

# **PUBLIC RESOURCES CODE**

## **SECTION 32500-32538**

### **SECTION 32500-32520**

32500. This division shall be known, and may be cited, as the San Joaquin River Conservancy Act.

32501. The Legislature hereby finds and declares that the San Joaquin River, its broad corridors, and its prominent bluffs constitute a unique and important environmental, cultural, scientific, agricultural, educational, recreational, scenic, flood water conveyance, and wildlife resource that should be preserved for the enjoyment of, and appreciation by, present and future generations.

32502. The Legislature further finds and declares that the San Joaquin River Parkway Task Force, representing diverse state and local interests, has developed a San Joaquin River Parkway Plan which, in concept, outlines and provides a structural framework for ideas for establishing the San Joaquin River Parkway. It is the intent of the Legislature in enacting this division to implement the task force recommendation for a managing entity for the proposed parkway.

32503. The Legislature further finds and declares that local jurisdiction is divided among the County of Fresno, the County of Madera, and the City of Fresno. Additionally, the state has property interests in the river bottom. It is the intent of the Legislature that the San Joaquin River Conservancy shall promote the parkway and coordinate efforts and mediate differences among the local jurisdictions and the state.

32504. As used in this division:

- (a) "Board" means the governing board of the San Joaquin River Conservancy.
- (b) "Conservancy" means the San Joaquin River Conservancy.
- (c) "Parkway" means the San Joaquin River Parkway, as described in Section 32510.
- (d) "Member agencies" mean the City of Fresno and Counties of Fresno and Madera.
- (e) "Nonprofit organization" means an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

32505. The conservancy shall commence to function upon the occurrence of either of the following events:

- (a) Approval by a four-fifths vote of the governing bodies of the member agencies.

(b) Approval by a majority of the voters voting on the proposition of whether the conservancy should commence to function at an election called for that purpose by the Boards of Supervisors of Fresno and Madera Counties within those counties. The election may be consolidated with any other election within those counties.

32506. If the governing body of any member agency approves formation of the conservancy by a four-fifths vote, the election may be held only within the member agency or agencies not so approving formation.

If one member agency fails to approve the formation of the conservancy and it is not approved by the voters of that member agency, the conservancy may function to acquire and maintain parkway lands only within the jurisdictions of the approving member agencies.

A member agency may withdraw from the conservancy within one year after the conservancy commences to function.

32510. The San Joaquin River Conservancy is hereby established in the Resources Agency to acquire and manage public lands within the San Joaquin River Parkway, which shall consist of the San Joaquin River and approximately 5,900 acres on both sides of the river between Friant Dam and the Highway 99 crossing. Approximately 1,900 acres of the parkway shall be located in Madera County and 4,000 acres in Fresno County, of which approximately 1,250 acres are already in public ownership. The conservancy shall acquire and manage these lands in the parkway to provide a harmonious combination of low-impact recreational and educational uses and wildlife protection through the preservation of the San Joaquin River, existing publicly owned lands, the wildlife corridor, and natural reserves.

32511. The conservancy shall be responsible for operation and maintenance of the parkway. The conservancy shall close to the public any lands or facilities which it is unable to maintain in a clean and safe manner and to adequately protect the wildlife and rights of adjacent property owners from the public, including areas downstream from the Highway 99 crossing affected by the use of the parkway.

32512. The area under the jurisdiction of the conservancy includes that area of the parkway which is acquired by the conservancy.

32513. The jurisdiction of the conservancy consists of land and water areas acquired for parkway use within the parkway whether by purchase or lease; other public lands operated by the conservancy on behalf of another public agency; and private lands

which are in a land mitigation bank or which are adjacent to the parkway and downstream from the Highway 99 crossing and for which the owner desires the conservancy's management and protection services or which are subject to a voluntary resource management agreement entered into with the conservancy.

32514. The conservancy shall coordinate the activities of state and local agencies and private entities interested in the San Joaquin River and its resources. State and local agencies shall retain title to any land owned within the boundaries of the parkway. Local agencies may enter into an agreement to transfer responsibility for the management of the land to the conservancy. Where there is no state or local public agency with operating and management responsibility, the conservancy shall exercise that responsibility. All zoning or land use regulations shall remain the exclusive authority of the member agencies.

32515. (a) The governing board of the conservancy shall consist of 15 voting members.

(b) The 15 voting members of the board shall consist of the following:

(1) One member of the Board of Supervisors of Fresno County appointed by a majority of the members of that board. A majority of the members of the Board of Supervisors of Fresno County may appoint an alternate member from that board.

(2) The Mayor of the City of Fresno or a member of the Fresno City Council designated by the Mayor of the City of Fresno. The Mayor of the City of Fresno may designate an alternate member from the Fresno City Council.

(3) One member of the Board of Supervisors of Madera County appointed by a majority of the members of that board. A majority of the members of the Board of Supervisors of Madera County may appoint an alternate from that board.

(4) The Mayor of the City of Madera or a member of the Madera City Council designated by the Mayor of the City of Madera. The Mayor of the City of Madera may designate an alternate member from the Madera City Council.

(5) (A) Except as provided in subparagraph (C), one resident of Fresno County appointed by the Governor from a list of candidates provided by the Board of Supervisors of Fresno County. The board of supervisors shall develop its list from a list submitted by environmental organizations within that county. The board of supervisors may establish additional criteria for that appointment.

(B) Except as provided in subparagraph (C), one resident of Madera County appointed by the Governor from a list of property owners of San Joaquin River bottom in that county submitted by the Board of Supervisors of Madera County. The board of supervisors may establish additional criteria for that appointment.

(C) Fresno County and Madera County shall rotate appointment qualifications pursuant to this paragraph so that each alternative time the Board of Supervisors of Madera County shall submit a list of candidates to the Governor derived from a list

submitted by environmental organizations within that county and the Board of Supervisors of Fresno County shall submit a list of candidates to the Governor of property owners of San Joaquin River bottom in that county.

(6) One resident of the City of Fresno appointed by the Governor from a list submitted by the Fresno City Council. The city council may establish criteria for that appointment.

(7) The Executive Director of the Wildlife Conservation Board or a member of his or her staff designated by the executive director.

(8) The Secretary of Resources or a member of his or her staff designated by the secretary.

(9) The Director of Fish and Game or a member of his or her staff designated by the director.

(10) The Director of Parks and Recreation or a member of his or her staff designated by the director.

(11) The Director of Finance or a member of his or her staff designated by the director.

(12) The Executive Officer of the State Lands Commission or a member of his or her staff designated by the executive officer.

(13) The Chairperson of the Board of Directors of the Fresno Metropolitan Flood Control District, or his or her designee.

(14) The Chairperson of the Board of Directors of the Madera Irrigation District, or his or her designee.

32516. A quorum shall constitute a majority of the voting members of the board. Meetings of the governing board shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

32517. The voting members of the board shall serve for four-year terms. Any member who is an elected or appointed official who ceases to hold that office shall automatically cease to be a member of the board. The office of any member of the board who is required to be a resident of a member agency shall become vacant upon that member ceasing to be a resident of the member agency.

32518. Members who are not elected or appointed officials shall receive compensation in an amount set by the board, not to exceed seventy-five dollars (\$75) for each day, or portion thereof, and not to exceed four hundred fifty dollars (\$450) in any year, while attending meetings of the board, or engaged upon official business of the board. All members shall receive reimbursement for actual, necessary, and reasonable expenses. Any member may waive compensation.

32519. The office of chairperson of the board shall rotate every two years among the Mayor or designated council member of the City of Fresno, the member of the Board of Supervisors of Madera County, and the member of the Board of Supervisors of Fresno County.

32520. The conservancy shall obtain and maintain adequate liability insurance or its equivalent, and defend and indemnify the member agencies for acts or omissions of the conservancy's agents, employees, volunteers, and servants.

### **SECTION 32525-32538**

32525. The conservancy shall have, and may exercise, all rights and powers, expressed or implied, necessary to carry out the purposes of this division, except as otherwise provided. The conservancy shall have no power to levy a tax, to regulate land use, or to exercise the power of eminent domain.

32526. The conservancy shall facilitate and coordinate the activities of its employees with personnel of the Department of Parks and Recreation, the Department of Fish and Game, and local law enforcement and rescue agencies.

32527. The conservancy may adopt and enforce regulations governing the use of parkway lands and activities within the parkway; the protection and management of native riparian vegetation, wildlife, and other natural resources on parkway lands; and the protection of archaeological sites.

32528. The conservancy may implement the San Joaquin River Parkway Task Force Plan and may adopt and carry out management plans for the protection of the natural and recreational resources of the parkway.

32529. The conservancy may manage, operate, administer, and maintain the parkway and its facilities. Land acquired by the conservancy shall not be open to public use until the board determines there are adequate funds available for the management of those lands. The conservancy may adopt regulations governing the use by the public of conservancy lands and may provide for their enforcement.

32530. The conservancy may employ an executive officer and other staff to perform those functions that cannot be provided by the existing personnel of member agencies on a contractual basis or by volunteers.

32531. The conservancy may recruit and coordinate volunteers and experts to conduct interpretive and recreational programs and to assist with construction projects and the maintenance of parkway facilities.

32532. The conservancy may determine acquisition priorities and may acquire real property or any interest in real property within the parkway from willing sellers and at fair market value or on other mutually acceptable terms. The conservancy may acquire the property, itself, or may coordinate the acquisition through a member agency or other public agencies with appropriate responsibility and available funding or land to exchange. The conservancy may provide technical assistance to landowners to ensure that their activities are compatible with or enhance the parkway. The conservancy may hold remainder interests in those instances where owners desire to sell but retain a life estate, and may create and administer a mitigation land bank and arrange land exchanges. The overall objective of the conservancy shall be to assist in accomplishing land transactions that are mutually beneficial to the landowner and the parkway by adding value to the land, while meeting natural resource conservation and other parkway objectives.

32533. The conservancy may undertake site improvement projects; regulate public access; revegetate and otherwise rehabilitate degraded areas, in consultation with other public agencies with appropriate jurisdiction and expertise; upgrade deteriorating facilities; and construct new facilities as needed for outdoor recreation, nature appreciation and interpretation, and natural resource protection. These projects may be undertaken by the conservancy itself or by member agencies, with the conservancy providing overall coordination through setting priorities for projects and assuring uniformity of approach.

32534. The conservancy shall administer any funds appropriated to it and any revenue generated by member agencies for the parkway and contributed to the conservancy, and may expend those funds for capital improvements, land acquisition, or support of the conservancy's operations. Subject to Section 11005 of the Government Code, the conservancy may also accept any revenue, money, grants, goods, or services contributed to the conservancy by any public agency, private entity, or person, and, upon receipt, may expend any such revenue, money, or grants for capital improvements, land acquisitions, or support of the conservancy's operations.

32535. The conservancy may sue and be sued. The conservancy may enter into contracts and joint powers agreements with public agencies, private entities, and persons necessary for the proper discharge of the conservancy's duties.

32536. The conservancy shall be deemed a local agency for the purposes of any provision of law authorizing local agencies to borrow money and incur indebtedness. The conservancy may fix and collect fees for the use by the public of any lands owned or controlled by the conservancy. No fee shall exceed the cost of providing the service for which the fee is charged.

The fee revenue shall be deposited in the San Joaquin River Conservancy Fund, which is hereby created in the State Treasury. The money in the fund shall be expended by the conservancy, upon appropriation by the Legislature, for the purposes of this division.

32537. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this division.

(b) Grants to nonprofit organizations for the acquisition of real property or interests in real property shall be subject to all of the following conditions:

(1) The purchase price of any interest in land acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the conservancy.

(2) The conservancy approves the terms under which the interest in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interests of the state.

(5) The state shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state, except that, prior to that termination, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property, by recording its acceptance of title, together with the conservancy's approval, in writing.

(c) Any deed or other instrument of conveyance whereby real property is acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the state.

32538. (a) Notwithstanding any other provision of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest therein or option acquired under this division to a local public agency, state agency, federal agency, nonprofit organization, individual, or other entity for management purposes pursuant to

terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

(b) The conservancy may initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, or other entities and may enter into any other agreements authorized by state or federal law.