1) The~~

6 (2) *A representative of the Los Angeles County Flood Control*
7 *District.*

8 ~~(2) The~~

9 (3) *A representative of the State Lands Commission.*

10 ~~(3) The~~

11 (4) *A representative of the California Environmental Protection*
12 *Agency.*

13 ~~(4) The Department of Fish and Game.~~

14 ~~(5) The City of Los Angeles.~~

15 (5) *A representative of the City of Los Angeles.*

16 (6) ~~The~~ *A representative of the City of Long Beach.*

17 ~~(7) Any other local government, upon request of that local~~
18 ~~government.~~

19 (7) *Up to three representatives from local governments, as*
20 *selected pursuant to this paragraph. Any local government that*
21 *has jurisdiction over the Los Angeles River or its tributaries that*
22 *is not specifically named to the council by this section may request*
23 *to participate in the council. If more than three local governments*
24 *request to participate, the local governments shall form a*
25 *committee to select three members to represent them on the council.*
26 *No local government may have more than one representative in*
27 *the committee of local governments or on the council.*

28 (8) *A Member of the Assembly, appointed by the Speaker of*
29 *the Assembly, from a district through which the Los Angeles River*
30 *traverses. A member of the council appointed pursuant to this*
31 *paragraph shall be nonvoting.*

32 (9) *A Member of the Senate, appointed by the Senate Committee*
33 *on Rules, from a district through which the Los Angeles River*
34 *traverses. A member of the council appointed pursuant to this*
35 *paragraph shall be nonvoting.*

36 ~~(b) The Secretary of the Natural Resources Agency or his or~~
37 ~~her designee shall chair the council.~~

38 (b) *The United States Army Corps of Engineers shall be invited*
39 *to advise the council.*

40 (c) *The council shall do all of the following:*

- 1 (1) Designate areas of the Los Angeles River suitable for public
2 use, considering both recreational and educational activities as
3 well as public safety.
- 4 (2) Identify and *work to* eliminate barriers to public use.
- 5 (3) ~~Provide~~ *Develop a system, and provide*, for coordinated
6 permitting for ~~such~~ *those* uses for which a permit shall be deemed
7 necessary.
- 8 (4) ~~Provide~~ *Develop, and provide for*, safety warning systems
9 and signage to ensure the safety of public users.
- 10 (5) Address environmental justice concerns regarding access to
11 the Los Angeles River *and its tributaries*.
- 12 (d) *The council shall coordinate project review with the Los*
13 *Angeles River Cooperation Committee.*
- 14 (e) *The council shall meet no less than two times per calendar*
15 *year.*
- 16 ~~(d)~~
- 17 (f) All claims for money or damages against the council are
18 governed by Division 3.6 (commencing with Section 810) of Title
19 1, or by other applicable law.
- 20 ~~(e)~~
- 21 (g) All meetings of the council shall be held in accordance with
22 Chapter 9 (commencing with Section 54950) of Part 1 of Division
23 2 of Title 5, and shall be held at times and in locations that are
24 convenient to the public.
- 25 ~~(f)~~
- 26 (h) The council shall seek the maximum participation of all
27 parties affected by the Los Angeles River, including local
28 government agencies, conservation organizations, business and
29 civic groups, and affected residents. To achieve this goal, the
30 council may establish technical or other advisory committees.
- 31 ~~(g)~~
- 32 (i) The council ~~may~~ *shall* not acquire an interest in land or water.
- 33 ~~(h)~~
- 34 (j) The council ~~may~~ *shall* not assume any powers reserved to
35 local jurisdictions.
- 36 ~~(i)~~
- 37 (k) This section shall remain in effect only until January 1, 2016,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2016, deletes or extends that date.

1 SEC. 3. Section 2 of the Los Angeles County Flood Control
2 Act (Chapter 755 of the Statutes of 1915), as amended by Section
3 1 of Chapter 602 of the Statutes of 2010, is amended to read:

4 Sec. 2. The objects and purposes of this act are to provide for
5 the control and conservation of the flood, storm and other waste
6 waters of said district, and to conserve these waters for beneficial
7 and useful purposes by spreading, storing, retaining or causing to
8 percolate into the soil within the district, or to save or conserve in
9 any manner, all or any of these waters, and to protect from damage
10 from flood or storm waters, the harbors, waterways, public
11 highways and property in the district, and to provide for public
12 use of navigable waterways under the district's control that are
13 suitable for recreational and educational purposes, *when these*
14 *purposes are not inconsistent with the use thereof by the district*
15 *for flood control and water conservation.*

16 The Los Angeles County Flood Control District is hereby
17 declared to be a body corporate and politic, and has all the
18 following powers:

- 19 1. To have perpetual succession.
- 20 2. To sue and be sued in the name of the district in all actions
21 and proceedings in all courts and tribunals of competent
22 jurisdiction.
- 23 3. To adopt a seal and alter it at pleasure.
- 24 4. To take by grant, purchase, gift, devise or lease, hold, use,
25 enjoy, and to lease or dispose of real or personal property of every
26 kind within or without the district necessary to the full exercise of
27 its power.
- 28 5. To acquire or contract to acquire lands, rights-of-way,
29 easements, privileges and property of every kind, and construct,
30 maintain and operate any and all works or improvements within
31 or without the district necessary or proper to carry out any of the
32 objects or purposes of this act, and to complete, extend, add to,
33 repair or otherwise improve any works or improvements acquired
34 by it as herein authorized. Construction or improvement of existing
35 facilities may involve landscaping and other aesthetic treatment
36 in order that the facility will be compatible with existing or planned
37 development in the area of improvement.
- 38 6. To exercise the right of eminent domain, either within or
39 without the district, to take any property necessary to carry out
40 any of the objects or purposes of this act.

1 7. To incur indebtedness, and to issue bonds in the manner
2 herein provided.
3 7a. To borrow money from the United States of America, any
4 agency or department thereof, or from any nonprofit corporation,
5 organized under the laws of this state, to which the Reconstruction
6 Finance Corporation, a corporation organized and existing under
7 and by virtue of an act of Congress, entitled “Reconstruction
8 Finance Corporation Act,” or other agency, or department, of the
9 United States government, has authorized, or shall hereafter
10 authorize, a loan to enable nonprofit corporation to lend money to
11 the Los Angeles County Flood Control District, for any flood
12 control work authorized under this act, and to repay the same, in
13 annual installments, over a period of not to exceed twenty (20)
14 years, with interest at a rate of not to exceed four and one-fourth
15 per centum (4¼%) per annum, payable semiannually, and, without
16 the necessity of an election when authorized by resolution of the
17 board of supervisors, as evidences of that indebtedness, the district
18 is hereby authorized to execute and deliver a note, or a series of
19 notes, or bonds, or other evidences of indebtedness, signed by the
20 chairperson of the board of supervisors of the district, which notes,
21 bonds, or other evidences of indebtedness, shall be negotiable
22 instruments if so declared in the resolution of the board of
23 supervisors providing for their issuance, and notes, bonds, or other
24 evidences of indebtedness, may have interest coupons attached to
25 evidence interest payments, signed by the facsimile signature of
26 the chairperson of the board. All applications for these loans shall
27 specify the particular flood control work or projects for which the
28 funds will be expended, and when received, the money shall be
29 deposited in a special fund, and shall be expended for those
30 purposes only which are described and referred to in the
31 applications. If a surplus remains after the completion of the work,
32 the surplus shall be applied to the payment of the note, notes,
33 bonds, or other evidences of indebtedness, executed as aforesaid,
34 for the loan including interest coupons. The board of supervisors
35 shall annually levy a tax upon the taxable real property of the
36 district, clearly sufficient to pay the interest and installments of
37 principal, as the same shall become due and payable, under any
38 loan made pursuant to the authority of this section, and to create
39 and maintain a reserve fund to assure the prompt payment thereof,
40 as may be provided by resolution of the board of supervisors.

1 However, the amount of taxes levied in any year, pursuant to this
2 subsection, shall, pro tanto, reduce the authority of the board of
3 supervisors, during any year, to levy taxes under Section 14 of this
4 act, but this proviso shall not be a limitation upon the power and
5 duty to levy and collect taxes under this subsection.
6 Notwithstanding any other provisions of law, interest earned on
7 funds representing the proceeds of bonds of the district shall be
8 deposited and retained in the reserve fund of the district to meet
9 the principal and interest falling due on these bonds.

10 Notwithstanding anything in this subsection to the contrary, the
11 total amount the district may borrow under the authority of any or
12 all of the provisions of this subsection is limited to and shall not
13 exceed in the aggregate the sum of four million five hundred
14 thousand dollars (\$4,500,000).

15 7b. The power granted in the next preceding subsection is hereby
16 extended to authorize the issuance and sale of bonds or other
17 evidences of indebtedness of the district to the County of Los
18 Angeles and the purchase thereof by the county in accordance with
19 “An act authorizing the investment and reinvestment and
20 disposition of any surplus moneys in the treasury of any county,
21 city and county, incorporated city or town or municipal utility
22 district or flood control district,” approved April 23, 1913, as
23 amended; all subject to the provisions and limitations of the next
24 preceding subsection relative to the disposition and use of funds,
25 interest rate, period of repayment, tax rate and mode of issuance.
26 The total amount of bonds or other evidence of indebtedness, in
27 the aggregate, which the district may issue and sell under the
28 authority of subsection 7a and of this subsection is limited to and
29 shall not exceed four million five hundred thousand dollars
30 (\$4,500,000).

31 8. To cause taxes to be levied and collected for the purpose of
32 paying any obligation of the district in the manner provided in this
33 section.

34 8a. To impose a fee or charge, in compliance with the applicable
35 provisions of Article XIII D of the California Constitution, to pay
36 the costs and expenses of carrying out projects and providing
37 services to improve water quality and reduce stormwater and urban
38 runoff pollution in the district in accordance with criteria
39 established by the ordinance adopted pursuant to subsection 8c.
40 Any fee that is imposed pursuant to this subsection shall be levied

1 and collected together with, and not separately from, taxes for
2 county purposes, and the revenues derived from the fees shall be
3 paid into the county treasury to the credit of the district, and the
4 board of supervisors shall expend these funds to pay for costs and
5 expenses in accordance with this subsection.

6 8b. The district shall allocate the revenues derived from any fee
7 or charge imposed pursuant to subsection 8a as follows:

8 (A) Ten percent shall be allocated to the district for
9 implementation and administration of water quality programs, as
10 determined by the district, including activities such as planning,
11 water quality monitoring, and any other related activities, and for
12 payment of the costs incurred in connection with the levy and
13 collection of the fee and the distribution of the funds generated by
14 imposition of the fee, as established by the ordinance adopted
15 pursuant to subsection 8c.

16 (B) Forty percent shall be allocated to cities within the
17 boundaries of the district and to the County of Los Angeles, in the
18 same proportion as the amount of fees collected within each
19 jurisdiction and within the unincorporated territories, to be
20 expended by those cities within the cities' respective jurisdictions
21 and by the County of Los Angeles within the unincorporated
22 territories that are within the boundaries of the district, for water
23 quality improvement programs, as established by the ordinance
24 adopted pursuant to subsection 8c.

25 (C) Fifty percent shall be allocated to nine watershed authority
26 groups that shall be authorized by the ordinance adopted pursuant
27 to subsection 8c, in the same proportion as the amount of fees
28 collected within each watershed, to implement collaborative water
29 quality improvement plans or programs in the watersheds as
30 established by the ordinance adopted pursuant to subsection 8c.
31 Those nine watershed authority groups shall be established for the
32 Ballona Creek, Dominguez Channel, Upper Los Angeles River,
33 Lower Los Angeles River, Rio Hondo, Upper San Gabriel River,
34 Lower San Gabriel River, Santa Clara River, and Santa Monica
35 Bay watersheds. The watershed authority groups shall be
36 established pursuant to Article 1 (commencing with Section 6500)
37 of Chapter 5 of Division 7 of Title 1 of the Government Code. The
38 implementation of a collaborative water quality improvement plan
39 or program by a watershed authority group shall require the consent
40 of any watershed authority group member whose jurisdiction

1 comprises more than 40 percent of the total land area in a
2 watershed.

3 8c. The governing board of the district shall adopt an ordinance
4 to implement the authority granted pursuant to subsections 8a and
5 8b.

6 9. To make contracts, and to employ for temporary services
7 only, expert appraisers, consultants and technical advisers, and to
8 do all acts necessary for the full exercise of all powers vested in
9 the district, or any of the officers thereof, by this act.

10 10. To grant or otherwise convey to counties, cities and counties,
11 cities or towns easements for street and highway purposes, over,
12 along, upon, in, through, across or under any real property owned
13 by the Los Angeles County Flood Control District.

14 11. To remove, carry away and dispose of any rubbish, trash,
15 debris or other inconvenient matter that may be dislodged,
16 transported, conveyed or carried by means of, through, in, or along
17 the works and structures operated or maintained hereunder and
18 deposited upon the property of the district or elsewhere.

19 12. To pay premiums on bonds of contractors required under
20 any contract if the amount payable to the contractor exceeds five
21 million dollars (\$5,000,000); provided, that the specifications in
22 these cases shall specifically so provide and state that the bidder
23 shall not include in his or her bids the cost of furnishing the
24 required bonds.

25 13. To lease, sell or dispose of any property (or any interest
26 therein) whenever in the judgment of the board of supervisors of
27 the property, or any interest therein or part thereof, is no longer
28 required for the purposes of the district, or may be leased for any
29 purpose without interfering with the use of the same for the
30 purposes of the district, and to pay any compensation received
31 therefor into the general fund of the district and use the same for
32 the purposes of this act. However, nothing herein shall authorize
33 the board of supervisors or other governing body of the district or
34 any officer thereof to sell, lease or otherwise dispose of any water,
35 water right, reservoir space or storage capacity or any interest or
36 space therein except to public agencies for recreational purposes
37 when the use is not inconsistent with the use thereof by the district
38 for flood control and water conservation purposes; or except as
39 provided by Section 17 of this act. However, the district may grant
40 and convey to the United States of America, or to any federal

1 agency authorized to accept and pay for the land or interests in
2 land, all lands and interests in land, now owned or hereafter
3 acquired, lying within any channel, dam or reservoir site, improved
4 or constructed, in whole or in part, with federal funds, upon
5 payment to the district of sums equivalent to actual expenditures
6 made by it in acquiring the lands and interests in land so conveyed
7 and deemed reasonable by the Secretary of War and the Chief of
8 Engineers.

9 14. To provide, by agreement with other public agencies or
10 private persons or entities or otherwise, for the recreational use of
11 the lands, facilities, and works of the district which shall not
12 interfere, or be inconsistent, with the primary use and purpose of
13 the lands, facilities, and works by the district.

14 15. In addition to its other powers, the district shall have the
15 power to preserve, enhance, and add recreational features to its
16 properties and upon a finding by the board of supervisors that the
17 acquisition is necessary for those purposes, to acquire, preserve,
18 enhance, and add recreational features to lands or interests in lands
19 contiguous to its properties, for the protection, preservation, and
20 use of the scenic beauty and natural environment for the properties
21 or the lands and to collect admission or use fees for the recreational
22 features where deemed appropriate.

23 The district by or through its board of supervisors, or other board
24 or officers at any time succeeding to the duties or functions of its
25 board of supervisors, is hereby authorized and empowered to
26 warrant and defend the title to all land and interests therein so
27 conveyed to the United States of America or to any agency and
28 its respective assigns; to covenant and agree to indemnify and keep
29 indemnified and to hold and save harmless and exonerated the
30 United States of America or any agency, to which lands or any
31 interest therein are so conveyed by the district, from and against
32 all demands, claims, liabilities, liens, actions, suits, charges, costs,
33 loss, damages, expenses and attorneys' fees of whatsoever kind
34 or nature, resulting from, arising out of or occasioned by any defect
35 or defects whatsoever in the title to any land or interest in land so
36 conveyed by the district; to reimburse and save harmless and
37 exonerated the United States of America or any agency for any
38 and all amounts, paid, and expenses incurred, in the compromise
39 or settlement of any demands, claims, liabilities, liens, actions,
40 suits, charges, costs, loss, damages, expenses and attorneys' fees

1 of whatsoever kind or nature, resulting from, arising out of or
2 occasioned by any claim to or defect or defects whatsoever in the
3 title to any land or interests in land so conveyed by the district; to
4 pay all just compensation, costs and expenses, which may be
5 incurred in any condemnation proceeding deemed necessary by
6 the United States of America or that agency, in order to perfect
7 title to any land or interests in land, including without limitation
8 all attorneys' fees, court costs and fees, costs of abstracts and other
9 evidences of title, and all other costs, expenses or damages incurred
10 or suffered by the United States of America or that agency; and
11 consent is hereby given to the bringing of suit or other legal
12 proceedings against the district by the United States of America
13 or that agency, as the case may be, in the proper district court of
14 the United States, upon any cause of action arising out of any
15 conveyance, contract or covenant made or entered into by the
16 district pursuant to the authority granted in this act, or to enforce
17 any claims, damages, loss or expenses arising out of or resulting
18 from any defect whatsoever in the title to the land or any interest
19 therein or any claims of others in or to the land or interest therein.

O