

Memorandum 2019-6

**Fish and Game Law: Conforming Revisions
(Draft Tentative Recommendation)**

In this study, the Commission¹ is developing a proposed recodification of the Fish and Game Code. A tentative recommendation proposing the repeal of the Fish and Game Code and its replacement with a new Fish and Wildlife Code has been circulated for public comment, with a request that comment be received by January 1, 2020.²

If the proposed recodification is eventually enacted, nearly all of the section numbers in the existing Fish and Game Code will be changed. It will then be necessary to make adjustments to provisions of other codes that cross-refer to the Fish and Game Code. Those cross-references will need to be revised to reflect the new numbering in the Fish and Wildlife Code.

This memorandum presents a draft tentative recommendation to make those revisions. **Following consideration of the draft, the Commission will need to decide whether to approve it as a tentative recommendation, to be circulated for public comment.**

Notes

The attached draft contains Notes that raise questions about some of the proposed revisions.

These Notes are not intended as prompts for discussion at the upcoming meeting. The intention is that they be included in the tentative recommendation as a prompt for public comment.

The staff does not intend to present or discuss the Notes at the meeting, unless a Commissioner or member of the public requests discussion.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See Minutes (Dec. 2018), p. 10; Tentative Recommendation on *Fish and Wildlife Code* (December 2018).

Section Headings

Typically, when the Commission prepares proposed legislation it drafts an informal heading for each affected code section. These are not part of the law; they are an editorial convenience similar to the headings that are drafted by private legal publishers.

A section heading typically has three parts:

- (1) The section's code and number.
- (2) A parenthetical describing the legislative action to be taken (i.e., added, amended, or repealed).
- (3) A brief description of the section's content

For reasons discussed below, the section headings in the attached draft contain the first two parts, but not the third.

Brief descriptions in section headings can be very helpful to a reader, especially where the proposed legislation affects an entire body of law. The descriptions provide an easy way to get a general sense of what the law does and how its parts interact. In particular, the table of contents generated from those headings can provide a useful overview of the affected law.

Adding brief descriptions to the section headings in the attached draft would not provide those same benefits. The statutes in the attached draft are not part of a coherent body of law. They are a miscellaneous collection of provisions drawn from dozens of different locations. There is no unifying principle or scheme that needs to be understood in reviewing the proposed law.

Nor would brief descriptions add much value in understanding each individual provision. When such descriptions are drafted for provisions that are part of an organized scheme, they are often *very* brief, describing the part each section plays in the overall law (e.g., "legislative declarations," "prohibition," "public hearing," "appeal"). Such descriptions are useful in showing the overall structure of a statute; they have little value when a section is plucked out of its context for technical amendment. To draft descriptions that provide enough detail to help in understanding such isolated provisions, it would be necessary to include much more detail, including detail about the provision's context. That would require a great deal of staff work for little practical benefit.

If the Commission would prefer to follow our usual practice of providing brief descriptions in the section headings, the staff can prepare them. But it would

significantly delay release of the tentative recommendation. **How would the Commission like to proceed?**

Limited Scope of Revisions

The purpose of the attached draft is limited. It would correct cross-references to the Fish and Game Code, to conform to the proposed Fish and Wildlife Code's numbering. The staff has also proposed technical corrections of the type the Commission ordinarily makes whenever it amends an existing section (e.g., adding subdivision designations, eliminating "such" when used to refer back to some antecedent).

The staff has not evaluated whether there are any other problems in any of the affected provisions that could perhaps also be addressed. For example, many of the affected provisions contain cross-references to provisions that are *not* in the Fish and Game Code. Some of those cross-references might be obsolete or otherwise erroneous. The staff has not analyzed whether such problems exist. Doing so would be a major undertaking and is not necessary to achieving the main purpose of the proposed law.

The narrative part of the attached draft expressly acknowledges the limited scope of the matters addressed by the proposed legislation. This will avoid any inference that the Commission has determined the correctness of all elements of the affected provisions.

CONCLUSION

The Commission needs to decide whether to approve the attached draft as a tentative recommendation, for public circulation and posting to the Commission's website, with or without changes.

Respectfully submitted,

Steve Cohen
Staff Counsel

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Fish and Wildlife Code: Conforming Revisions

February 2019

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **January 1, 2020.**

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
<commission@clrc.ca.gov>

SUMMARY OF TENTATIVE RECOMMENDATION

The Commission has released a tentative recommendation that proposes to repeal the Fish and Game Code and continue its provisions, without significant substantive change, in a new Fish and Wildlife Code.

Enactment of that proposal would cause nearly all of the section numbers in the Fish and Game Code to change.

Those numbering changes would require conforming revisions to be made in hundreds of provisions outside of the Fish and Game Code that cross-refer to existing provisions of the Fish and Game Code.

This tentative recommendation proposes the necessary cross-reference revisions. It was prepared pursuant to Resolution Chapter 158 of the Statutes of 2018.

FISH AND WILDLIFE CODE: CONFORMING REVISIONS

In 2010, the Secretary of the Natural Resources Agency was directed to convene a committee to develop and submit a “strategic vision” for the Fish and Game Commission and the Department of Fish and Game (now the Department of Fish and Wildlife.)¹ The resulting report recommended, among other things, that the Law Revision Commission be tasked with cleaning up the Fish and Game Code.²

In 2012, the Legislature directed the Commission to conduct the recommended work:

[The] Legislature approves for study by the California Law Revision Commission the new topic listed below:

Whether the Fish and Game Code and related statutory law should be revised to improve its organization, clarify its meaning, resolve inconsistencies, eliminate unnecessary or obsolete provisions, standardize terminology, clarify program authority and funding sources, and make other minor improvements, without making any significant substantive change to the effect of the law[.]³

In order to achieve the greatest degree of improvement to the organization and expression of the Fish and Game Code, the Commission decided to prepare a recommendation that would repeal the existing code and replace it with a new Fish and Wildlife Code. The new code would continue the substance of the former code in a more user-friendly form, without making any significant substantive change to the effect of existing law.

A tentative recommendation setting out the proposed Fish and Wildlife Code has been released for public review and comment.⁴

If that proposal is enacted, nearly every section number in the Fish and Game Code would change. Consequently, hundreds of provisions outside of the Fish and Game Code would need to be revised to update cross-references to conform to the new numbering in the Fish and Wildlife Code.

This tentative recommendation proposes the revisions necessary to update those cross-references.

LIMITED PURPOSE

The purpose of this tentative recommendation is limited. It would update cross-references to the Fish and Game Code, to conform to the new numbering of the

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

4. See Tentative Recommendation on *Fish and Wildlife Code* (December 2018), available at <<http://www.clrc.ca.gov/pub/Misc-Report/TR-R100-Full.pdf>>.

proposed Fish and Wildlife Code. Some minor stylistic revisions are also proposed, consistent with standard legislative drafting conventions (e.g., gendered language is corrected).

The Commission did not consider whether any other kinds of changes should be made to the provisions affected by this tentative recommendation.

Readers of this tentative recommendation should not infer that the Commission has evaluated and approved language that would not be changed by this tentative recommendation.

NOTES

While the Commission invites comment on any aspect of the proposed legislation, there are some issues on which it would particularly appreciate public review and comment. Those issues are set out in “Notes” that follow the sections that they discuss.

The Notes also identify code sections that were enacted by initiative. The California Constitution limits the Legislature’s ability to “amend” such statutes.⁵ However, the term “amend” in this context does not include technical amendments of the type proposed in this tentative recommendation.⁶ The Notes are provided to make clear that the Commission is aware of the constitutional constraint and does not believe it would be an obstacle to the proposed legislation.

REQUEST FOR PUBLIC COMMENT

The Commission seeks public comment on its tentative recommendation. Comments supporting the proposed legislation are just as important as comments suggesting changes or expressing other views.

5. See Cal. Const. art. 2, § 10 (“The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors’ approval.”).

6. See *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 571; 227 P.3d 858; 107 Cal. Rptr. 3d 265 (2010) (“In deciding whether [a] particular provision amends [an initiative statute], we simply need to ask whether it prohibits what the initiative authorizes, or authorizes what the initiative prohibits.”)

Contents

BUSINESS AND PROFESSIONS CODE	1
Bus. & Prof. Code § 4826.2 (amended).....	1
Bus. & Prof. Code § 8555 (amended).....	1
Bus. & Prof. Code § 12024.7 (amended).....	2
Bus. & Prof. Code § 12713 (amended).....	2
Bus. & Prof. Code § 26036 (amended).....	3
Bus. & Prof. Code § 26057 (amended).....	3
Bus. & Prof. Code § 26060.1 (amended).....	5
CIVIL CODE	7
Civ. Code § 3482.5 (amended).....	7
Civ. Code § 3508 (amended).....	9
CODE OF CIVIL PROCEDURE.....	9
Code Civ. Proc. § 338 (amended).....	9
Code Civ. Proc. § 706.070 (amended).....	12
Code Civ. Proc. § 1021.8 (amended).....	13
Code Civ. Proc. § 1240.055 (amended).....	13
Code Civ. Proc. § 1240.680 (amended).....	16
Code Civ. Proc. § 1245.210 (amended).....	17
Code Civ. Proc. § 1822.58 (amended).....	17
EDUCATION CODE.....	18
Educ. Code § 52410 (amended).....	18
FAMILY CODE.....	18
Fam. Code § 17520 (amended).....	18
FOOD AND AGRICULTURE CODE	27
Food & Agric. Code § 23.5 (amended).....	27
Food & Agric. Code § 5262 (amended).....	27
Food & Agric. Code § 6025.4 (amended).....	29
Food & Agric. Code § 6049 (amended).....	29
Food & Agric. Code § 7270.5 (amended).....	29
Food & Agric. Code § 7700 (amended).....	30
Food & Agric. Code § 11281 (amended).....	31
Food & Agric. Code § 11283 (amended).....	31
Food & Agric. Code § 11302 (amended).....	32
Food & Agric. Code § 11303 (amended).....	32
Food & Agric. Code § 11304 (amended).....	32
Food & Agric. Code § 11531 (amended).....	33
Food & Agric. Code § 14103 (amended).....	33
Food & Agric. Code § 19314 (amended).....	33
Food & Agric. Code § 76511 (amended).....	34
Food & Agric. Code § 76530 (amended).....	35
Food & Agric. Code § 76535 (amended).....	35
Food & Agric. Code § 76550 (amended).....	35
Food & Agric. Code § 76560 (amended).....	35
Food & Agric. Code § 76580 (amended).....	36
Food & Agric. Code § 76900 (amended).....	36
Food & Agric. Code § 76901 (amended).....	37
Food & Agric. Code § 76904 (amended).....	37
Food & Agric. Code § 76950 (amended).....	37
Food & Agric. Code § 76951 (amended).....	38

Food & Agric. Code § 76953.5 (amended).....	38
Food & Agric. Code § 76961 (amended).....	39
Food & Agric. Code § 76971 (amended).....	39
Food & Agric. Code § 76981 (amended).....	39
Food & Agric. Code § 78406 (amended).....	40
Food & Agric. Code § 78408 (amended).....	40
Food & Agric. Code § 78411 (amended).....	41
Food & Agric. Code § 78412 (amended).....	41
Food & Agric. Code § 78413 (amended).....	41
Food & Agric. Code § 78486 (amended).....	41
Food & Agric. Code § 78550 (amended).....	41
Food & Agric. Code § 78552.5 (amended).....	42
Food & Agric. Code § 78554 (amended).....	43
Food & Agric. Code § 78556 (amended).....	44
Food & Agric. Code § 78564 (amended).....	44
Food & Agric. Code § 78575 (amended).....	44
Food & Agric. Code § 78576 (amended).....	45
Food & Agric. Code § 78584 (amended).....	45
Food & Agric. Code § 78588 (amended).....	45
Food & Agric. Code § 79023 (amended).....	46
Food & Agric. Code § 79024 (amended).....	46
Food & Agric. Code § 79040 (amended).....	46
Food & Agric. Code § 79100 (amended).....	47
Food & Agric. Code § 79121 (amended).....	48
Food & Agric. Code § 79132 (amended).....	49
Food & Agric. Code § 79157 (amended).....	49
Food & Agric. Code § 79157.5 (amended).....	49
Food & Agric. Code § 79180 (amended).....	49
Food & Agric. Code § 80075 (amended).....	50
GOVERNMENT CODE	50
Gov't Code § 186 (amended).....	50
Gov't Code § 998.1 (amended).....	51
Gov't Code § 1322 (amended).....	52
Gov't Code § 6276.10 (amended).....	53
Gov't Code § 6276.18 (amended).....	54
Gov't Code § 6276.34 (amended).....	55
Gov't Code § 6276.42 (amended).....	57
Gov't Code § 7000 (amended).....	58
Gov't Code § 8597 (amended).....	59
Gov't Code § 8670.4 (amended).....	60
Gov't Code § 8670.59 (amended).....	60
Gov't Code § 8670.61 (amended).....	61
Gov't Code § 11011.2 (amended).....	61
Gov't Code § 11125.6 (amended).....	63
Gov't Code § 11343.4 (amended).....	63
Gov't Code § 12805.1 (amended).....	64
Gov't Code § 12805.3 (amended).....	65
Gov't Code § 14012 (amended).....	66
Gov't Code § 14659 (amended).....	67
Gov't Code § 15855 (amended).....	67
Gov't Code § 20399 (amended).....	68
Gov't Code § 22013.1 (amended).....	69
Gov't Code § 50060 (amended).....	69

Gov't Code § 50060.5 (amended).....	70
Gov't Code § 51201 (amended).....	71
Gov't Code § 65303.4 (amended).....	73
Gov't Code § 65913.4 (amended).....	74
Gov't Code § 65966 (amended).....	84
Gov't Code § 65968 (amended).....	87
Gov't Code § 66412.8 (amended).....	90
Gov't Code § 66478.4 (amended).....	91
Gov't Code § 66632.4 (amended).....	92
Gov't Code § 66680 (amended).....	92
Gov't Code § 66681 (amended).....	94
Gov't Code § 66703.7 (amended).....	94
Gov't Code § 67679 (amended).....	95
Gov't Code § 68090.8 (amended).....	97
Gov't Code § 70372 (amended).....	98
HARBORS AND NAVIGATION CODE.....	100
Harb. & Nav. Code § 64 (amended).....	100
Harb. & Nav. Code § 86 (amended).....	101
Harb. & Nav. Code § 153 (amended).....	102
Harb. & Nav. Code § 676 (amended).....	103
HEALTH AND SAFETY CODE	104
Health & Safety Code § 11358 (amended).....	104
Health & Safety Code § 25150 (amended).....	106
Health & Safety Code § 25197.2 (amended).....	106
Health & Safety Code § 25209.2 (amended).....	107
Health & Safety Code § 25261 (amended).....	108
Health & Safety Code § 25262 (amended).....	109
Health & Safety Code § 25395.66 (amended).....	111
Health & Safety Code § 41861 (amended).....	112
Health & Safety Code § 110795 (amended).....	112
Health & Safety Code § 111067 (amended).....	113
Health & Safety Code § 112160 (amended).....	114
Health & Safety Code § 112175 (amended).....	114
Health & Safety Code § 112185 (amended).....	115
Health & Safety Code § 114031 (amended).....	115
Health & Safety Code § 114775 (amended).....	115
Health & Safety Code § 114780 (amended).....	116
Health & Safety Code § 121870 (amended).....	116
Health & Safety Code § 131052 (amended).....	117
LABOR CODE.....	119
Labor Code § 226 (amended).....	119
Labor Code § 3212 (amended).....	122
Labor Code § 3363 (amended).....	123
Labor Code § 6302 (amended).....	123
MILITARY AND VETERANS CODE	124
Mil. & Vet. Code § 88 (amended).....	124
PENAL CODE	125
Penal Code § 409.5 (amended).....	125
Penal Code § 597 (amended).....	126
Penal Code § 597.5 (amended).....	128
Penal Code § 597s (amended).....	128
Penal Code § 626.9 (amended).....	129

Penal Code § 638.52 (amended).....	132
Penal Code § 830.2 (amended).....	135
Penal Code § 830.6 (amended).....	136
Penal Code § 969e (amended).....	138
Penal Code § 1463 (amended).....	138
Penal Code § 1464.8 (amended).....	140
Penal Code § 1524 (amended).....	140
Penal Code § 20015 (amended).....	145
Penal Code § 25700 (amended).....	145
Penal Code § 26100 (amended).....	145
Penal Code § 29300 (amended).....	146
Penal Code § 30945 (amended).....	146
Penal Code § 34000 (amended).....	147
PUBLIC CONTRACT CODE.....	147
Pub. Cont. Code § 10109 (amended).....	147
Pub. Cont. Code § 20126 (amended).....	148
Pub. Cont. Code § 20165 (amended).....	148
PUBLIC RESOURCES CODE.....	149
Pub. Res. Code § 829 (amended).....	149
Pub. Res. Code § 830 (amended).....	149
Pub. Res. Code § 3233 (amended).....	149
Pub. Res. Code § 3717 (amended).....	151
Pub. Res. Code § 3718 (amended).....	151
Pub. Res. Code § 3783 (amended).....	152
Pub. Res. Code § 3784 (amended).....	152
Pub. Res. Code § 3784.5 (amended).....	153
Pub. Res. Code § 3785 (amended).....	153
Pub. Res. Code § 4417.5 (amended).....	153
Pub. Res. Code § 4466 (amended).....	154
Pub. Res. Code § 4551.5 (amended).....	154
Pub. Res. Code § 4582.6 (amended).....	155
Pub. Res. Code § 4582.9 (amended).....	156
Pub. Res. Code § 4590 (amended).....	157
Pub. Res. Code § 4593.6 (amended).....	158
Pub. Res. Code § 4597 (amended).....	158
Pub. Res. Code § 4597.18 (amended).....	159
Pub. Res. Code § 4604 (amended).....	160
Pub. Res. Code § 4629.2 (amended).....	161
Pub. Res. Code § 4629.6 (amended).....	162
Pub. Res. Code § 4662 (amended).....	163
Pub. Res. Code § 4799.10 (amended).....	163
Pub. Res. Code § 4800 (amended).....	165
Pub. Res. Code § 5003.1 (amended).....	166
Pub. Res. Code § 5003.35 (amended).....	166
Pub. Res. Code § 5006.41 (amended).....	166
Pub. Res. Code § 5006.6 (amended).....	167
Pub. Res. Code § 5019.80 (amended).....	168
Pub. Res. Code § 5075.8 (amended).....	169
Pub. Res. Code § 5080.39 (amended).....	169
Pub. Res. Code § 5093.542 (amended).....	169
Pub. Res. Code § 5094.1 (amended).....	170
Pub. Res. Code § 5094.2 (amended).....	171
Pub. Res. Code § 5094.3 (amended).....	171

Pub. Res. Code § 5096.129 (amended).....	172
Pub. Res. Code § 5096.310 (amended).....	173
Pub. Res. Code § 5096.323 (amended).....	178
Pub. Res. Code § 5096.350 (amended).....	178
Pub. Res. Code § 5096.352 (amended).....	180
Pub. Res. Code § 5096.357 (amended).....	182
Pub. Res. Code § 5096.372 (amended).....	182
Pub. Res. Code § 5096.512 (amended).....	183
Pub. Res. Code § 5096.516 (amended).....	184
Pub. Res. Code § 5096.650 (amended).....	185
Pub. Res. Code § 5096.679 (amended).....	187
Pub. Res. Code § 5096.821 (amended).....	188
Pub. Res. Code § 5099.12 (amended).....	188
Pub. Res. Code § 5675 (amended).....	189
Pub. Res. Code § 5676 (amended).....	189
Pub. Res. Code § 5684 (amended).....	190
Pub. Res. Code § 5812 (amended).....	190
Pub. Res. Code § 5814 (amended).....	190
Pub. Res. Code § 5817 (amended).....	191
Pub. Res. Code § 5818.1 (amended).....	191
Pub. Res. Code § 5818.2 (amended).....	191
Pub. Res. Code § 5845.2 (amended).....	192
Pub. Res. Code § 5907 (amended).....	193
Pub. Res. Code § 5927 (amended).....	203
Pub. Res. Code § 5930 (amended).....	203
Pub. Res. Code § 5932 (amended).....	204
Pub. Res. Code § 5933 (amended).....	204
Pub. Res. Code § 5936 (amended).....	205
Pub. Res. Code § 6217.1 (amended).....	205
Pub. Res. Code § 6217.3 (amended).....	208
Pub. Res. Code § 6378 (amended).....	209
Pub. Res. Code § 6873.5 (amended).....	209
Pub. Res. Code § 6890 (amended).....	210
Pub. Res. Code § 8554 (amended).....	211
Pub. Res. Code § 8560 (amended).....	211
Pub. Res. Code § 8723 (amended).....	213
Pub. Res. Code § 9960 (amended).....	215
Pub. Res. Code § 10002 (amended).....	215
Pub. Res. Code § 10004 (amended).....	216
Pub. Res. Code § 10005 (amended).....	216
Pub. Res. Code § 10332 (amended).....	217
Pub. Res. Code § 10334 (amended).....	218
Pub. Res. Code § 10342 (amended).....	218
Pub. Res. Code § 10344 (amended).....	218
Pub. Res. Code § 12252 (amended).....	218
Pub. Res. Code § 21080.23 (amended).....	219
Pub. Res. Code § 21080.25 (amended).....	220
Pub. Res. Code § 21080.29 (amended).....	223
Pub. Res. Code § 21080.35 (amended).....	224
Pub. Res. Code § 21080.37 (amended).....	225
Pub. Res. Code § 21083.4 (amended).....	227
Pub. Res. Code § 21089 (amended).....	228
Pub. Res. Code § 21104.2 (amended).....	229

Pub. Res. Code § 21155.1 (amended).....	230
Pub. Res. Code § 21157.7 (amended).....	233
Pub. Res. Code § 21159.21 (amended).....	234
Pub. Res. Code § 25619 (amended).....	236
Pub. Res. Code § 26403 (amended).....	237
Pub. Res. Code § 28000 (amended).....	238
Pub. Res. Code § 28004 (amended).....	240
Pub. Res. Code § 29004 (amended).....	241
Pub. Res. Code § 29107 (amended).....	241
Pub. Res. Code § 29305 (amended).....	242
Pub. Res. Code § 29413 (amended).....	242
Pub. Res. Code § 30100.2 (amended).....	242
Pub. Res. Code § 30170 (amended).....	243
Pub. Res. Code § 30233 (amended).....	246
Pub. Res. Code § 30265.5 (amended).....	248
Pub. Res. Code § 30404 (amended).....	249
Pub. Res. Code § 30420 (amended).....	249
Pub. Res. Code § 30609.5 (amended).....	250
Pub. Res. Code § 30921 (amended).....	251
Pub. Res. Code § 31220 (amended).....	252
Pub. Res. Code § 31251.2 (amended).....	253
Pub. Res. Code § 32301 (amended).....	254
Pub. Res. Code § 32322 (amended).....	255
Pub. Res. Code § 32526 (amended).....	256
Pub. Res. Code § 33700 (amended).....	256
Pub. Res. Code § 33913 (amended).....	257
Pub. Res. Code § 34001 (amended).....	258
Pub. Res. Code § 34002 (amended).....	258
Pub. Res. Code § 35650 (amended).....	258
Pub. Res. Code § 36602 (amended).....	260
Pub. Res. Code § 36725 (amended).....	262
Pub. Res. Code § 36750 (amended).....	263
Pub. Res. Code § 36800 (amended).....	263
Pub. Res. Code § 36900 (amended).....	264
Pub. Res. Code § 37002 (amended).....	265
Pub. Res. Code § 37014 (amended).....	266
Pub. Res. Code § 37015 (amended).....	266
Pub. Res. Code § 71550 (amended).....	268
Pub. Res. Code § 71551 (amended).....	268
Pub. Res. Code § 71556 (amended).....	268
Pub. Res. Code § 71560 (amended).....	269
Pub. Res. Code § 72421 (amended).....	270
Pub. Res. Code § 72430 (amended).....	270
Pub. Res. Code § 75050 (amended).....	271
Pub. Res. Code § 75055 (amended).....	273
Pub. Res. Code § 75077 (amended).....	275
Pub. Res. Code § 75101 (amended).....	275
Pub. Res. Code § 80028 (amended).....	277
Pub. Res. Code § 80111 (amended).....	277
Pub. Res. Code § 80132 (amended).....	278
PUBLIC UTILITIES CODE.....	280
Pub. Util. Code § 7718 (amended).....	280

REVENUE AND TAXATION CODE	281
Rev. & Tax. Code § 421 (amended).....	281
Rev. & Tax. Code § 18741 (amended).....	283
Rev. & Tax. Code § 18742 (amended).....	284
Rev. & Tax. Code § 18749.2 (amended).....	284
Rev. & Tax. Code § 34019 (amended).....	285
Rev. & Tax. Code § 46618 (amended).....	291
Rev. & Tax. Code § 46751 (amended).....	291
STREETS AND HIGHWAY CODE	292
Sts. & Hy. Code § 91.8 (amended).	292
Sts. & Hy. Code § 156.3 (amended).	293
Sts. & Hy. Code § 156.4 (amended).	294
Sts. & Hy. Code § 800 (amended).	294
Sts. & Hy. Code § 800.5 (amended).	294
Sts. & Hy. Code § 800.6 (amended).	296
VEHICLE CODE	298
Veh. Code § 21117 (amended).....	298
WATER CODE	299
Water Code § 139.4 (amended).....	299
Water Code § 233 (amended).....	300
Water Code § 345 (amended).....	300
Water Code § 359 (amended).....	301
Water Code § 1013 (amended).....	302
Water Code § 1275 (amended).....	304
Water Code § 1701.3 (amended).....	304
Water Code § 6500 (amended).....	305
Water Code § 6501 (amended).....	305
Water Code § 8539 (amended).....	305
Water Code § 8610 (amended).....	306
Water Code § 8611 (amended).....	306
Water Code § 11901 (amended).....	307
Water Code § 11910 (amended).....	307
Water Code § 11915.5 (amended).....	308
Water Code § 11917 (amended).....	308
Water Code § 12307 (amended).....	308
Water Code § 12314 (amended).....	309
Water Code § 12511 (amended).....	309
Water Code § 12525 (amended).....	310
Water Code § 12565 (amended).....	310
Water Code § 12582 (amended).....	311
Water Code § 12608 (amended).....	311
Water Code § 12846 (amended).....	311
Water Code § 12882.4 (amended).....	312
Water Code § 12929.40 (amended).....	312
Water Code § 12987 (amended).....	312
Water Code § 12994 (amended).....	313
Water Code § 12999 (amended).....	315
Water Code § 14901 (amended).....	315
Water Code § 14903 (amended).....	316
Water Code § 14905 (amended).....	317
Water Code § 14906 (amended).....	317
Water Code § 14953 (amended).....	317

Water Code § 14954 (amended).....	318
Water Code § 31162 (amended).....	318
Water Code § 78501 (amended).....	319
Water Code § 78531 (amended).....	319
Water Code § 78543 (amended).....	320
Water Code § 78551 (amended).....	321
Water Code § 78647.2 (amended).....	321
Water Code § 78682.2 (amended).....	322
Water Code § 79038 (amended).....	322
Water Code § 79050 (amended).....	323
Water Code § 79068.8 (amended).....	323
Water Code § 79068.14 (amended).....	324
Water Code § 79104.204 (amended).....	324
Water Code § 79563.5 (amended).....	324
Water Code § 79736 (amended).....	325
Water Code § 85032 (amended).....	325
Water Code § 85034 (amended).....	326
Water Code § 85084.5 (amended).....	327
Water Code § 85085 (amended).....	327
Water Code § 85087 (amended).....	327
Water Code § 85320 (amended).....	328
Water Code § 85322 (amended).....	329
WELFARE AND INSTITUTIONS CODE	330
Welf. & Inst. Code § 256 (amended)	330
Welf. & Inst. Code § 258 (amended)	330
Welf. & Inst. Code § 1760.5 (amended)	334

PROPOSED LEGISLATION

BUSINESS AND PROFESSIONS CODE

1
2 **Bus. & Prof. Code § 4826.2 (amended).**

3 SEC. ____ . Section 4826.2 of the Business and Professions Code is amended to
4 read:

5 4826.2. (a) Notwithstanding any other provision of law, a veterinarian, registered
6 veterinary technician, or a veterinary assistant working under the supervision of a
7 veterinarian, may provide veterinary care and treatment for any animal restricted
8 pursuant to Section ~~2118~~ Chapter 2 (commencing with Section 26700) of Title 2 of
9 Part 6 of Division 7 of the Fish and ~~Game~~ Wildlife Code. A veterinarian, registered
10 veterinary technician, or a veterinary assistant working under the supervision of a
11 veterinarian, may lawfully possess one or more of the animals only for the period
12 of time that, in his or her judgment, veterinary care and treatment are necessary. No
13 veterinarian, registered veterinary technician, or veterinary assistant working under
14 the supervision of a veterinarian, has a duty to advise law enforcement if he or she
15 becomes aware that one or more of the animals is possessed in the state.

16 (b) For the purposes of this section, “veterinary care and treatment” does not
17 include boarding when no veterinary care or treatment is required.

18 **Comment.** Section 4826.2 is amended to reflect the recodification of the former Fish and Game
19 Code. The section is also amended to add subdivision designations.

20 **Bus. & Prof. Code § 8555 (amended).**

21 SEC. ____ . Section 8555 of the Business and Professions Code is amended to read:
22 8555. This chapter does not apply to:

23 (a) Public utilities operating under the regulations of the Public Utilities
24 Commission, except to work performed upon property of the utilities not subject to
25 the jurisdiction of the Public Utilities Commission or work done by the utility for
26 hire.

27 (b) Persons engaged only in agricultural pest control work under permit or license
28 by the Department of Pesticide Regulation or a county agricultural commissioner.

29 (c) Pest control performed by persons upon property that they own, lease or rent,
30 except that the persons shall be subject to the limitations imposed by Article 3 of
31 this chapter.

32 (d) Governmental agencies, state, federal, city, or county officials, and their
33 employees while officially engaged.

34 (e) Authorized representatives of an educational institution or state or federal
35 agency engaged in research or study of pest control, or engaged in investigation or
36 preparation for expert opinion or testimony. A professional engaging in research,
37 study, investigation, or preparation for expert opinion or testimony on his or her
38 own behalf shall comply with the requirements of this chapter.

1 (f) Certified architects and registered civil engineers, acting solely within their
2 professional capacity, except that they shall be subject to the limitations imposed by
3 Article 3 of this chapter.

4 (g) Persons engaged in the live capture and removal or exclusion of vertebrate
5 pests, bees, or wasps from a structure without the use of pesticides, provided those
6 persons maintain insurance coverage as described in Section 8692. “Vertebrate
7 pests” include, but are not limited to, bats, raccoons, skunks, and squirrels, but do
8 not include mice, rats, or pigeons.

9 (h) This section does not exempt a person from the provisions of ~~Chapter 1.5~~
10 ~~(commencing with Section 2050) of Division 3 Part 1 (commencing with Section~~
11 ~~62000) of Division 17 of the Fish and Game Wildlife Code.~~

12 **Comment.** Section 8555 is amended to reflect the recodification of the former Fish and Game
13 Code. The section is also amended to add a subdivision designation.

14 **Bus. & Prof. Code § 12024.7 (amended).**

15 SEC. _____. Section 12024.7 of the Business and Professions Code is amended to
16 read:

17 12024.7. (a) Any person who sells meat directly to the consumer on the basis of
18 primal cuts or carcass weight shall supply the buyer with an accurate statement of
19 weight at time of sale of the carcass or primal cut purchased, and shall supply a
20 complete and accurate statement which shall contain the weight of the meat
21 delivered to the buyer and the number and type of cuts. When any fruits, vegetables,
22 or other food products are sold as part of a combination sale with meat sold directly
23 to the consumer on the basis of primal cuts or carcass weight, the seller shall supply
24 an itemized statement showing the net quantity of any fruits, vegetables, and other
25 food products delivered to the buyer.

26 (b) This section shall also apply to any person who custom cuts any meat animal
27 carcass or part of such carcass for the owner, except the carcass of any game
28 mammal taken as authorized by the Fish and Game Wildlife Code.

29 **Comment.** Section 12024.7 is amended to reflect the recodification of the former Fish and Game
30 Code. The section is also amended to add subdivision designations.

31 **Bus. & Prof. Code § 12713 (amended).**

32 SEC. _____. Section 12713 of the Business and Professions Code is amended to
33 read:

34 12713. (a) A weighmaster is responsible for ensuring that the weighmaster
35 certificates issued by him or her, or a deputy acting for him or her, are complete and
36 contain all the information required by Sections 12714, 12714.5, and 12715 that is
37 applicable to each transaction.

38 (b) It is unlawful to issue, or cause to be issued, a weighmaster certificate if the
39 certificate does not contain all the information required by Sections 12714, 12714.5,
40 and 12715 for the commodity weighed, measured, or counted. The issuance of a
41 receipt showing the weight, measure, or count of fish, mollusks, or crustaceans

1 pursuant to ~~Article 6 (commencing with Section 8010) of Chapter 1 of Part 3 of~~
2 ~~Division 6 Article 1 (commencing with Section 21000) of Chapter 3 of Title 10 of~~
3 Part 6 of Division 6 of the Fish and ~~Game~~ Wildlife Code constitutes the issuance of
4 a weighmaster certificate under this chapter when issued by a person who is a
5 weighmaster pursuant to Section 12700.

6 **Comment.** Section 12713 is amended to reflect the recodification of the former Fish and Game
7 Code.

8  **Note.** The cross-reference in Section 12713(b) may be incorrect. The referenced article does
9 not expressly mention a certificate issued by a weighmaster or a record of weight. The revision
10 proposed above would instead refer to the provisions that govern landing receipts, which do require
11 a record of the weight of the landed fish or invertebrates.

12 **The Commission requests public comment on whether that substitution is appropriate.**

13 **Bus. & Prof. Code § 26036 (amended).**

14 SEC. _____. Section 26036 of the Business and Professions Code is amended to
15 read:

16 26036. Nothing in this division shall be interpreted to supersede or limit state
17 agencies from exercising their existing enforcement authority, including, but not
18 limited to, under the Fish and ~~Game~~ Wildlife Code, the Food and Agricultural Code,
19 the Government Code, the Health and Safety Code, the Public Resources Code, the
20 Water Code, or the application of those laws.

21 **Comment.** Section 26036 is amended to reflect the recodification of the former Fish and Game
22 Code.

23  **Note.** Section 26036 was added to the Business and Professions Code in 2016 by an initiative
24 statute, Proposition 64. The Commission believes that the proposed technical revision of that
25 section would not be an impermissible amendment. See discussion of initiative statutes *supra* at
26 notes 5 and 6, and associated text.

27 **Bus. & Prof. Code § 26057 (amended).**

28 SEC. _____. Section 26057 of the Business and Professions Code is amended to
29 read:

30 26057. (a) The licensing authority shall deny an application if either the applicant,
31 or the premises for which a state license is applied, do not qualify for licensure under
32 this division.

33 (b) The licensing authority may deny the application for licensure or renewal of a
34 state license if any of the following conditions apply:

35 (1) Failure or inability to comply with the provisions of this division, any rule or
36 regulation adopted pursuant to this division, or any requirement imposed to protect
37 natural resources, including, but not limited to, protections for instream flow, water
38 quality, and fish and wildlife.

39 (2) Conduct that constitutes grounds for denial of licensure under Chapter 2
40 (commencing with Section 480) of Division 1.5, except as otherwise specified in
41 this section and Section 26059.

1 (3) Failure to provide information required by the licensing authority.

2 (4) The applicant, owner, or licensee has been convicted of an offense that is
3 substantially related to the qualifications, functions, or duties of the business or
4 profession for which the application is made, except that if the licensing authority
5 determines that the applicant, owner, or licensee is otherwise suitable to be issued a
6 license, and granting the license would not compromise public safety, the licensing
7 authority shall conduct a thorough review of the nature of the crime, conviction,
8 circumstances, and evidence of rehabilitation of the applicant or owner, and shall
9 evaluate the suitability of the applicant, owner, or licensee to be issued a license
10 based on the evidence found through the review. In determining which offenses are
11 substantially related to the qualifications, functions, or duties of the business or
12 profession for which the application is made, the licensing authority shall include,
13 but not be limited to, the following:

14 (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5
15 of the Penal Code.

16 (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7
17 of the Penal Code.

18 (C) A felony conviction involving fraud, deceit, or embezzlement.

19 (D) A felony conviction for hiring, employing, or using a minor in transporting,
20 carrying, selling, giving away, preparing for sale, or peddling, any controlled
21 substance to a minor; or selling, offering to sell, furnishing, offering to furnish,
22 administering, or giving any controlled substance to a minor.

23 (E) A felony conviction for drug trafficking with enhancements pursuant to
24 Section 11370.4 or 11379.8 of the Health and Safety Code.

25 (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and
26 notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior
27 conviction, where the sentence, including any term of probation, incarceration, or
28 supervised release, is completed, for possession, possession for sale, sale,
29 manufacture, transportation, or cultivation of a controlled substance is not
30 considered substantially related, and shall not be the sole ground for denial of a
31 license. Conviction for any controlled substance felony subsequent to licensure shall
32 be grounds for revocation of a license or denial of the renewal of a license.

33 (6) The applicant, or any of its officers, directors, or owners, has been subject to
34 fines, penalties, or otherwise been sanctioned for cultivation or production of a
35 controlled substance on public or private lands pursuant to ~~Section 12025 or 12025.1~~
36 Article 2 (commencing with Section 6380) of Chapter 4 of, or Chapter 6
37 (commencing with Section 6550) of, Title 17 of Part 4 of Division 3 of the Fish and
38 Game Wildlife Code.

39 (7) The applicant, or any of its officers, directors, or owners, has been sanctioned
40 by a licensing authority or a city, county, or city and county for unauthorized
41 commercial cannabis activities, has had a license suspended or revoked under this
42 division in the three years immediately preceding the date the application is filed
43 with the licensing authority.

1 (8) Failure to obtain and maintain a valid seller’s permit required pursuant to Part
2 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation
3 Code.

4 (9) Any other condition specified in law.

5 **Comment.** Paragraph (6) of subdivision (b) of Section 26057 is amended to reflect the
6 recodification of the former Fish and Game Code.

7  **Note.** Section 26057 was added to the Business and Professions Code in 2016 by an initiative
8 statute, Proposition 64. The Commission believes that the proposed technical revision of that
9 section would not be an impermissible amendment. See discussion of initiative statutes *supra* at
10 notes 5 and 6, and associated text.

11 **Bus. & Prof. Code § 26060.1 (amended).**

12 SEC. _____. Section 26060.1 of the Business and Professions Code is amended to
13 read:

14 26060.1. (a) An application for a license for cultivation issued by the Department
15 of Food and Agriculture shall identify the source of water supply as follows:

16 (1)(A) If water will be supplied by a retail water supplier, as defined in Section
17 13575 of the Water Code, the application shall identify the retail water supplier.

18 (B) Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A)
19 unless the retail water supplier has 10 or fewer customers, the applicant receives 10
20 percent or more of the water supplied by the retail water supplier, 25 percent or
21 more of the water delivered by the retail water supplier is used for cannabis
22 cultivation, or the applicant and the retail water supplier are affiliates, as defined in
23 Section 2814.20 of Title 23 of the California Code of Regulations.

24 (2) If the water supply includes a diversion within the meaning of Section 5100
25 of the Water Code, the application shall identify the point of diversion and the
26 maximum amount to be diverted as follows:

27 (A) For an application submitted before January 1, 2019, the application shall
28 include a copy of one of the following:

29 (i) A small irrigation use registration certificate, permit, or license issued pursuant
30 to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that
31 covers the diversion.

32 (ii) A statement of water diversion and use filed with the State Water Resources
33 Control Board on or before October 31, 2017, that covers the diversion and specifies
34 the amount of water used for cannabis cultivation.

35 (iii) A pending application for a permit to appropriate water, filed with the State
36 Water Resources Control Board on or before October 31, 2017.

37 (iv) Documentation submitted to the State Water Resources Control Board on or
38 before January 1, 2019, demonstrating that the diversion is subject to subdivision
39 (a), (c), (d), or (e) of Section 5101 of the Water Code.

40 (v) Documentation submitted to the State Water Resources Control Board on or
41 before October 31, 2017, demonstrating that the diversion is authorized under a
42 riparian right and that no diversion occurred after January 1, 2010, and before

1 January 1, 2017. The documentation shall be submitted on or accompany a form
2 provided by the State Water Resources Control Board and shall include all of the
3 information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of
4 the Water Code. The documentation shall also include a general description of the
5 area in which the water will be used in accordance with subdivision (g) of Section
6 5103 of the Water Code and the year in which the diversion is planned to commence.

7 (B) For an application submitted after December 31, 2018, the application shall
8 include a copy of one of the following:

9 (i) A small irrigation use registration certificate, permit, or license issued pursuant
10 to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that
11 covers the diversion.

12 (ii) A statement of water diversion and use filed with the State Water Resources
13 Control Board that covers the diversion and specifies the amount of water used for
14 cannabis cultivation.

15 (iii) Documentation submitted to the State Water Resources Control Board
16 demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of
17 Section 5101 of the Water Code.

18 (iv) Documentation submitted to the State Water Resources Control Board
19 demonstrating that the diversion is authorized under a riparian right and that no
20 diversion occurred after January 1, 2010, and in the calendar year in which the
21 application is submitted. The documentation shall be submitted on or accompany a
22 form provided by the State Water Resources Control Board and shall include all of
23 the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103
24 of the Water Code. The documentation shall also include a general description of
25 the area in which the water will be used in accordance with subdivision (g) of
26 Section 5103 of the Water Code and the year in which the diversion is planned to
27 commence.

28 (3) If water will be supplied from a groundwater extraction not subject to
29 paragraph (2), the application shall identify the location of the extraction and the
30 maximum amount to be diverted for cannabis cultivation in any year.

31 (b) The Department of Food and Agriculture shall include in any license for
32 cultivation all of the following:

33 (1) Conditions requested by the Department of Fish and Wildlife and the State
34 Water Resources Control Board to: (A) ensure that individual and cumulative
35 effects of water diversion and discharge associated with cultivation do not affect the
36 instream flows needed for fish spawning, migration, and rearing, and the flows
37 needed to maintain natural flow variability; (B) ensure that cultivation does not
38 negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C)
39 otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The
40 conditions shall include, but not be limited to, the principles, guidelines, and
41 requirements established pursuant to Section 13149 of the Water Code.

42 (2) Any relevant mitigation requirements the Department of Food and Agriculture
43 identifies as part of its approval of the final environmental documentation for the

1 cannabis cultivation licensing program as requirements that should be included in a
2 license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of
3 Division 3 of Title 2 of the Government Code does not apply to the identification of
4 these mitigation measures. This paragraph does not reduce any requirements
5 established pursuant to Division 13 (commencing with Section 21000) of the Public
6 Resources Code.

7 (3) A condition that the license shall not be effective until the licensee has
8 demonstrated compliance with ~~Section 1602~~ Title 3 (commencing with Sections
9 69700) of Part 4 of Division 17 of the Fish and ~~Game~~ Wildlife Code or receives
10 written verification from the Department of Fish and Wildlife that a streambed
11 alteration agreement is not required.

12 (c) The Department of Food and Agriculture shall consult with the State Water
13 Resources Control Board and the Department of Fish and Wildlife in the
14 implementation of this section.

15 (d) Notwithstanding paragraph (1) of subdivision (b), the Department of Food and
16 Agriculture is not responsible for verifying compliance with the conditions
17 requested or imposed by the Department of Fish and Wildlife or the State Water
18 Resources Control Board. The Department of Fish and Wildlife or the State Water
19 Resources Control Board, upon finding and making the final determination of a
20 violation of a condition included pursuant to paragraph (1) of subdivision (b), shall
21 notify the Department of Food and Agriculture, which may take appropriate action
22 with respect to the licensee in accordance with Chapter 3 (commencing with Section
23 26030).

24 **Comment.** Paragraph (3) of subdivision (b) of Section 26060.1 is amended to reflect the
25 recodification of the former Fish and Game Code.

26  **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued
27 in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference
28 revision above would refer to the title that contains all of those sections, rather than referring to the
29 five sections individually. That seems unproblematic, because the entire title relates to the
30 substance of Section 1602.

31 **The Commission requests public comment on whether that simplified reference would**
32 **cause any problems.**

33 CIVIL CODE

34 Civ. Code § 3482.5 (amended).

35 SEC. ____ . Section 3482.5 of the Civil Code is amended to read:

36 3482.5. (a)(1) No agricultural activity, operation, or facility, or appurtenances
37 thereof, conducted or maintained for commercial purposes, and in a manner
38 consistent with proper and accepted customs and standards, as established and
39 followed by similar agricultural operations in the same locality, shall be or become
40 a nuisance, private or public, due to any changed condition in or about the locality,

1 after it has been in operation for more than three years if it was not a nuisance at the
2 time it began.

3 (2) No activity of a district agricultural association that is operated in compliance
4 with Division 3 (commencing with Section 3001) of the Food and Agricultural
5 Code, shall be or become a private or public nuisance due to any changed condition
6 in or about the locality, after it has been in operation for more than three years if it
7 was not a nuisance at the time it began. This paragraph shall not apply to any
8 activities of the 52nd District Agricultural Association that are conducted on the
9 grounds of the California Exposition and State Fair, nor to any public nuisance
10 action brought by a city, county, or city and county alleging that the activities,
11 operations, or conditions of a district agricultural association have substantially
12 changed after more than three years from the time that the activities, operations, or
13 conditions began.

14 (b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity,
15 operation, or facility, or appurtenances thereof obstruct the free passage or use, in
16 the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or
17 any public park, square, street, or highway.

18 (c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained
19 in the Health and Safety Code, Fish and ~~Game~~ Wildlife Code, Food and Agricultural
20 Code, or Division 7 (commencing with Section 13000) of the Water Code, if the
21 agricultural activity, operation, or facility, or appurtenances thereof constitute a
22 nuisance, public or private, as specifically defined or described in any of those
23 provisions.

24 (d) This section shall prevail over any contrary provision of any ordinance or
25 regulation of any city, county, city and county, or other political subdivision of the
26 state. However, nothing in this section shall preclude a city, county, city and county,
27 or other political subdivision of this state, acting within its constitutional or statutory
28 authority and not in conflict with other provisions of state law, from adopting an
29 ordinance that allows notification to a prospective homeowner that the dwelling is
30 in close proximity to an agricultural activity, operation, facility, or appurtenances
31 thereof and is subject to the provisions of this section consistent with Section
32 1102.6a.

33 (e) For purposes of this section, the term “agricultural activity, operation, or
34 facility, or appurtenances thereof” shall include, but not be limited to, the cultivation
35 and tillage of the soil, dairying, the production, cultivation, growing, and harvesting
36 of any agricultural commodity including timber, viticulture, apiculture, or
37 horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any
38 practices performed by a farmer or on a farm as incident to or in conjunction with
39 those farming operations, including preparation for market, delivery to storage or to
40 market, or delivery to carriers for transportation to market.

41 **Comment.** Subdivision (c) of Section 3482.5 is amended to reflect the recodification of the
42 former Fish and Game Code.

1 **Civ. Code § 3508 (amended).**

2 SEC. _____. Section 3508 of the Civil Code is amended to read:

3 3508. (a) This title shall not apply to any of the following:

4 (1) The exhibition of any motion picture, such as a newsreel or documentary,
5 involving acts of killing or cruelty which were not intentionally committed for the
6 purpose of producing the motion picture.

7 (2) Any motion picture made, in whole or in part, prior to January 1, 1979.

8 (3) Any motion picture all or part of which has been edited or remade so that any
9 previous conduct which constituted a nuisance under this title no longer appears.

10 (4) The taking of any animal as permitted by any provision of the Fish and Game
11 Wildlife Code or pursuant thereto in accordance with regulations adopted by the
12 Fish and Game Commission unless the time, place, or manner of such taking
13 violates any provision of law except this title. This title shall apply to any other
14 animal whether or not the time, place, or manner of the taking is prohibited by any
15 laws other than this title, however, this title shall not apply to the taking of any
16 animal authorized by law in any other jurisdiction unless the time, place or manner
17 of such taking is prohibited by law or regulation.

18 (5) A motion picture which includes scenes of killing or cruelty to animals if the
19 acts constituting the killing or cruelty were authorized by the laws governing such
20 acts in the jurisdiction where the scenes were filmed.

21 (6) Any motion picture which bears within its contents a statement from the
22 producer of the motion picture that all scenes depicting animals were filmed without
23 the intentional killing of, or cruelty to an animal or that any killing or cruelty to an
24 animal was authorized by the laws of the jurisdiction where the scenes were filmed
25 or that the film is otherwise exempt under this title.

26 (7) Any motion picture if the exhibitor ~~thereof~~ of that motion picture has a written
27 signed statement, or a copy thereof, from the producer of the motion picture that all
28 scenes depicting animals were filmed without the intentional killing of, or cruelty
29 to an animal or that any killing or cruelty to an animal was authorized by the laws
30 of the jurisdiction where the scenes were filmed or that the film is otherwise exempt
31 under this title.

32 (b) This title shall not apply in any case in which it would conflict with federal
33 supremacy in the field of television broadcasting.

34 **Comment.** Section 3508 is amended to reflect the recodification of the former Fish and Game
35 Code. The section is also amended to make a technical correction.

36 **CODE OF CIVIL PROCEDURE**

37 **Code Civ. Proc. § 338 (amended).**

38 SEC. _____. Section 338 of the Code of Civil Procedure is amended to read:

39 338. Within three years:

40 (a) An action upon a liability created by statute, other than a penalty or forfeiture.

1 (b) An action for trespass upon or injury to real property.

2 (c)(1) An action for taking, detaining, or injuring goods or chattels, including
3 actions for the specific recovery of personal property.

4 (2) The cause of action in the case of theft, as described in Section 484 of the
5 Penal Code, of an article of historical, interpretive, scientific, or artistic significance
6 is not deemed to have accrued until the discovery of the whereabouts of the article
7 by the aggrieved party, his or her agent, or the law enforcement agency that
8 originally investigated the theft.

9 (3)(A) Notwithstanding paragraphs (1) and (2), an action for the specific recovery
10 of a work of fine art brought against a museum, gallery, auctioneer, or dealer, in the
11 case of an unlawful taking or theft, as described in Section 484 of the Penal Code,
12 of a work of fine art, including a taking or theft by means of fraud or duress, shall
13 be commenced within six years of the actual discovery by the claimant or his or her
14 agent, of both of the following:

15 (i) The identity and the whereabouts of the work of fine art. In the case where
16 there is a possibility of misidentification of the object of fine art in question, the
17 identity can be satisfied by the identification of facts sufficient to determine that the
18 work of fine art is likely to be the work of fine art that was unlawfully taken or
19 stolen.

20 (ii) Information or facts that are sufficient to indicate that the claimant has a claim
21 for a possessory interest in the work of fine art that was unlawfully taken or stolen.

22 (B) This paragraph shall apply to all pending and future actions commenced on
23 or before December 31, 2017, including an action dismissed based on the expiration
24 of statutes of limitation in effect prior to the date of enactment of this statute if the
25 judgment in that action is not yet final or if the time for filing an appeal from a
26 decision on that action has not expired, provided that the action concerns a work of
27 fine art that was taken within 100 years prior to the date of enactment of this statute.

28 (C) For purposes of this paragraph:

29 (i) “Actual discovery,” notwithstanding Section 19 of the Civil Code, does not
30 include constructive knowledge imputed by law.

31 (ii) “Auctioneer” means an individual who is engaged in, or who by advertising
32 or otherwise holds himself or herself out as being available to engage in, the calling
33 for, the recognition of, and the acceptance of, offers for the purchase of goods at an
34 auction as defined in subdivision (b) of Section 1812.601 of the Civil Code.

35 (iii) “Dealer” means a person who holds a valid seller’s permit and who is actively
36 and principally engaged in, or conducting the business of, selling works of fine art.

37 (iv) “Duress” means a threat of force, violence, danger, or retribution against an
38 owner of the work of fine art in question, or his or her family member, sufficient to
39 coerce a reasonable person of ordinary susceptibilities to perform an act that
40 otherwise would not have been performed or to acquiesce to an act to which he or
41 she would otherwise not have acquiesced.

42 (v) “Fine art” has the same meaning as defined in paragraph (1) of subdivision (d)
43 of Section 982 of the Civil Code.

1 (vi) “Museum or gallery” shall include any public or private organization or
2 foundation operating as a museum or gallery.

3 (4) Section 361 shall not apply to an action brought pursuant to paragraph (3).

4 (5) A party in an action to which paragraph (3) applies may raise all equitable and
5 legal affirmative defenses and doctrines, including, without limitation, laches and
6 unclean hands.

7 (d) An action for relief on the ground of fraud or mistake. The cause of action in
8 that case is not deemed to have accrued until the discovery, by the aggrieved party,
9 of the facts constituting the fraud or mistake.

10 (e) An action upon a bond of a public official except any cause of action based on
11 fraud or embezzlement is not deemed to have accrued until the discovery, by the
12 aggrieved party or his or her agent, of the facts constituting the cause of action upon
13 the bond.

14 (f)(1) An action against a notary public on his or her bond or in his or her official
15 capacity except that a cause of action based on malfeasance or misfeasance is not
16 deemed to have accrued until discovery, by the aggrieved party or his or her agent,
17 of the facts constituting the cause of action.

18 (2) Notwithstanding paragraph (1), an action based on malfeasance or
19 misfeasance shall be commenced within one year from discovery, by the aggrieved
20 party or his or her agent, of the facts constituting the cause of action or within three
21 years from the performance of the notarial act giving rise to the action, whichever
22 is later.

23 (3) Notwithstanding paragraph (1), an action against a notary public on his or her
24 bond or in his or her official capacity shall be commenced within six years.

25 (g) An action for slander of title to real property.

26 (h) An action commenced under Section 17536 of the Business and Professions
27 Code. The cause of action in that case shall not be deemed to have accrued until the
28 discovery by the aggrieved party, the Attorney General, the district attorney, the
29 county counsel, the city prosecutor, or the city attorney of the facts constituting
30 grounds for commencing the action.

31 (i) An action commenced under the Porter-Cologne Water Quality Control Act
32 (Division 7 (commencing with Section 13000) of the Water Code). The cause of
33 action in that case shall not be deemed to have accrued until the discovery by the
34 State Water Resources Control Board or a regional water quality control board of
35 the facts constituting grounds for commencing actions under their jurisdiction.

36 (j) An action to recover for physical damage to private property under Section 19
37 of Article I of the California Constitution.

38 (k) An action commenced under Division 26 (commencing with Section 39000)
39 of the Health and Safety Code. These causes of action shall not be deemed to have
40 accrued until the discovery by the State Air Resources Board or by a district, as
41 defined in Section 39025 of the Health and Safety Code, of the facts constituting
42 grounds for commencing the action under its jurisdiction.

1 (l) An action commenced under ~~Section 1602, 1615, or 5650.1~~ Article 2
2 (commencing with Section 6320) of Chapter 3 of Title 17 of Part 4 of Division 3,
3 Section 6352, Sections 6320 through 6328, inclusive, Sections 6352 through 6356,
4 inclusive, or Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of
5 the Fish and ~~Game~~ Wildlife Code. These causes of action shall not be deemed to
6 have accrued until discovery by the agency bringing the action of the facts
7 constituting the grounds for commencing the action.

8 (m) An action challenging the validity of the levy upon a parcel of a special tax
9 levied by a local agency on a per parcel basis.

10 (n) An action commencing under Section 51.7 of the Civil Code.

11 (o) An action commenced under Section 4601.1 of the Public Resources Code, if
12 the underlying violation is of Section 4571, 4581, or 4621 of the Public Resources
13 Code, or of Section 1103.1 of Title 14 of the California Code of Regulations, and
14 the underlying violation is related to the conversion of timberland to nonforestry-
15 related agricultural uses. These causes of action shall not be deemed to have accrued
16 until discovery by the Department of Forestry and Fire Protection.

17 **Comment.** Subdivision (l) of Section 338 is amended to reflect the recodification of the former
18 Fish and Game Code.

19  **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued
20 in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference
21 revision above would refer to the title that contains all of those sections, rather than referring to the
22 five sections individually. That seems unproblematic, because the entire title relates to the
23 substance of Section 1602.

24 **The Commission requests public comment on whether that simplified reference would**
25 **cause any problems.**

26 **Code Civ. Proc. § 706.070 (amended).**

27 SEC. ____ . Section 706.070 of the Code of Civil Procedure is amended to read:
28 706.070. As used in this article:

29 (a) “State” means the State of California and includes any officer, department,
30 board, or agency thereof.

31 (b) “State tax liability” means an amount for which the state has a state tax lien as
32 defined in Section 7162 of the Government Code excluding a state tax lien created
33 pursuant to the Fish and ~~Game~~ Wildlife Code.

34 (c) For purposes of an earnings withholding order for taxes issued by the
35 Franchise Tax Board, “state tax liability” also includes any liability under Part 10
36 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or
37 Part 11 (commencing with Section 23001) of Division 2 of the Revenue and
38 Taxation Code that is due and payable within the meaning of subdivision (b) of
39 Section 19221 of the Revenue and Taxation Code, and unpaid. The amendments to
40 this section by the act adding this subdivision shall apply to any amount that is
41 unpaid on or after the effective date of that act, or any amount that first becomes
42 due and payable, and unpaid, after the effective date of that act.

1 **Comment.** Section 706.070 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Code Civ. Proc. § 1021.8 (amended).**

4 SEC. ____ . Section 1021.8 of the Code of Civil Procedure is amended to read:

5 26036. (a) Whenever the Attorney General prevails in a civil action to enforce
6 Section 17537.3, 22445, 22446.5, 22958, 22962, or 22963 of the Business and
7 Professions Code, Section 52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate
8 Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of
9 the Corporations Code or the California Commodity Law of 1990 (Division 4.5
10 (commencing with Section 29500) of Title 4 of the Corporations Code), ~~Section~~
11 ~~1615, 2014, or 5650.1~~ Sections 4470, 6320 through 6328, inclusive, or 6352 through
12 6356, inclusive, of the Fish and ~~Game~~ Wildlife Code, Section 4458, 12598, 12606,
13 12607, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section
14 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3,
15 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code,
16 Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605,
17 30820, 30821.6, 30822, 42847, or 48023 of the Public Resources Code, Section
18 30101.7 of the Revenue and Taxation Code, or Section 275, 1052, 1845, 13261,
19 13262, 13264, 13265, 13268, 13304, 13331, 13350, or 13385 of the Water Code,
20 the court shall award to the Attorney General all costs of investigating and
21 prosecuting the action, including expert fees, reasonable attorney’s fees, and costs.
22 Awards under this section shall be paid to the Public Rights Law Enforcement
23 Special Fund established by Section 12530 of the Government Code.

24 (b) This section applies to any action pending on the effective date of this section
25 and to any action filed thereafter.

26 (c) The amendments made to this section by Chapter 227 of the Statutes of 2004
27 shall apply to any action pending on the effective date of these amendments and to
28 any action filed thereafter.

29 **Comment.** Section 1021.8 is amended to reflect the recodification of the former Fish and Game
30 Code.

31 **Code Civ. Proc. § 1240.055 (amended).**

32 SEC. ____ . Section 1240.055 of the Code of Civil Procedure is amended to read:

33 1240.055. (a) As used in this section, the following terms have the following
34 meanings:

35 (1) “Conservation easement” means a conservation easement as defined in
36 Section 815.1 of the Civil Code and recorded as required by Section 815.5 of the
37 Civil Code.

38 (2) “Holder of a conservation easement” means the entity or organization that
39 holds the conservation easement on the property that is proposed for acquisition and
40 that is authorized to acquire and hold conservation easements pursuant to Section
41 815.3 of the Civil Code.

1 (3) “Property appropriated to public use,” as used in Article 6 (commencing with
2 Section 1240.510) and Article 7 (commencing with Section 1240.610), includes a
3 conservation easement if any of the following applies:

4 (A) The conservation easement is held by a public entity.

5 (B) A public entity provided funds, not including the value of a charitable
6 contribution for federal or state income tax purposes but including the California
7 Natural Heritage Preservation Tax Credit, for the acquisition of that easement.

8 (C) A public entity imposed conditions on approval or permitting of a project that
9 were satisfied, in whole or in part, by the conservation easement.

10 (b) A person authorized to acquire property for public use by eminent domain
11 shall exercise the power of eminent domain to acquire property that is subject to a
12 conservation easement only as provided in this section.

13 (c) Not later than 105 days prior to the hearing held pursuant to Section 1245.235,
14 or at the time of the offer made to the owner or owners of record pursuant to Section
15 7267.2 of the Government Code, whichever occurs earlier, the person seeking to
16 acquire property subject to a conservation easement shall give notice to the holder
17 of the conservation easement as provided in this subdivision. If the person is not
18 required to hold a hearing pursuant to Section 1245.235, then the notice shall be
19 given 105 days prior to the time of the offer made to the owner or owners of record
20 pursuant to Section 7267.2 of the Government Code.

21 (1) The notice required by subdivision (c) shall be sent by first-class mail and
22 shall state all of the following:

23 (A) A general description, in text or by diagram, of the property subject to a
24 conservation easement that the person proposes to acquire by eminent domain.

25 (B) A description of the public use or improvement that the person is considering
26 for the property subject to a conservation easement.

27 (C) That written comments on the acquisition may be submitted in accordance
28 with paragraph (3) no later than 45 days from the date the person seeking to acquire
29 the property mailed the notice to the holder of the conservation easement.

30 (D) That the holder of the conservation easement, within 15 days of receipt of the
31 notice required by subdivision (c), is required, under certain circumstances, to do
32 all of the following:

33 (i) Send a copy of the notice by first-class mail to each public entity that provided
34 funds for the purchase of the easement or that imposed conditions on approval or
35 permitting of a project that were satisfied, in whole or in part, by the creation of the
36 conservation easement.

37 (ii) Inform the public entity that written comments on the acquisition may be
38 submitted in accordance with paragraph (3).

39 (iii) Notify the person seeking to acquire the property of the name and address of
40 any public entity that was sent a copy of the notice pursuant to this paragraph.

41 (2)(A) The holder of the conservation easement, within 15 days of receipt of the
42 notice required by subdivision (c), shall do all of the following:

1 (i) Send a copy of the notice by first-class mail to each public entity that provided
2 funds for the purchase of the easement or that imposed conditions on approval or
3 permitting of a project that were satisfied, in whole or in part, by the creation of the
4 conservation easement.

5 (ii) Inform the public entity that written comments on the acquisition may be
6 submitted in accordance with paragraph (3).

7 (iii) Notify the person seeking to acquire the property of the name and address of
8 any public entity that was sent a copy of the notice pursuant to this paragraph.

9 (B) Subparagraph (A) shall apply only if one of the following applies:

10 (i) The holder of the easement is the original grantee of the conservation easement
11 and there is a public entity as described in subparagraph (A).

12 (ii) The holder of the easement has actual knowledge of a public entity as
13 described in subparagraph (A).

14 (iii) Recorded documents evidence the identity of a public entity as described in
15 subparagraph (A).

16 (3) The holder of the conservation easement or the public entity receiving notice,
17 or both, may provide to the person seeking to acquire the property written comments
18 on the acquisition, including identifying any potential conflict between the public
19 use proposed for the property and the purposes and terms of the conservation
20 easement. Written comments on the acquisition may be submitted no later than 45
21 days from the date the person seeking to acquire the property mailed the notice to
22 the holder of the conservation easement.

23 (d) The person seeking to acquire the property subject to a conservation easement,
24 within 30 days after receipt of written comments from the holder of the conservation
25 easement or from a public entity described in paragraph (2) of subdivision (c), shall
26 respond in writing to the comments. The response to the comments shall be mailed
27 by first-class mail to each easement holder or public entity that filed comments.

28 (e) The notice of the hearing on the resolution of necessity, pursuant to Section
29 1245.235, shall be sent by first-class mail to the holder of any conservation easement
30 and to any public entity whose name and address are provided as described in
31 paragraph (2) of subdivision (c) and shall state that they have the right to appear and
32 be heard on the matters referred to in Sections 1240.030, 1240.510, and 1240.610.
33 The notice shall state that, pursuant to paragraph (3) of subdivision (b) of Section
34 1245.235, failure to file a written request to appear and be heard within 15 days after
35 the notice was mailed will result in waiver of the right to appear and be heard. The
36 resolution of necessity to acquire property subject to a conservation easement shall
37 refer specifically either to Section 1240.510 or 1240.610 as authority for the
38 acquisition of the property.

39 (f) In any eminent domain proceeding to acquire property subject to a
40 conservation easement, the holder of the conservation easement:

41 (1) Shall be named as a defendant, as set forth in Section 1250.220.

42 (2) May appear in the proceedings, as set forth in Section 1250.230.

1 (3) Shall have all the same rights and obligations as any other defendant in the
2 eminent domain proceeding.

3 (g)(1) The holder of the conservation easement is an owner of property entitled to
4 compensation determined pursuant to Section 1260.220 and Chapter 9
5 (commencing with Section 1263.010) and in accordance with all of the following:

6 (A) The total compensation for the acquisition of all interests in property
7 encumbered by a conservation easement shall not be less than, and shall not exceed,
8 the fair market value of the fee simple interest of the property as if it were not
9 encumbered by the conservation easement.

10 (B) If the acquisition does not damage the conservation easement, the total
11 compensation shall be assessed by determining the value of all interests in the
12 property as encumbered by the conservation easement.

13 (C) If the acquisition damages the conservation easement in whole or in part,
14 compensation shall be determined consistent with Section 1260.220 and the value
15 of the fee simple interest of the property shall be assessed as if it were not
16 encumbered by the conservation easement.

17 (2) This subdivision shall not apply if the requirements of Section 10261 of the
18 Public Resources Code apply.

19 (h) This section shall not apply if the requirements of Section ~~1348.3~~ 54835 of the
20 Fish and ~~Game~~ Wildlife Code apply.

21 **Comment.** Subdivision (h) of Section 1240.055 is amended to reflect the recodification of the
22 former Fish and Game Code.

23 **Code Civ. Proc. § 1240.680 (amended).**

24 SEC. _____. Section 1240.680 of the Code of Civil Procedure is amended to read:

25 1240.680. (a) Subject to Sections 1240.690 and 1240.700, notwithstanding any
26 other provision of law, property is presumed to have been appropriated for the best
27 and most necessary public use if the property is appropriated to public use as any of
28 the following:

29 (1) A state, regional, county, or city park, open space, or recreation area.

30 (2) A wildlife or waterfowl management area established by the Department of
31 Fish and ~~Game~~ Wildlife pursuant to Section ~~1525~~ 60600 of the Fish and ~~Game~~
32 Wildlife Code.

33 (3) A historic site included in the National Register of Historic Places or state-
34 registered landmarks.

35 (4) An ecological reserve as provided for in ~~Article 4 (commencing with Section~~
36 ~~1580) of Chapter 5 of Division 2 Part 6 (commencing with Section 60750) of~~
37 Division 16 of the Fish and ~~Game~~ Wildlife Code.

38 (b) The presumption established by this section is a presumption affecting the
39 burden of proof.

40 **Comment.** Section 1240.680 is amended to reflect the recodification of the former Fish and
41 Game Code. The section is also amended to update a reference to the former Department of Fish
42 and Game. See Fish & Wildlife Code § 1500.

1 **Code Civ. Proc. § 1245.210 (amended).**

2 SEC. ____ . Section 1245.210 of the Code of Civil Procedure is amended to read:
3 1245.210. As used in this article, “governing body” means:

4 (a) In the case of a taking by a local public entity, the legislative body of the local
5 public entity.

6 (b) In the case of a taking by the Sacramento and San Joaquin Drainage District,
7 the Central Valley Flood Protection Board.

8 (c) In the case of a taking by the State Public Works Board pursuant to the
9 Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3
10 of Title 2 of the Government Code), the State Public Works Board.

11 (d) In the case of a taking by the Department of Fish and Wildlife pursuant to
12 Section ~~1348~~ 54815 of the Fish and ~~Game~~ Wildlife Code, the Wildlife Conservation
13 Board.

14 (e) In the case of a taking by the Department of Transportation (other than a taking
15 pursuant to Section 21633 of the Public Utilities Code or Section 30100 of the
16 Streets and Highways Code), the California Transportation Commission.

17 (f) In the case of a taking by the Department of Transportation pursuant to Section
18 21633 of the Public Utilities Code, the California Transportation Commission.

19 (g) In the case of a taking by the Department of Transportation pursuant to Section
20 30100 of the Streets and Highways Code, the California Transportation
21 Commission.

22 (h) In the case of a taking by the Department of Water Resources, the California
23 Water Commission.

24 (i) In the case of a taking by the University of California, the Regents of the
25 University of California.

26 (j) In the case of a taking by the State Lands Commission, the State Lands
27 Commission.

28 (k) In the case of a taking by Hastings College of Law, the board of directors of
29 that college.

30 (l) In the case of a taking by the High-Speed Rail Authority, the State Public
31 Works Board.

32 **Comment.** Section 1245.210 is amended to reflect the recodification of the former Fish and
33 Game Code.

34 **Code Civ. Proc. § 1822.58 (amended).**

35 SEC. ____ . Section 1822.58 of the Code of Civil Procedure is amended to read:

36 1822.58. A warrant may be issued under the requirements of this title to authorize
37 personnel of the Department of Fish and ~~Game~~ Wildlife to conduct inspections of
38 locations where fish, ~~amphibia~~ amphibians, or aquatic plants are held or stored
39 under ~~Division 12 (commencing with Section 15000)~~ Part 1 (commencing with
40 Section 23300) of Division 7 of the Fish and ~~Game~~ Wildlife Code.

1 authorization to engage in a business, occupation, or profession. The failure to
2 specifically name a particular board, commission, department, committee,
3 examiner, entity, or agency that issues a license, certificate, credential, permit,
4 registration, or any other authorization to engage in a business, occupation, or
5 profession does not exclude that board, commission, department, committee,
6 examiner, entity, or agency from this term.

7 (3) “Certified list” means a list provided by the local child support agency to the
8 Department of Child Support Services in which the local child support agency
9 verifies, under penalty of perjury, that the names contained therein are support
10 obligors found to be out of compliance with a judgment or order for support in a
11 case being enforced under Title IV-D of the federal Social Security Act.

12 (4) “Compliance with a judgment or order for support” means that, as set forth in
13 a judgment or order for child or family support, the obligor is no more than 30
14 calendar days in arrears in making payments in full for current support, in making
15 periodic payments in full, whether court ordered or by agreement with the local
16 child support agency, on a support arrearage, or in making periodic payments in full,
17 whether court ordered or by agreement with the local child support agency, on a
18 judgment for reimbursement for public assistance, or has obtained a judicial finding
19 that equitable estoppel as provided in statute or case law precludes enforcement of
20 the order. The local child support agency is authorized to use this section to enforce
21 orders for spousal support only when the local child support agency is also enforcing
22 a related child support obligation owed to the obligee parent by the same obligor,
23 pursuant to Sections 17400 and 17604.

24 (5) “License” includes membership in the State Bar of California, and a
25 certificate, credential, permit, registration, or any other authorization issued by a
26 board that allows a person to engage in a business, occupation, or profession, or to
27 operate a commercial motor vehicle, including appointment and commission by the
28 Secretary of State as a notary public. “License” also includes any driver’s license
29 issued by the Department of Motor Vehicles, any commercial fishing license issued
30 by the Department of Fish and Wildlife, and to the extent required by federal law or
31 regulations, any license used for recreational purposes. This term includes all
32 licenses, certificates, credentials, permits, registrations, or any other authorization
33 issued by a board that allows a person to engage in a business, occupation, or
34 profession. The failure to specifically name a particular type of license, certificate,
35 credential, permit, registration, or other authorization issued by a board that allows
36 a person to engage in a business, occupation, or profession, does not exclude that
37 license, certificate, credential, permit, registration, or other authorization from this
38 term.

39 (6) “Licensee” means a person holding a license, certificate, credential, permit,
40 registration, or other authorization issued by a board, to engage in a business,
41 occupation, or profession, or a commercial driver’s license as defined in Section
42 15210 of the Vehicle Code, including an appointment and commission by the

1 Secretary of State as a notary public. “Licensee” also means a person holding a
2 driver’s license issued by the Department of Motor Vehicles, a person holding a
3 commercial fishing license issued by the Department of Fish and ~~Game~~ Wildlife,
4 and to the extent required by federal law or regulations, a person holding a license
5 used for recreational purposes. This term includes all persons holding a license,
6 certificate, credential, permit, registration, or any other authorization to engage in a
7 business, occupation, or profession, and the failure to specifically name a particular
8 type of license, certificate, credential, permit, registration, or other authorization
9 issued by a board does not exclude that person from this term. For licenses issued
10 to an entity that is not an individual person, “licensee” includes an individual who
11 is either listed on the license or who qualifies for the license.

12 (b) The local child support agency shall maintain a list of those persons included
13 in a case being enforced under Title IV-D of the federal Social Security Act against
14 whom a support order or judgment has been rendered by, or registered in, a court of
15 this state, and who are not in compliance with that order or judgment. The local
16 child support agency shall submit a certified list with the names, social security
17 numbers, individual taxpayer identification numbers, or other uniform identification
18 numbers, and last known addresses of these persons and the name, address, and
19 telephone number of the local child support agency who certified the list to the
20 department. The local child support agency shall verify, under penalty of perjury,
21 that the persons listed are subject to an order or judgment for the payment of support
22 and that these persons are not in compliance with the order or judgment. The local
23 child support agency shall submit to the department an updated certified list on a
24 monthly basis.

25 (c) The department shall consolidate the certified lists received from the local
26 child support agencies and, within 30 calendar days of receipt, shall provide a copy
27 of the consolidated list to each board that is responsible for the regulation of
28 licenses, as specified in this section.

29 (d) On or before November 1, 1992, or as soon thereafter as economically feasible,
30 as determined by the department, all boards subject to this section shall implement
31 procedures to accept and process the list provided by the department, in accordance
32 with this section. Notwithstanding any other law, all boards shall collect social
33 security numbers or individual taxpayer identification numbers from all applicants
34 for the purposes of matching the names of the certified list provided by the
35 department to applicants and licensees and of responding to requests for this
36 information made by child support agencies.

37 (e)(1) Promptly after receiving the certified consolidated list from the department,
38 and prior to the issuance or renewal of a license, each board shall determine whether
39 the applicant is on the most recent certified consolidated list provided by the
40 department. The board shall have the authority to withhold issuance or renewal of
41 the license of an applicant on the list.

42 (2) If an applicant is on the list, the board shall immediately serve notice as
43 specified in subdivision (f) on the applicant of the board’s intent to withhold

1 issuance or renewal of the license. The notice shall be made personally or by mail
2 to the applicant's last known mailing address on file with the board. Service by mail
3 shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

4 (A) The board shall issue a temporary license valid for a period of 150 days to
5 any applicant whose name is on the certified list if the applicant is otherwise eligible
6 for a license.

7 (B) Except as provided in subparagraph (D), the 150-day time period for a
8 temporary license shall not be extended. Except as provided in subparagraph (D),
9 only one temporary license shall be issued during a regular license term and it shall
10 coincide with the first 150 days of that license term. As this paragraph applies to
11 commercial driver's licenses, "license term" shall be deemed to be 12 months from
12 the date the application fee is received by the Department of Motor Vehicles. A
13 license for the full or remainder of the license term shall be issued or renewed only
14 upon compliance with this section.

15 (C) In the event that a license or application for a license or the renewal of a
16 license is denied pursuant to this section, any funds paid by the applicant or licensee
17 shall not be refunded by the board.

18 (D) This paragraph shall apply only in the case of a driver's license, other than a
19 commercial driver's license. Upon the request of the local child support agency or
20 by order of the court upon a showing of good cause, the board shall extend a 150-
21 day temporary license for a period not to exceed 150 extra days.

22 (3)(A) The department may, when it is economically feasible for the department
23 and the boards to do so as determined by the department, in cases where the
24 department is aware that certain child support obligors listed on the certified lists
25 have been out of compliance with a judgment or order for support for more than
26 four months, provide a supplemental list of these obligors to each board with which
27 the department has an interagency agreement to implement this paragraph. Upon
28 request by the department, the licenses of these obligors shall be subject to
29 suspension, provided that the licenses would not otherwise be eligible for renewal
30 within six months from the date of the request by the department. The board shall
31 have the authority to suspend the license of any licensee on this supplemental list.

32 (B) If a licensee is on a supplemental list, the board shall immediately serve notice
33 as specified in subdivision (f) on the licensee that his or her license will be
34 automatically suspended 150 days after notice is served, unless compliance with this
35 section is achieved. The notice shall be made personally or by mail to the licensee's
36 last known mailing address on file with the board. Service by mail shall be complete
37 in accordance with Section 1013 of the Code of Civil Procedure.

38 (C) The 150-day notice period shall not be extended.

39 (D) In the event that any license is suspended pursuant to this section, any funds
40 paid by the licensee shall not be refunded by the board.

41 (E) This paragraph shall not apply to licenses subject to annual renewal or annual
42 fee.

1 (f) Notices shall be developed by each board in accordance with guidelines
2 provided by the department and subject to approval by the department. The notice
3 shall include the address and telephone number of the local child support agency
4 that submitted the name on the certified list, and shall emphasize the necessity of
5 obtaining a release from that local child support agency as a condition for the
6 issuance, renewal, or continued valid status of a license or licenses.

7 (1) In the case of applicants not subject to paragraph (3) of subdivision (e), the
8 notice shall inform the applicant that the board shall issue a temporary license, as
9 provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar
10 days if the applicant is otherwise eligible and that upon expiration of that time period
11 the license will be denied unless the board has received a release from the local child
12 support agency that submitted the name on the certified list.

13 (2) In the case of licensees named on a supplemental list, the notice shall inform
14 the licensee that his or her license will continue in its existing status for no more
15 than 150 calendar days from the date of mailing or service of the notice and
16 thereafter will be suspended indefinitely unless, during the 150-day notice period,
17 the board has received a release from the local child support agency that submitted
18 the name on the certified list. Additionally, the notice shall inform the licensee that
19 any license suspended under this section will remain so until the expiration of the
20 remaining license term, unless the board receives a release along with applications
21 and fees, if applicable, to reinstate the license during the license term.

22 (3) The notice shall also inform the applicant or licensee that if an application is
23 denied or a license is suspended pursuant to this section, any funds paid by the
24 applicant or licensee shall not be refunded by the board. The Department of Child
25 Support Services shall also develop a form that the applicant shall use to request a
26 review by the local child support agency. A copy of this form shall be included with
27 every notice sent pursuant to this subdivision.

28 (g)(1) Each local child support agency shall maintain review procedures
29 consistent with this section to allow an applicant to have the underlying arrearage
30 and any relevant defenses investigated, to provide an applicant information on the
31 process of obtaining a modification of a support order, or to provide an applicant
32 assistance in the establishment of a payment schedule on arrearages if the
33 circumstances so warrant.

34 (2) It is the intent of the Legislature that a court or local child support agency,
35 when determining an appropriate payment schedule for arrearages, base its decision
36 on the facts of the particular case and the priority of payment of child support over
37 other debts. The payment schedule shall also recognize that certain expenses may
38 be essential to enable an obligor to be employed. Therefore, in reaching its decision,
39 the court or the local child support agency shall consider both of these goals in
40 setting a payment schedule for arrearages.

41 (h) If the applicant wishes to challenge the submission of his or her name on the
42 certified list, the applicant shall make a timely written request for review to the local
43 child support agency who certified the applicant's name. A request for review

1 pursuant to this section shall be resolved in the same manner and timeframe
2 provided for resolution of a complaint pursuant to Section 17800. The local child
3 support agency shall immediately send a release to the appropriate board and the
4 applicant, if any of the following conditions are met:

5 (1) The applicant is found to be in compliance or negotiates an agreement with
6 the local child support agency for a payment schedule on arrearages or
7 reimbursement.

8 (2) The applicant has submitted a request for review, but the local child support
9 agency will be unable to complete the review and send notice of its findings to the
10 applicant within the time specified in Section 17800.

11 (3) The applicant has filed and served a request for judicial review pursuant to this
12 section, but a resolution of that review will not be made within 150 days of the date
13 of service of notice pursuant to subdivision (f). This paragraph applies only if the
14 delay in completing the judicial review process is not the result of the applicant's
15 failure to act in a reasonable, timely, and diligent manner upon receiving the local
16 child support agency's notice of findings.

17 (4) The applicant has obtained a judicial finding of compliance as defined in this
18 section.

19 (i) An applicant is required to act with diligence in responding to notices from the
20 board and the local child support agency with the recognition that the temporary
21 license will lapse or the license suspension will go into effect after 150 days and
22 that the local child support agency and, where appropriate, the court must have time
23 to act within that period. An applicant's delay in acting, without good cause, which
24 directly results in the inability of the local child support agency to complete a review
25 of the applicant's request or the court to hear the request for judicial review within
26 the 150-day period shall not constitute the diligence required under this section
27 which would justify the issuance of a release.

28 (j) Except as otherwise provided in this section, the local child support agency
29 shall not issue a release if the applicant is not in compliance with the judgment or
30 order for support. The local child support agency shall notify the applicant in writing
31 that the applicant may, by filing an order to show cause or notice of motion, request
32 any or all of the following:

33 (1) Judicial review of the local child support agency's decision not to issue a
34 release.

35 (2) A judicial determination of compliance.

36 (3) A modification of the support judgment or order.

37 The notice shall also contain the name and address of the court in which the
38 applicant shall file the order to show cause or notice of motion and inform the
39 applicant that his or her name shall remain on the certified list if the applicant does
40 not timely request judicial review. The applicant shall comply with all statutes and
41 rules of court regarding orders to show cause and notices of motion.

1 This section shall not be deemed to limit an applicant from filing an order to show
2 cause or notice of motion to modify a support judgment or order or to fix a payment
3 schedule on arrearages accruing under a support judgment or order or to obtain a
4 court finding of compliance with a judgment or order for support.

5 (k) The request for judicial review of the local child support agency's decision
6 shall state the grounds for which review is requested and judicial review shall be
7 limited to those stated grounds. The court shall hold an evidentiary hearing within
8 20 calendar days of the filing of the request for review. Judicial review of the local
9 child support agency's decision shall be limited to a determination of each of the
10 following issues:

11 (1) Whether there is a support judgment, order, or payment schedule on arrearages
12 or reimbursement.

13 (2) Whether the petitioner is the obligor covered by the support judgment or order.

14 (3) Whether the support obligor is or is not in compliance with the judgment or
15 order of support.

16 (4)(A) The extent to which the needs of the obligor, taking into account the
17 obligor's payment history and the current circumstances of both the obligor and the
18 obligee, warrant a conditional release as described in this subdivision.

19 (B) The request for judicial review shall be served by the applicant upon the local
20 child support agency that submitted the applicant's name on the certified list within
21 seven calendar days of the filing of the petition. The court has the authority to uphold
22 the action, unconditionally release the license, or conditionally release the license.

23 (C) If the judicial review results in a finding by the court that the obligor is in
24 compliance with the judgment or order for support, the local child support agency
25 shall immediately send a release in accordance with subdivision (l) to the
26 appropriate board and the applicant. If the judicial review results in a finding by the
27 court that the needs of the obligor warrant a conditional release, the court shall make
28 findings of fact stating the basis for the release and the payment necessary to satisfy
29 the unrestricted issuance or renewal of the license without prejudice to a later
30 judicial determination of the amount of support arrearages, including interest, and
31 shall specify payment terms, compliance with which are necessary to allow the
32 release to remain in effect.

33 (l) The department shall prescribe release forms for use by local child support
34 agencies. When the obligor is in compliance, the local child support agency shall
35 mail to the applicant and the appropriate board a release stating that the applicant is
36 in compliance. The receipt of a release shall serve to notify the applicant and the
37 board that, for the purposes of this section, the applicant is in compliance with the
38 judgment or order for support. Any board that has received a release from the local
39 child support agency pursuant to this subdivision shall process the release within
40 five business days of its receipt.

41 If the local child support agency determines subsequent to the issuance of a release
42 that the applicant is once again not in compliance with a judgment or order for
43 support, or with the terms of repayment as described in this subdivision, the local

1 child support agency may notify the board, the obligor, and the department in a
2 format prescribed by the department that the obligor is not in compliance.

3 The department may, when it is economically feasible for the department and the
4 boards to develop an automated process for complying with this subdivision, notify
5 the boards in a manner prescribed by the department, that the obligor is once again
6 not in compliance. Upon receipt of this notice, the board shall immediately notify
7 the obligor on a form prescribed by the department that the obligor's license will be
8 suspended on a specific date, and this date shall be no longer than 30 days from the
9 date the form is mailed. The obligor shall be further notified that the license will
10 remain suspended until a new release is issued in accordance with subdivision (h).
11 Nothing in this section shall be deemed to limit the obligor from seeking judicial
12 review of suspension pursuant to the procedures described in subdivision (k).

13 (m) The department may enter into interagency agreements with the state agencies
14 that have responsibility for the administration of boards necessary to implement this
15 section, to the extent that it is cost effective to implement this section. These
16 agreements shall provide for the receipt by the other state agencies and boards of
17 federal funds to cover that portion of costs allowable in federal law and regulation
18 and incurred by the state agencies and boards in implementing this section.
19 Notwithstanding any other provision of law, revenue generated by a board or state
20 agency shall be used to fund the nonfederal share of costs incurred pursuant to this
21 section. These agreements shall provide that boards shall reimburse the department
22 for the nonfederal share of costs incurred by the department in implementing this
23 section. The boards shall reimburse the department for the nonfederal share of costs
24 incurred pursuant to this section from moneys collected from applicants and
25 licensees.

26 (n) Notwithstanding any other law, in order for the boards subject to this section
27 to be reimbursed for the costs incurred in administering its provisions, the boards
28 may, with the approval of the appropriate department director, levy on all licensees
29 and applicants a surcharge on any fee or fees collected pursuant to law, or,
30 alternatively, with the approval of the appropriate department director, levy on the
31 applicants or licensees named on a certified list or supplemental list, a special fee.

32 (o) The process described in subdivision (h) shall constitute the sole
33 administrative remedy for contesting the issuance of a temporary license or the
34 denial or suspension of a license under this section. The procedures specified in the
35 administrative adjudication provisions of the Administrative Procedure Act
36 (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with
37 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not
38 apply to the denial, suspension, or failure to issue or renew a license or the issuance
39 of a temporary license pursuant to this section.

40 (p) In furtherance of the public policy of increasing child support enforcement and
41 collections, on or before November 1, 1995, the State Department of Social Services
42 shall make a report to the Legislature and the Governor based on data collected by

1 the boards and the district attorneys in a format prescribed by the State Department
2 of Social Services. The report shall contain all of the following:

3 (1) The number of delinquent obligors certified by district attorneys under this
4 section.

5 (2) The number of support obligors who also were applicants or licensees subject
6 to this section.

7 (3) The number of new licenses and renewals that were delayed, temporary
8 licenses issued, and licenses suspended subject to this section and the number of
9 new licenses and renewals granted and licenses reinstated following board receipt
10 of releases as provided by subdivision (h) by May 1, 1995.

11 (4) The costs incurred in the implementation and enforcement of this section.

12 (q) Any board receiving an inquiry as to the licensed status of an applicant or
13 licensee who has had a license denied or suspended under this section, or has been
14 granted a temporary license under this section, shall respond only that the license
15 was denied or suspended or the temporary license was issued pursuant to this
16 section. Information collected pursuant to this section by any state agency, board,
17 or department shall be subject to the Information Practices Act of 1977 (Chapter 1
18 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
19 Code).

20 (r) Any rules and regulations issued pursuant to this section by any state agency,
21 board, or department may be adopted as emergency regulations in accordance with
22 the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
24 Government Code). The adoption of these regulations shall be deemed an
25 emergency and necessary for the immediate preservation of the public peace, health,
26 and safety, or general welfare. The regulations shall become effective immediately
27 upon filing with the Secretary of State.

28 (s) The department and boards, as appropriate, shall adopt regulations necessary
29 to implement this section.

30 (t) The Judicial Council shall develop the forms necessary to implement this
31 section, except as provided in subdivisions (f) and (l).

32 (u) The release or other use of information received by a board pursuant to this
33 section, except as authorized by this section, is punishable as a misdemeanor.

34 (v) The State Board of Equalization shall enter into interagency agreements with
35 the department and the Franchise Tax Board that will require the department and
36 the Franchise Tax Board to maximize the use of information collected by the State
37 Board of Equalization, for child support enforcement purposes, to the extent it is
38 cost effective and permitted by the Revenue and Taxation Code.

39 (w)(1) The suspension or revocation of any driver's license, including a
40 commercial driver's license, under this section shall not subject the licensee to
41 vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

1 (2) Notwithstanding any other law, the suspension or revocation of any driver's
2 license, including a commercial driver's license, under this section shall not subject
3 the licensee to increased costs for vehicle liability insurance.

4 (x) If any provision of this section or the application thereof to any person or
5 circumstance is held invalid, that invalidity shall not affect other provisions or
6 applications of this section which can be given effect without the invalid provision
7 or application, and to this end the provisions of this section are severable.

8 (y) All rights to administrative and judicial review afforded by this section to an
9 applicant shall also be afforded to a licensee.

10 **Comment.** Section 17520 is amended to update a reference to the former Department of Fish
11 and Game. See Fish & Wildlife Code § 1500.

12 FOOD AND AGRICULTURE CODE

13 **Food & Agric. Code § 23.5 (amended).**

14 SEC. ____ . Section 23.5 of the Food and Agriculture Code is amended to read:

15 23.5. The commercial production of aquatic plants and animals propagated and
16 raised by a registered aquaculturist pursuant to Section ~~15101~~ 23605 of the Fish and
17 ~~Game~~ Wildlife Code in the state is a growing industry and provides a healthful and
18 nutritious food product, and, as a commercial operation, utilizes management, land,
19 water, and feed as do other agricultural enterprises. Therefore, the commercial
20 production of that aquatic life shall be considered a branch of the agricultural
21 industry of the state for the purpose of any law that provides for the benefit or
22 protection of the agricultural industry of the state except those laws relating to plant
23 quarantine or pest control.

24 **Comment.** Section 23.5 is amended to reflect the recodification of the former Fish and Game
25 Code.

26  **Note.** In the tentative recommendation, existing Section 15101 would be continued in proposed
27 Fish and Wildlife Code Sections 23600, 23605, 23610, and 23700. In the cross-reference revision
28 proposed above, only proposed Section 23605 is referenced. It is the main provision requiring
29 registration of an aquaculture facility.

30 **The Commission requests public comment on whether that simplification would cause any**
31 **problems.**

32 **Food & Agric. Code § 5262 (amended).**

33 SEC. ____ . Section 5262 of the Food and Agriculture Code is amended to read:

34 5262. (a) Based on available funding, the department shall develop and maintain
35 a written plan on the most appropriate options for detection, exclusion, eradication,
36 control, or management of the higher priority invasive pests on the list prepared
37 pursuant to Section 5261. In determining which invasive pests are the higher priority
38 and in developing the most appropriate options for detection, exclusion, eradication,
39 control, or management, the department shall consult with the United States
40 Department of Agriculture, the University of California, other state agencies and

1 departments, and others in the scientific and research community. In implementing
2 this chapter, the department may undertake or contract for scientific research with
3 the University of California or other institutions of higher learning. The plan shall
4 include both of the following:

5 (1) A discussion of the state not acting to detect, exclude, eradicate, control, or
6 manage the invasive pest.

7 (2) The identification and description of the most appropriate options for
8 detection, exclusion, eradication, control, or management of the invasive pest.

9 (b) If the department determines that aerial application of pesticides would be
10 among the more appropriate responses, the plan shall contain a discussion of all of
11 the following:

12 (1) The pesticides that would likely be the most appropriate.

13 (2) The concentrations of those pesticides.

14 (3) How often pesticide use would be necessary.

15 (4) A list of each active ingredient and inert material, to the extent that the
16 disclosure of the inert material is permitted by state and federal law.

17 (5) A summary of up-to-date scientific information on the impacts of the pesticide
18 and its inert materials on all of the following:

19 (A) Healthy children and adults.

20 (B) Children and adults with compromised health.

21 (C) Domestic animals.

22 (D) Fish and wildlife.

23 (E) Public health and the environment, including drinking water.

24 (c) The State Department of Public Health, the Department of Fish and ~~Game~~
25 Wildlife, the Office of Environmental Health Hazard Assessment, the Department
26 of Boating and Waterways, the Department of Forestry and Fire Protection, the State
27 Water Resources Control Board, and the Department of Pesticide Regulation shall
28 participate in the preparation of the plan in their areas of expertise. The Office of
29 Environmental Health Hazard Assessment shall include an analysis of the risks of
30 using the pesticide and its inert material.

31 (d) In developing the plan, the department shall hold public hearings that shall
32 include a presentation by the department and the opportunity for public comment
33 and establish a process for submittal of public comment. Following the public
34 hearing, the department shall reassess the appropriateness of the response and may
35 revise the response and may hold additional public hearings.

36 (e) The plan shall include a characterization of the number of and the nature of
37 the public comments received pursuant to subdivision (d).

38 (f) The department shall make the plan available to the public, including making
39 it available on the department's Internet Web site.

40 **Comment.** Section 5262 is amended to update a reference to the former Department of Fish and
41 Game. See Fish & Wildlife Code § 1500.

1 **Food & Agric. Code § 6025.4 (amended).**

2 SEC. _____. Section 6025.4 of the Food and Agriculture Code is amended to read:

3 6025.4. (a) Notwithstanding Section 597u of the Penal Code, carbon monoxide
4 may be used for the control of burrowing rodent pests, provided the following
5 conditions are met:

6 (1) The carbon monoxide delivery device shall be permanently affixed with a
7 warning label in plain view of the operator that includes, at a minimum, the
8 following information:

9 DANGER: Carbon monoxide is a poisonous gas that is odorless and colorless.
10 Exposure to carbon monoxide can kill within minutes. Never use in structures
11 inhabited by humans or livestock. The device must be used in accordance with all
12 existing laws and regulations, including ~~Chapter 1.5 (commencing with Section~~
13 ~~2050) of Division 3 of Part 1 (commencing with Section 62000) of Division 17,~~
14 known as the California Endangered Species Act, and ~~Sections 4002 and 4003 of,~~
15 Section 32150, of the Fish and Game Wildlife Code.

16 (2) The use of carbon monoxide is subject to the requirements of ~~Chapter 1.5~~
17 ~~(commencing with Section 2050) of Division 3 of Part 1 (commencing with Section~~
18 62000) of Division 17, known as the California Endangered Species Act, and
19 ~~Sections 4002 and 4003 of,~~ Section 32150, of the Fish and Game Wildlife Code,
20 and the requirements of Division 6 (commencing with Section 11401) and Division
21 7 (commencing with Section 12500).

22 (b) This section shall remain in effect only until January 1, 2023, and as of that
23 date is repealed.

24 **Comment.** Section 6025 is amended to reflect the recodification of the former Fish and Game
25 Code.

26 **Food & Agric. Code § 6049 (amended).**

27 SEC. _____. Section 6049 of the Food and Agriculture Code is amended to read:

28 6049. The department, with the cooperation of the University of California, the
29 United States Department of Agriculture, or other agencies, may develop and
30 implement biological control methods to eradicate or control the aquatic weed pest
31 hydrilla (*Hydrilla verticillata*) in any area of the state, and may conduct studies for
32 those purposes. When the development or implementation involves the use of fish,
33 each individual program for development or implementation shall first be approved
34 by the Department of Fish and ~~Game~~ Wildlife.

35 **Comment.** Section 6049 is amended to update a reference to the former Department of Fish and
36 Game. See Fish & Wildlife Code § 1500.

37 **Food & Agric. Code § 7270.5 (amended).**

38 SEC. _____. Section 7270.5 of the Food and Agriculture Code is amended to read:

39 7270.5. For the purposes of this article:

40 (a) “Integrated weed management plan” means an ecosystem-based control
41 strategy that focuses on long-term prevention of weeds through a combination of

1 techniques, such as biological controls, judicious use of herbicides, modified land
2 management, and cultural practices, and where control practices are selected and
3 applied in a manner that minimizes the risks to human health, nontargeted
4 organisms, and the environment. An integrated weed management plan shall also,
5 when appropriate, comply with any applicable provisions of ~~Chapter 6~~
6 ~~(commencing with Section 1600) of Division 2 Title 3 (commencing with Section~~
7 ~~69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code, Division 6~~
8 ~~(commencing with Section 11401) and Division 7 (commencing with Section~~
9 ~~12500) of the Food and Agricultural Code, and the California Environmental~~
10 ~~Quality Act (Division 13 (commencing with Section 21000) of the Public Resources~~
11 ~~Code).~~

12 (b) “Noxious and invasive weeds” means weeds that the department has
13 determined to be either noxious or invasive weed species.

14 (c) “Person” shall have the same meaning as in Section 38, but shall additionally
15 include the United States of America, and all political subdivisions, districts,
16 municipalities, and public agencies of the State of California.

17 (d) “Riverway” means the water, bed, shoreline, and riparian vegetation, of any
18 creek, including an “urban creek” as defined in Section 7048 of the Water Code,
19 stream, river, lake, reservoir, or other body of freshwater, including a “stream
20 environment zone” as defined in Section 66957 of the Government Code, as well as
21 enclosed bays and estuaries, as defined by Section 13391.5 of the Water Code.

22 **Comment.** Section 7270.5 is amended to reflect the recodification of the former Fish and Game
23 Code.

24 **Food & Agric. Code § 7700 (amended).**

25 SEC. ____ . Section 7700 of the Food and Agriculture Code is amended to read:

26 7700. (a)(1) There is in state government the Invasive Species Council of
27 California. The purpose of the council is to help coordinate a comprehensive effort
28 to prevent the introduction of invasive species in the state and to advise state
29 agencies, including, but not limited to, the department and the Natural Resources
30 Agency, within their respective authorities how to facilitate coordinated,
31 complementary, and cost-effective control or eradication of invasive species that
32 have entered or are already established in the state. The council may address
33 nonnative organisms that cause economic or environmental harm. Invasive species
34 within the scope of the council’s advisory duties do not include humans, domestic
35 livestock, domestic or domesticated species exempted pursuant to ~~Section 2118~~
36 ~~Chapter 2 (commencing with Section 26700) of Title 2 of Part 6 of Division 7 of~~
37 ~~the Fish and Game Wildlife Code, or nonharmful exotic organisms.~~

38 (2) This part shall not prohibit the department from serving as the state’s
39 governing authority in invasive pest and plant management, as specified in this
40 division.

41 (b) The Invasive Species Council of California shall consist of the following six
42 members:

- 1 (1) The secretary or his or her designated representative.
2 (2) The Secretary of the Natural Resources Agency or his or her designated
3 representative.
4 (3) The Secretary for Environmental Protection or his or her designated
5 representative.
6 (4) The Secretary of Transportation or his or her designated representative.
7 (5) The Secretary of California Health and Human Services or his or her
8 designated representative.
9 (6) The Director of Emergency Services or his or her designated representative.
10 (c) The Secretary of the Natural Resources Agency or his or her designated
11 representative and the secretary or his or her designee shall serve as cochairs of the
12 council.
13 (d) The Invasive Species Council of California shall meet annually and as needed
14 as determined by the cochairs.
15 (e) The secretary may designate a staff liaison to further the purposes of this part.
16 (f) (1) The Invasive Species Council of California may establish advisory
17 committees and ad hoc working groups, as necessary, to advise on a broad array of
18 issues related to preventing the introduction of invasive species and providing for
19 their control or eradication, as well as minimizing the economic, ecological, and
20 human health impacts that invasive species cause.
21 (2) The advisory committees and working groups may consist of representatives
22 from state agencies, federal agencies, county agricultural commissioners, academia,
23 nonprofit organizations, tribal nations, industry representatives, and members of the
24 public.
25 **Comment.** Paragraph (1) of subdivision (a) of Section 7700 is amended to reflect the
26 recodification of the former Fish and Game Code.

27 **Food & Agric. Code § 11281 (amended).**

28 SEC. _____. Section 11281 of the Food and Agriculture Code is amended to read:
29 11281. If any coyotes are found to exist on land which is owned by the state, other
30 than lands subject to the control of the Department of Parks and Recreation and
31 other than ecological reserves established pursuant to ~~Article 4 (commencing with~~
32 ~~Section 1580) of Chapter 5 of Division 2 Part 6 (commencing with Section 60750)~~
33 of Division 16 of the Fish and Game Wildlife Code and the coyotes are found to be
34 causing damage on public or private land, the director may control, may employ
35 persons pursuant to Article 1 (commencing with Section 11221) to control, or may
36 contract with the commissioner to control, the coyotes which are determined to be
37 the cause of the damage.

38 **Comment.** Section 11281 is amended to reflect the recodification of the former Fish and Game
39 Code.

40 **Food & Agric. Code § 11283 (amended).**

41 SEC. _____. Section 11283 of the Food and Agriculture Code is amended to read:

1 11283. The director shall submit an annual memorandum of understanding to the
2 Director of Fish and ~~Game~~ Wildlife for review and approval prior to implementing
3 any coyote control program pursuant to this article.

4 **Comment.** Section 11283 is amended to update a reference to the Director of the former
5 Department of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Food & Agric. Code § 11302 (amended).**

7 SEC. _____. Section 11302 of the Food and Agriculture Code is amended to read:

8 11302. The director, upon receiving information causing him or her to believe that
9 coyotes are finding refuge on state park lands or on ecological reserves and are
10 causing damage to nearby private property, may request the Department of Parks
11 and Recreation, in the case of state park lands, or the Department of Fish and ~~Game~~
12 Wildlife, in the case of ecological reserves, to cooperate in the acquisition and
13 evaluation of evidence to that effect. Upon a request by the director, the department
14 or departments shall cooperate in the evaluation or acquisition.

15 **Comment.** Section 11302 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Food & Agric. Code § 11303 (amended).**

18 SEC. _____. Section 11303 of the Food and Agriculture Code is amended to read:

19 11303. Upon a determination pursuant to Section 11302 that coyotes are finding
20 refuge on state park lands or on an ecological reserve and are causing damage to
21 nearby private property, the director and the Department of Parks and Recreation,
22 with the review and approval of the Director of Fish and ~~Game~~ Wildlife as to state
23 park lands, or the Department of Fish and ~~Game~~ Wildlife as to ecological preserves,
24 may enter into an interdepartmental agreement to control coyotes finding refuge on
25 state park lands or on ecological reserves and causing damage to nearby private
26 property. Methods utilized to take the coyotes shall be specific to those coyotes
27 which are causing the damage. The Department of Parks and Recreation or the
28 Department of Fish and ~~Game~~ Wildlife shall specify the methods of take, location
29 of take, time of take, necessary protections for public safety, protections convenient
30 for state park lands or ecological reserve users and uses, and may specify whether
31 the department is to employ persons to control coyotes pursuant to Article 1
32 (commencing with Section 11221) or whether control is to be done by the
33 Department of Parks and Recreation or the Department of Fish and ~~Game~~ Wildlife.

34 **Comment.** Section 11303 is amended to update references to the former Department of Fish and
35 Game, and the Director of that department. See Fish & Wildlife Code § 1500.

36 **Food & Agric. Code § 11304 (amended).**

37 SEC. _____. Section 11304 of the Food and Agriculture Code is amended to read:

38 11304. The Department of Parks and Recreation or the Department of Fish and
39 ~~Game~~ Wildlife may submit claims to the department for reimbursement of direct

1 costs incurred pursuant to the implementation of this article which shall be paid if
2 found by the director to be reasonably necessary to implement this article.

3 **Comment.** Section 11304 is amended to update a reference to the former Department of Fish
4 and Game. See Fish & Wildlife Code § 1500.

5 **Food & Agric. Code § 11531 (amended).**

6 SEC. _____. Section 11531 of the Food and Agriculture Code is amended to read:
7 11531. Except as provided in Chapter 6 (commencing with Section 12001), this
8 division does not apply to any person while engaged in any of the following:

9 (a) Any activity that is defined as structural pest control and required to be
10 licensed under Chapter 14 (commencing with Section 8500) of Division 3 of the
11 Business and Professions Code.

12 (b) Preservative treatment of fabrics or structural materials.

13 (c) Household or industrial sanitation services.

14 (d) Seed treatment which is incidental to such person's regular business.

15 (e) Live capture and removal or exclusion of vertebrate pests, bees, or wasps
16 without the use of pesticides. Vertebrate pests include, but are not limited to, bats,
17 raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This
18 section does not exempt a person from the provisions of ~~Chapter 1.5 (commencing~~
19 ~~with Section 2050) of Division 3 Part 1 (commencing with Section 62000) of~~
20 Division 17 of the Fish and Game Wildlife Code.

21 **Comment.** Section 11531 is amended to reflect the recodification of the former Fish and Game
22 Code.

23 **Food & Agric. Code § 14103 (amended).**

24 SEC. _____. Section 14103 of the Food and Agriculture Code is amended to read:
25 14103. In establishing criteria and regulations relating to environmental injury
26 and protection, and in conducting the reviews required in Chapters 2 and 3, the
27 director shall consult with representatives of the Water Resources Control Board,
28 the Departments of Public Health, Fish and ~~Game Wildlife~~, and Conservation, and
29 four outside experts of his selection from the fields of agricultural, biological,
30 ecological, and medical sciences.

31 **Comment.** Section 14103 is amended to update a reference to the former Department of Fish
32 and Game. See Fish & Wildlife Code § 1500.

33 **Food & Agric. Code § 19314 (amended).**

34 SEC. _____. Section 19314 of the Food and Agriculture Code is amended to read:
35 19314. The department may suspend or revoke a registration certificate, at any
36 time, if it finds any of the following has occurred:

37 (a) The registrant has sold or offered for sale to an unlicensed person, any inedible
38 kitchen grease.

39 (b) The registrant has stolen, misappropriated, contaminated, or damaged inedible
40 kitchen grease or containers of inedible kitchen grease.

1 (c) The registrant has violated this article or any regulations adopted to implement
2 this article.

3 (d) The registrant has taken possession of inedible kitchen grease from an
4 unregistered transporter or has knowingly taken possession of inedible kitchen
5 grease that has been stolen.

6 (e) The registrant has been found to have engaged in, or aided and abetted another
7 person or entity in the commission of, any violation of a statute, regulation, or order
8 relating to the transportation or disposal of inedible kitchen grease, including a
9 violation of the federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.),
10 the Porter-Cologne Water Quality Control Act (Division 7 (commencing with
11 Section 13000) of the Water Code), ~~Section 5650~~ Article 1 (commencing with
12 Section 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 of the Fish and ~~Game~~
13 Wildlife Code, commercial vehicle weight limits, or commercial vehicle hours of
14 service.

15 (f) For purposes of this section, “registrant” includes any business entity, trustee,
16 officer, director, partner, person, or other entity holding more than 5 percent equity,
17 ownership, or debt liability in the registered entity engaged in the transportation of
18 inedible kitchen grease.

19 (g)(1) The registrant may appeal the suspension or revocation decision of the
20 department.

21 (2) The department shall establish procedures for the appeals process, to include
22 a noticed hearing.

23 (3) The department may reverse a suspension or revocation upon a finding of good
24 cause to do so.

25 (h) The department shall adopt regulations that specify the maximum time period
26 during which a suspension or revocation of a registration certificate may be
27 imposed, based on the severity or the number of violations that are the basis of the
28 department’s action. The time period for the suspension or revocation of the
29 registration certificate shall not exceed three years from the date the suspension or
30 revocation of the registration certificate is imposed.

31 **Comment.** Subdivision (e) of Section 19314 is amended to reflect the recodification of the
32 former Fish and Game Code.

33 **Food & Agric. Code § 76511 (amended).**

34 SEC. ____ . Section 76511 of the Food and Agriculture Code is amended to read:
35 76511. “Commercial salmon vessel operator” is a commercial fisherman who
36 operates a commercial salmon vessel for which a valid commercial salmon vessel
37 permit has been issued pursuant to ~~Article 4.5 (commencing with Section 8230) of~~
38 Chapter 2 of Part 3 of Division 6 Chapter 5 (commencing with Section 41650) of
39 Title 2 of Part 17 of Division 10 of the Fish and ~~Game~~ Wildlife Code.

40 **Comment.** Section 76511 is amended to reflect the recodification of the former Fish and Game
41 Code.

1 **Food & Agric. Code § 76530 (amended).**

2 SEC. _____. Section 76530 of the Food and Agriculture Code is amended to read:
3 76530. “Fisherman” means an individual licensed to commercially harvest fish
4 pursuant to Sections ~~7850 to 7852, inclusive~~, Section 14500 of the Fish and Game
5 Wildlife Code.

6 **Comment.** Section 76530 is amended to reflect the recodification of the former Fish and Game
7 Code.

8  **Note.** In the tentative recommendation, existing Fish and Game Code Sections 7850 to 7852,
9 inclusive, would be continued as proposed Sections 14500, 14550, 14600, and 14615. The
10 amendment proposed above would only cross-refer to the provision that prescribes activity
11 requiring a license.

12 **The Commission requests public comment on whether that simplification would be**
13 **appropriate.**

14 **Food & Agric. Code § 76535 (amended).**

15 SEC. _____. Section 76535 of the Food and Agriculture Code is amended to read:
16 76535. “Handler” means any of the following:

17 (a) A processor.

18 (b) A receiver.

19 (c) A wholesaler.

20 (d) An exporter.

21 (e) An individual licensed or working for a partnership, corporation, or any other
22 business unit or organization licensed pursuant to subdivision (a) of Section ~~8032~~
23 20205 of the Fish and Game Wildlife Code and engaged in the California
24 commercial salmon fishery.

25 **Comment.** Section 76535 is amended to reflect the recodification of the former Fish and Game
26 Code.

27 **Food & Agric. Code § 76550 (amended).**

28 SEC. _____. Section 76550 of the Food and Agriculture Code is amended to read:
29 76550. “Processor” means any individual licensed or working for a partnership,
30 corporation, or any other business unit or organization licensed pursuant to Section
31 ~~8034~~ 20400 of the Fish and Game Wildlife Code and engaged in the California
32 commercial salmon fishery.

33 **Comment.** Section 76550 is amended to reflect the recodification of the former Fish and Game
34 Code.

35 **Food & Agric. Code § 76560 (amended).**

36 SEC. _____. Section 76560 of the Food and Agriculture Code is amended to read:
37 76560. “Receiver” means any individual licensed or working for a partnership,
38 corporation, or any other business unit or organization licensed pursuant to Section
39 ~~8033~~ 20450 of the Fish and Game Wildlife Code and engaged in the California
40 commercial salmon fishery.

1 **Comment.** Section 76560 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Food & Agric. Code § 76580 (amended).**

4 SEC. _____. Section 76580 of the Food and Agriculture Code is amended to read:
5 76580. “Wholesaler” means any individual licensed or working for a partnership,
6 corporation, or any other business unit or organization licensed pursuant to Section
7 ~~8035~~ 20550 of the Fish and ~~Game~~ Wildlife Code and engaged in the California
8 commercial salmon fishery.

9 **Comment.** Section 76580 is amended to reflect the recodification of the former Fish and Game
10 Code.

11 **Food & Agric. Code § 76900 (amended).**

12 SEC. _____. Section 76900 of the Food and Agriculture Code is amended to read:
13 76900. Programs and administration of the activities that are conducted pursuant
14 to this chapter shall be funded as follows:

15 (a)(1) Every fisherman who sells salmon to any person who is required to be
16 licensed as a fish receiver pursuant to Section ~~8033~~ 20450 of the Fish and ~~Game~~
17 Wildlife Code shall pay the fee specified in Sections 76902 and 76905 for each
18 pound, or fraction thereof, of salmon taken and sold by the fisherman to the fish
19 receiver. The fee shall be collected from the fisherman and remitted to the secretary
20 by any person licensed to receive fish to whom the salmon are sold.

21 (2) Every fisherman licensed pursuant to Section ~~8033.5~~ 20500 of the Fish and
22 ~~Game~~ Wildlife Code who sells salmon to the ultimate consumer shall pay the fee
23 specified in paragraph (1) and, if handlers have become subject to this chapter
24 pursuant to Article 9.5 (commencing with Section 76961), shall also pay the fee
25 specified in paragraph (1) of subdivision (b) for each pound, or fraction thereof, of
26 salmon taken and sold by the fisherman to the ultimate consumer. The fees shall be
27 remitted to the secretary by the fisherman.

28 (b)(1) Every handler subject to this chapter pursuant to Article 9.5 (commencing
29 with Section 76961) shall pay the fee specified in Sections 76902 and 76905 for
30 each pound, or fraction thereof, of salmon received from a fisherman. The fee shall
31 be remitted to the secretary by the handler.

32 (2) Every handler subject to this chapter pursuant to Article 9.5 (commencing with
33 Section 76961) shall pay the fee specified in paragraph (1) and shall also pay the fee
34 specified in paragraph (1) of subdivision (a) for each pound, or fraction thereof, of
35 salmon that the handler has caught while conducting the activities of a commercial
36 fisherman for his or her own processing or sale. The fees shall be remitted to the
37 secretary by the handler.

38 **Comment.** Section 76900 is amended to reflect the recodification of the former Fish and Game
39 Code.

1 **Food & Agric. Code § 76901 (amended).**

2 SEC. ____ . Section 76901 of the Food and Agriculture Code is amended to read:
3 76901. Consistent with Section ~~8041~~ 20950 of the Fish and ~~Game~~ Wildlife Code,
4 the following persons shall remit the fees required by subdivision (a) of Section
5 76900 to the secretary:

6 (a) Any person who is required to be licensed as a fish receiver by Section ~~8033~~
7 20450 of the Fish and ~~Game~~ Wildlife Code, and receives salmon in this state from
8 persons conducting the activities of a commercial fisherman.

9 (b) Any commercial fisherman licensed pursuant to Section ~~8033.5~~ 20500 of the
10 Fish and ~~Game~~ Wildlife Code who sells salmon to the ultimate consumer.

11 **Comment.** Section 76901 is amended to reflect the recodification of the former Fish and Game
12 Code.

13 **Food & Agric. Code § 76904 (amended).**

14 SEC. ____ . Section 76904 of the Food and Agriculture Code is amended to read:
15 76904. (a) Sections ~~8058 to 8070, inclusive,~~ Subdivisions (b) through (g) of
16 Section 21365, Section 21370, and Section 21375 of the Fish and ~~Game~~ Wildlife
17 Code apply to claims for overpayment of fees to the secretary.

18 (b) For purposes of this section, “department,” as used in those sections, means
19 the Department of Food and Agriculture, and “landing fee” means the fees imposed
20 pursuant to this article.

21 **Comment.** Section 76904 is amended to reflect the recodification of the former Fish and Game
22 Code. The section is also amended to add subdivision designations.

23 **Food & Agric. Code § 76950 (amended).**

24 SEC. ____ . Section 76950 of the Food and Agriculture Code is amended to read:
25 76950. (a) On or before August 15, 1989, the secretary shall establish a list of
26 commercial salmon vessel operators eligible to vote on implementation of this
27 chapter.

28 (b) In establishing the list, the secretary may require that handlers and commercial
29 salmon vessel operators submit the names and mailing addresses of all commercial
30 salmon vessel operators who harvested salmon during the previous season, as
31 evidenced by receipts prepared under Section ~~8043~~ 21000 of the Fish and ~~Game~~
32 Wildlife Code, together with the volume of salmon landed.

33 (c) The secretary may also request the assistance of the Director of Fish and
34 Wildlife for the names of all commercial salmon vessel operators who landed
35 salmon the previous season and the volume of landings for each vessel.

36 (d) The request for the information shall be in writing and shall be subject to the
37 confidentiality provisions of Section ~~8022~~ 22205 of the Fish and ~~Game~~ Wildlife
38 Code.

39 (e) The list shall be filed within 30 days following receipt of the written notice.

40 **Comment.** Section 76950 is amended to reflect the recodification of the former Fish and Game
41 Code. The section is also amended to add subdivision designations.

1 **Note.** In the tentative recommendation, existing Fish and Game Code Section 8043 would be
2 continued in proposed Sections 21000, 21005, 21020, 20125, and 21155. In the revision proposed
3 above, only the provision that establishes the duty of a commercial fisherman to file landing
4 receipts would be referenced. That would seem to be unproblematic, because the other provisions
5 of Section 8043 would apply by their terms.

6 **The Commission requests public comment on whether the proposed simplification would**
7 **be appropriate.**

8 **Food & Agric. Code § 76951 (amended).**

9 SEC. _____. Section 76951 of the Food and Agriculture Code is amended to read:

10 76951. (a) Any commercial salmon vessel operator whose name does not appear
11 upon the secretary's list of commercial salmon vessel operators affected may have
12 his or her name established on the list by filing with the secretary a signed statement,
13 identifying himself or herself as a commercial salmon vessel operator and furnishing
14 evidence of having made landings the previous year through the submission of
15 receipts prepared under ~~Section 8043~~ Article 1 (commencing with Section 21000)
16 of Chapter 3 of Title 10 of Part 6 of Division 6 of the Fish and ~~Game~~ Wildlife Code.

17 (b) Failure to be on the list does not exempt a commercial salmon vessel operator
18 from paying assessments under this chapter.

19 **Comment.** Section 76951 is amended to reflect the recodification of the former Fish and Game
20 Code. The section is also amended to add subdivision designations.

21 **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section
22 8043, which is cross-referenced in the section above, have been continued in several different
23 sections of the proposed Fish and Wildlife Code.

24 **The Commission requests public comment on the proposed conforming revision of those**
25 **provisions in the section above.**

26 **Food & Agric. Code § 76953.5 (amended).**

27 SEC. _____. Section 76953.5 of the Food and Agriculture Code is amended to read:

28 76953.5. (a) Before the referendum vote is conducted by the secretary, the
29 proponents of the council shall deposit with the secretary the amount that the
30 secretary determines is necessary to defray the expenses of preparing the necessary
31 lists and information and conducting the referendum vote.

32 (b) Any funds not used in carrying out this article shall be returned to the
33 proponents of the council who deposited the funds with the secretary.

34 (c) Upon establishment of the council, the council may reimburse the proponents
35 of the council for any funds deposited with the secretary that were used in carrying
36 out this article, and for any legal expenses and costs incurred in establishing the
37 council.

38 (d) After approval by the Commercial Salmon Trollers Advisory Committee
39 created pursuant to Section ~~7862~~ 41380 of the Fish and ~~Game~~ Wildlife Code, the
40 Department of Fish and Wildlife may expend funds collected pursuant to Section
41 ~~7861~~ 41360 of the Fish and ~~Game~~ Wildlife Code, for payment to the secretary to
42 pay necessary costs incurred in conducting the implementation referendum vote. If

1 the commercial salmon vessel operators who voted in the implementation
2 referendum voted in favor of implementing this article, as provided in Section
3 76952, the council shall reimburse the Commercial Salmon Stamp Account in the
4 Fish and Game Preservation Fund all amounts received from that fund.

5 **Comment.** Section 76953.5 is amended to reflect the recodification of the former Fish and Game
6 Code.

7 **Food & Agric. Code § 76961 (amended).**

8 SEC. _____. Section 76961 of the Food and Agriculture Code is amended to read:
9 76961. Nothing in this division shall be interpreted to supersede or limit state
10 agencies from exercising their existing enforcement authority, including, but not
11 limited to, under the Fish and ~~Game~~ Wildlife Code, the Food and Agricultural Code,
12 the Government Code, the Health and Safety Code, the Public Resources Code, the
13 Water Code, or the application of those laws.

14 **Comment.** Section 76961 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Food & Agric. Code § 76971 (amended).**

17 SEC. _____. Section 76971 of the Food and Agriculture Code is amended to read:
18 76971. (a) Between January 1, 2019, and February 28, 2019, and in the same
19 period each five years thereafter, the secretary shall, by the public hearing
20 procedure, and if appropriate, the procedure specified in this article, determine
21 whether the council program provided for in this chapter shall continue in effect.

22 (b) If the secretary finds from evidence received at the hearing that a substantial
23 question exists as to whether the council program is contrary to or does not
24 effectuate the declared purposes or provisions of this chapter or receives in writing
25 a referendum petition with the signatures of 25 percent or more of the number of
26 commercial salmon vessel operators who made landings in the previous year, as
27 evidenced by receipts prepared under Section ~~8043~~ Article 1 (commencing with
28 Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6 of the Fish and ~~Game~~
29 Wildlife Code, and, if applicable, 25 percent or more of the handlers who are subject
30 to this chapter, the council program shall be submitted to referendum as provided in
31 this article.

32 **Comment.** Section 76971 is amended to reflect the recodification of the former Fish and Game
33 Code.

34  **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section
35 8043, which is cross-referenced in the section above, have been continued in several different
36 sections of the proposed Fish and Wildlife Code.

37 **The Commission requests public comment on the proposed conforming revision of those**
38 **provisions in the section above.**

39 **Food & Agric. Code § 76981 (amended).**

40 SEC. _____. Section 76981 of the Food and Agriculture Code is amended to read:

1 76981. (a) If the commercial salmon vessel operators and the handlers vote to
2 terminate the council pursuant to Article 10 (commencing with Section 76971), the
3 council shall remain in existence for the purpose of furnishing the secretary with a
4 complete record of its outstanding financial obligations, accrued and to accrue.

5 (b) The secretary shall pay from the money deposited and disbursed any
6 outstanding obligations and any obligations incurred by the secretary and the
7 department under the terms and provisions of this section. Any money that remains
8 shall be retained by the secretary to defray the expenses of formulation, issuance,
9 administration, or enforcement of any subsequent program for salmon promotion.

10 (c) If no such program is undertaken within a period of three years from the date
11 of termination of the council, that money shall be withdrawn from the approved
12 depository and paid into the special account for enhancement and restoration
13 programs established pursuant to Section ~~7861~~ 41360 of the Fish and ~~Game~~ Wildlife
14 Code.

15 **Comment.** Section 76981 is amended to reflect the recodification of the former Fish and Game
16 Code. The section is also amended to add subdivision designations.

17 **Food & Agric. Code § 78406 (amended).**

18 SEC. ____ . Section 78406 of the Food and Agriculture Code is amended to read:
19 78406. “Fisherman” means any person licensed to commercially harvest fish or
20 shellfish pursuant to ~~Sections 7850 to 7852, inclusive, Chapter 1 (commencing with~~
21 Section 14500) of Title 2 of Part 6 of Division 6 of the Fish and ~~Game~~ Wildlife
22 Code who lands any species of fish or shellfish for commercial purposes included
23 in, and not excepted from, a fishery, as defined in Section 78407, or who is the
24 registered owner or lessee of a vessel that is used to land any species of fish or
25 shellfish included in, and not excepted from, a fishery, as defined in Section 78407,
26 if the registered owner or lessee has a financial interest in the fish or shellfish and
27 pays or has assessments paid on his or her behalf.

28 **Comment.** Section 78406 is amended to reflect the recodification of the former Fish and Game
29 Code.

30 **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
31 sections that are cross-referenced in the section above have been continued in several different
32 sections of the proposed Fish and Wildlife Code.

33 **The Commission requests public comment on the proposed conforming revision of those**
34 **provisions in the section above.**

35 **Food & Agric. Code § 78408 (amended).**

36 SEC. ____ . Section 78408 of the Food and Agriculture Code is amended to read:
37 78408. “Handler” means any of the following:
38 (a) A processor engaged in the California fishery.
39 (b) A receiver engaged in the California fishery.
40 (c) A wholesaler engaged in the California fishery.
41 (d) An exporter engaged in the California fishery.

1 (e) A person is licensed or who works for any person who is licensed pursuant to
2 subdivision (a) of Section ~~8032~~ 20205 of the Fish and ~~Game~~ Wildlife Code and
3 engaged in the California commercial fisheries.

4 **Comment.** Section 78408 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Food & Agric. Code § 78411 (amended).**

7 SEC. _____. Section 78411 of the Food and Agriculture Code is amended to read:
8 78411. “Processor” means any person who is licensed or who works for any
9 person who is licensed pursuant to Section ~~8034~~ 20400 of the Fish and ~~Game~~
10 Wildlife Code and engaged in the California commercial fisheries.

11 **Comment.** Section 78411 is amended to reflect the recodification of the former Fish and Game
12 Code.

13 **Food & Agric. Code § 78412 (amended).**

14 SEC. _____. Section 78412 of the Food and Agriculture Code is amended to read:
15 78412. “Receiver” means any person who is licensed or who works for a person
16 who is licensed pursuant to Section ~~8033~~ 20450 of the Fish and ~~Game~~ Wildlife Code
17 and engaged in the California commercial fisheries.

18 **Comment.** Section 78412 is amended to reflect the recodification of the former Fish and Game
19 Code.

20 **Food & Agric. Code § 78413 (amended).**

21 SEC. _____. Section 78413 of the Food and Agriculture Code is amended to read:
22 78413. “Wholesaler” means any person who is licensed or who works for a person
23 who is licensed pursuant to Section ~~8035~~ 20550 of the Fish and ~~Game~~ Wildlife Code
24 and engaged in the California commercial fisheries.

25 **Comment.** Section 78413 is amended to reflect the recodification of the former Fish and Game
26 Code.

27 **Food & Agric. Code § 78486 (amended).**

28 SEC. _____. Section 78486 of the Food and Agriculture Code is amended to read:
29 78486. One nonvoting member of the council may be appointed by the secretary
30 to represent each of the following entities:

- 31 (a) The department.
- 32 (b) The Department of Fish and ~~Game~~ Wildlife.
- 33 (c) The California Sea Grant Program.
- 34 (d) The State Department of Health Services.

35 **Comment.** Section 78486 is amended to update a reference to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Food & Agric. Code § 78550 (amended).**

38 SEC. _____. Section 78550 of the Food and Agriculture Code is amended to read:

1 78550. (a) In order to carry out the programs and administer the activities that are
2 conducted pursuant to this chapter, except as specified in Section 78557, a fee shall
3 be established by the director and, thereafter, shall be recommended to the director
4 by the council, based on an amount which is four-tenths of 1 percent of the ex-vessel
5 price per pound paid for each pound of fish or shellfish specified in subdivision (a)
6 of Section 78407 sold to a receiver, or sold by a fisherman directly to the public
7 pursuant to Section ~~8033.5~~ 20500 of the Fish and ~~Game~~ Wildlife Code.

8 (b) The fee shall be paid by the receiver or the fisherman, or both, and remitted to
9 the director as specified in Section 78552.

10 (c) The amount of the fee for each species shall be established annually by the
11 council for recommendation to the director, calculated to the nearest 1/10,000 of
12 one cent (\$0.0001) based on the formulation in this section.

13 (d) Individual fees shall be established for species identified in subdivision (a) of
14 Section 78407.

15 (e) The council, with assistance from the Department of Fish and ~~Game~~ Wildlife,
16 may determine the fee structure for individual species and may average or
17 consolidate fees for similar species to simplify landing fee reporting and accounting
18 requirements.

19 (f) The amount of the fee shall be based on the landed weight of the fish or
20 shellfish, as reported on the fish landing receipt made under Section ~~8043~~ Article 1
21 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6
22 of the Fish and ~~Game~~ Wildlife Code.

23 (g) A fisherman selling to the public pursuant to Section ~~8033.5~~ 20500 of the Fish
24 and ~~Game~~ Wildlife Code shall remit the fee directly to the director as specified in
25 Section 78552.

26 (h) To facilitate collection of fees from receivers or fishermen who handle a small
27 volume of fish and shellfish specified in subdivision (a) of Section 78407, receivers
28 or fishermen whose estimated monthly fee payments do not exceed ten dollars (\$10)
29 may file reports and submit fees on a quarterly basis. Payments are delinquent if not
30 submitted within 60 days following the end of the quarter in which they are due.

31 **Comment.** Section 78550 is amended to reflect the recodification of the former Fish and Game
32 Code, and to update a reference to the former Department of Fish and Game. See Fish & Wildlife
33 Code § 1500. The section is also amended to add subdivision designations.

34 **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section
35 8043, which is cross-referenced in proposed subdivision (f) of the section above, have been
36 continued in several different sections of the proposed Fish and Wildlife Code.

37 **The Commission requests public comment on the proposed conforming revision of those**
38 **provisions in the section above.**

39 **Food & Agric. Code § 78552.5 (amended).**

40 SEC. ____ . Section 78552.5 of the Food and Agriculture Code is amended to read:

41 78552.5. (a) Notwithstanding any other provision of this article, in any calendar
42 year in which a fisherman who is selling to the public lands, or a receiver receives,
43 less than 10,000 pounds in the aggregate of fish or shellfish in all fisheries combined

1 or for which the annual fees that would otherwise be due by that fisherman or
2 receiver to the council for those fish or shellfish totals less than twenty-five dollars
3 (\$25), the fisherman selling to the public or the receiver shall not pay any fees
4 pursuant to this chapter.

5 (b) In any calendar year in which a fisherman who is selling to the public lands,
6 or a receiver receives, 10,000 pounds or more in the aggregate of fish or shellfish in
7 all fisheries combined, or for which the annual fees that are due by that fisherman
8 or receiver to the council for those fish or shellfish totals twenty-five dollars (\$25)
9 or more, the fisherman selling to the public or the receiver shall remit the fees on or
10 before February 28 of the year following the landing or receipt. Any fees that are
11 not received on or before February 28 of the year following the landing or receipt
12 of fish or shellfish for which the fees are due is delinquent and subject to collection
13 pursuant to Section 78554.

14 (c) If, in any calendar year, a fisherman lands less than 10,000 pounds in the
15 aggregate of fish or shellfish in all fisheries combined, and has paid fees to the
16 council, the fisherman may apply for a refund of the amount paid, not to exceed a
17 total of twenty-five dollars (\$25). An application for refund shall be submitted on a
18 form supplied by the council and shall include documentation in the form of landing
19 receipts submitted to the Department of Fish and ~~Game~~ Wildlife pursuant to Section
20 ~~8046~~ 21150 of the Fish and ~~Game~~ Wildlife Code for all species landed and proof of
21 fees paid. Applications for refunds shall be received at the council office on or
22 before March 31 of the year following the landing or receipt of fish or shellfish for
23 which the fees were paid.

24 **Comment.** Section 78552.5 is amended to reflect the recodification of the former Fish and Game
25 Code. The section is also amended to update a reference to the former Department of Fish and
26 Game. See Fish & Wildlife Code § 1500.

27 **Food & Agric. Code § 78554 (amended).**

28 SEC. ____ . Section 78554 of the Food and Agriculture Code is amended to read:
29 78554. (a) The collection of funds from anyone who does not pay or remit fees
30 due and payable shall be conducted as follows:

31 (1) Pursuant to Section ~~8053~~ 21350 of the Fish and ~~Game~~ Wildlife Code.

32 (2) When the secretary makes a determination that fees due pursuant to this
33 chapter are deficient, the secretary may determine the amount of the deficiency,
34 including any applicable penalty. Section 59234.5 shall apply to deficiency
35 determinations made pursuant to this section.

36 (3) This subdivision is supplemental to any other provisions for collection and
37 imposition of fees and penalties provided by this chapter. In lieu of proceeding
38 pursuant to this section, the secretary may file a complaint for collection of unpaid
39 fees as provided by law.

40 (b) A person who violates any provision of this chapter is guilty of a misdemeanor,
41 and, upon conviction, shall be punished by a fine of not less than one hundred dollars
42 (\$100) or more than one thousand dollars (\$1,000), by imprisonment in the county

1 jail for not less than 10 days or more than six months, or by both that fine and
2 imprisonment. Each violation during any day is a separate offense.

3 (c) A person who violates any provision of this chapter is liable civilly in an
4 amount of not more than two thousand five hundred dollars (\$2,500) for each
5 violation. Each violation during any day is a separate offense.

6 **Comment.** Section 78554 is amended to reflect the recodification of the former Fish and Game
7 Code.

8 **Food & Agric. Code § 78556 (amended).**

9 SEC. _____. Section 78556 of the Food and Agriculture Code is amended to read:
10 78556. Sections ~~8058 to 8070~~ 21365 to 21375, inclusive, of the Fish and ~~Game~~
11 Wildlife Code apply to claims for overpayment of fees to the secretary. For purposes
12 of this section, “department,” as used in those sections, means the Department of
13 Food and Agriculture, and “landing fee” means the fees imposed pursuant to this
14 article.

15 **Comment.** Section 78556 is amended to reflect the recodification of the former Fish and Game
16 Code.

17 **Food & Agric. Code § 78564 (amended).**

18 SEC. _____. Section 78564 of the Food and Agriculture Code is amended to read:
19 78564. (a) The council may develop guidelines for the establishment and
20 operation of a “credit-back” program for receivers and fishermen, which authorizes
21 the reimbursement of a percentage of individual contributions to the council, not to
22 exceed 50 percent, for specified individual expenditures benefiting the fishing
23 industry. Individual expenditures eligible for reimbursement may include, but are
24 not necessarily limited to, promotion, research and development, and advertising.
25 The council shall appoint a review committee from its membership and from the
26 fishing industry to review and approve applications for the credit. Any guidelines
27 that require the assistance of, or impact the operation of, the Department of Fish and
28 ~~Game~~ Wildlife are subject to Section 78552.

29 (b) Upon submittal of a statement of completion of a credit-back program, and its
30 acceptance by the review committee, the review committee may direct the council
31 to reimburse a percentage of individual contributions, not to exceed 50 percent, at
32 the end of the fiscal year for which the credit-back application and expenditure were
33 made.

34 **Comment.** Section 78564 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
36 designations.

37 **Food & Agric. Code § 78575 (amended).**

38 SEC. _____. Section 78575 of the Food and Agriculture Code is amended to read:
39 78575. On or before February 1, 1991, the director shall establish a list of
40 receivers and fishermen eligible to vote on the implementation of this chapter. In

1 establishing the list, the director may request, in writing, the assistance of the
2 Director of Fish and ~~Game~~ Wildlife and associations representing fishermen or
3 receivers in gathering the names of all fishermen and receivers who sold or received
4 specified seafood species landed the previous season. The list shall be filed within
5 30 days following receipt of the written notice from the director. All information on
6 the volume of landings shall be kept confidential.

7 **Comment.** Section 78575 is amended to update a reference to the Director of the former
8 Department of Fish and Game. See Fish & Wildlife Code § 1500.

9 **Food & Agric. Code § 78576 (amended).**

10 SEC. _____. Section 78576 of the Food and Agriculture Code is amended to read:

11 78576. (a) Any fisherman or receiver whose name does not appear on the
12 director's list of receivers may have his or her name included on the list by filing
13 with the director a signed statement, identifying himself or herself as a fisherman or
14 receiver and furnishing evidence of having sold or received landings the previous
15 year through the submission of receipts prepared under Section ~~8043~~ Article 1
16 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6
17 of the Fish and ~~Game~~ Wildlife Code.

18 (b) The failure to include a fisherman's or a receiver's name on the list does not
19 exempt a fisherman or a receiver from paying assessments under this chapter.

20 **Comment.** Section 78576 is amended to reflect the recodification of the former Fish and Game
21 Code. The section is also amended to add subdivision designations.

22 **Food & Agric. Code § 78584 (amended).**

23 SEC. _____. Section 78584 of the Food and Agriculture Code is amended to read:

24 78584. Nothing in this division shall be interpreted to supersede or limit state
25 agencies from exercising their existing enforcement authority, including, but not
26 limited to, under the Fish and ~~Game~~ Wildlife Code, the Food and Agricultural Code,
27 the Government Code, the Health and Safety Code, the Public Resources Code, the
28 Water Code, or the application of those laws.

29 **Comment.** Section 78584 is amended to reflect the recodification of the former Fish and Game
30 Code.

31 **Food & Agric. Code § 78588 (amended).**

32 SEC. _____. Section 78588 of the Food and Agriculture Code is amended to read:

33 78588. (a) On the termination of the council pursuant to this article, the council
34 shall remain in existence until the end of the marketing season then current for the
35 purpose of furnishing the secretary with a complete record of its outstanding
36 financial obligations.

37 (b) The secretary shall pay from the money collected pursuant to Article 7
38 (commencing with Section 78550) any outstanding obligations and any obligations
39 incurred by the secretary and the department under this section. Any money that
40 remains shall be retained by the secretary to defray the expenses of formulation,

1 issuance, administration, or enforcement of any subsequent program for seafood
2 promotion.

3 (c) If no seafood promotion program is undertaken within a period of three years
4 from the date of termination of the council, that money shall be withdrawn from the
5 approved depository and paid into the special account for enhancement and
6 restoration programs established pursuant to Section ~~7864~~ 41360 of the Fish and
7 ~~Game~~ Wildlife Code.

8 (d) The secretary may also specifically designate any money that remains for
9 expenditure for research on commercial fishery resources or fisheries, the
10 improvement of commercial fishery resources or fisheries, or both.

11 **Comment.** Section 78588 is amended to reflect the recodification of the former Fish and Game
12 Code. The section is also amended to add subdivision designations.

13 **Food & Agric. Code § 79023 (amended).**

14 SEC. _____. Section 79023 of the Food and Agriculture Code is amended to read:
15 79023. “Diver” means an individual licensed to commercially harvest fish
16 pursuant to Section ~~7850~~ 14500 of the Fish and ~~Game~~ Wildlife Code, and who in
17 addition holds a valid sea urchin diving permit.

18 **Comment.** Section 79023 is amended to reflect the recodification of the former Fish and Game
19 Code.

20 **Food & Agric. Code § 79024 (amended).**

21 SEC. _____. Section 79024 of the Food and Agriculture Code is amended to read:
22 79024. “Handler” means any individual or person working for any individual or
23 business entity licensed as one of the following who can document that they are
24 substantially engaged in the California commercial sea urchin fishery:

25 (a) A receiver licensed pursuant to Section ~~8033~~ 20450 of the Fish and ~~Game~~
26 Wildlife Code.

27 (b) A processor licensed pursuant to Section ~~8034~~ 20400 of the Fish and ~~Game~~
28 Wildlife Code.

29 (c) A wholesaler licensed pursuant to Section ~~8035~~ 20550 of the Fish and ~~Game~~
30 Wildlife Code.

31 (d) A business entity or organization licensed pursuant to subdivision (a) of
32 Section ~~8032~~ 20205 of the Fish and ~~Game~~ Wildlife Code.

33 **Comment.** Section 79024 is amended to reflect the recodification of the former Fish and Game
34 Code.

35 **Food & Agric. Code § 79040 (amended).**

36 SEC. _____. Section 79040 of the Food and Agriculture Code is amended to read:
37 79040. There is in the state government the California Sea Urchin Commission.
38 The commission shall be composed of 11 voting members, including five sea urchin
39 handlers, five sea urchin divers, and one public member, and may include any
40 number of nonvoting members, at the discretion of the commission.

1 (a) Handlers shall elect five commission members from among those persons
2 qualified pursuant to this act and licensed pursuant to the Fish and ~~Game~~ Wildlife
3 Code to engage in the sea urchin fishery or a person specifically representing one or
4 more handlers.

5 (b)(1) Divers statewide shall elect five persons from among those persons
6 qualified pursuant to this act and licensed pursuant to the Fish and ~~Game~~ Wildlife
7 Code to engage in the sea urchin fishery.

8 (2) One diver member shall be elected from each of the following areas:

9 (A) San Diego County.

10 (B) Orange or Los Angeles County.

11 (C) Ventura County.

12 (D) Santa Barbara County.

13 (E) Sonoma or Mendocino County.

14 (3) Persons nominated for election to the commission as a diver member shall be
15 nominated by a petition signed by not less than five divers eligible to vote pursuant
16 to this chapter.

17 (c) The public member shall be appointed to the commission by the secretary from
18 nominees recommended by the commission.

19 (d) The secretary and other appropriate individuals, as determined by the
20 commission, shall be nonvoting members of the commission.

21 (e) If the secretary finds, pursuant to Section 79103, that either the divers or
22 handlers, but not both, have voted in favor of the referendum, the number of
23 commission voting members shall be six, composed of either five divers or five
24 handlers, depending on which portion of the industry voted in favor of the
25 referendum, elected pursuant to this section and one public member.

26 (f) If the composition of the commission is determined by subdivision (e) it shall
27 also include at least one nonvoting member appointed by the commission
28 representing either divers or handlers, whichever did not vote in favor of the
29 referendum.

30 **Comment.** Section 79040 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Food & Agric. Code § 79100 (amended).**

33 SEC. ____ . Section 79100 of the Food and Agriculture Code is amended to read:

34 79100. (a) Within 60 days of the effective date of this chapter, the secretary shall
35 establish a list of divers and handlers eligible to vote on implementation of this
36 chapter. In establishing the list, the secretary may require that divers and handlers
37 submit the names and mailing addresses of all divers and handlers. The secretary
38 also may request assistance of the Director of Fish and ~~Game~~ Wildlife for the names
39 of all licensed divers and handlers engaged in the sea urchin fishery during the
40 previous season and the volume of landings of each diver. The request for
41 information shall be in writing and the information provided shall be confidential

1 and not made public. Notwithstanding Section ~~8022~~ 22205 of the Fish and Wildlife
2 Code or any other provision of law, the Director of Fish and ~~Game~~ Wildlife shall
3 comply with the request within 30 days of receipt.

4 (b) Any diver and handler whose name does not appear on the appropriate list
5 may have his or her name placed on the list by filing with the secretary a signed
6 statement, identifying himself or herself as a diver or handler, and submitting other
7 supporting documentation. Failure to be on the list does not exempt the person from
8 paying assessments, and does not invalidate any industry votes conducted pursuant
9 to this article.

10 (c) Proponents and opponents of establishing the commission pursuant to this
11 chapter may contact divers and handlers on the lists through the secretary, in a form
12 and manner prescribed by the secretary, if all expenses associated with those
13 contacts are paid in advance.

14 **Comment.** Section 79100 is amended to reflect the recodification of the former Fish and Game
15 Code. The section is also amended to update a reference to the Director of the former Department
16 of Fish and Game. See Fish & Wildlife Code § 1500.

17 **Food & Agric. Code § 79121 (amended).**

18 SEC. _____. Section 79121 of the Food and Agriculture Code is amended to read:

19 79121. (a) Every person or entity who handles sea urchin in any quantity shall
20 keep a complete and accurate record of all transactions involving the purchase or
21 sale of sea urchin. The records shall be in a simple form and contain such
22 information as the commission shall prescribe. The records shall be preserved by
23 the handler for a period of three years, and shall be offered and submitted for
24 inspection at any reasonable time upon written demand of the commission or its
25 duly authorized agent.

26 (b) The assessment imposed by this article shall be paid consistent with the
27 applicable procedures required for the payment of landing fees pursuant to ~~Article~~
28 ~~7.5 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6~~ Title 10
29 commencing with Section 20900) of Part 6 of Division 6 of the Fish and ~~Game~~
30 Wildlife Code. The fees imposed shall be paid quarterly pursuant to Section ~~8053~~
31 21350 of the Fish and ~~Game~~ Wildlife Code. If fees are not paid as required, the
32 commission shall collect amounts owed under the procedures prescribed for sales
33 and use taxes provided in Chapter 5 (commencing with Section 6451) of Part 1 of
34 Division 2 of the Revenue and Taxation Code, insofar as they may be applicable,
35 and for those purposes, “board” means the commission and “the date on which the
36 tax became due and payable” means 30 days after the close of the quarter for which
37 it is due.

38 (c) ~~Sections 8058 to 8070~~ 21365 to 21375, inclusive, of the Fish and ~~Game~~
39 Wildlife Code, shall apply to claims for overpayment of assessments to the
40 commission. For the purposes of this subdivision, “department” as used in those
41 sections, means the commission, and “landing fee” means the assessment imposed
42 under this article.

1 **Comment.** Section 79121 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Food & Agric. Code § 79132 (amended).**

4 SEC. _____. Section 79132 of the Food and Agriculture Code is amended to read:
5 79132. The commission may consult and enter into agreements with the Director
6 of Fish and ~~Game~~ Wildlife, if necessary and appropriate, to assist in the
7 administration and enforcement of this chapter, including, but not limited to,
8 collecting assessments authorized by this chapter and providing routine information
9 regarding the persons that may be subject to this chapter. If an agreement is
10 established, the commission shall reimburse the Department of Fish and ~~Game~~
11 Wildlife for reasonable administrative costs associated with the agreement.

12 **Comment.** Section 79132 is amended to update a reference to the former Department of Fish
13 and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.

14 **Food & Agric. Code § 79157 (amended).**

15 SEC. _____. Section 79157 of the Food and Agriculture Code is amended to read:
16 79157. “Fisherman” or “fishermen” means a person licensed to commercially
17 harvest fish pursuant to Section ~~7850~~ 14500 of the Fish and ~~Game~~ Wildlife Code,
18 who in addition holds a valid spiny lobster fishing permit, and has documented
19 landings of spiny lobster in the previous marketing season.

20 **Comment.** Section 79157 is amended to reflect the recodification of the former Fish and Game
21 Code.

22 **Food & Agric. Code § 79157.5 (amended).**

23 SEC. _____. Section 79157.5 of the Food and Agriculture Code is amended to read:
24 79157.5. “Handler” means a person engaged with the following licensees:
25 (a) Licensed pursuant to Section ~~8033~~ 20450 of the Fish and ~~Game~~ Wildlife Code.
26 (b) Licensed pursuant to Section ~~8034~~ 20400 of the Fish and ~~Game~~ Wildlife Code.
27 (c) Licensed pursuant to Section ~~8035~~ 20550 of the Fish and ~~Game~~ Wildlife Code.
28 (d) Licensed pursuant to subdivision (a) of Section ~~8032~~ 20205 of the Fish and
29 ~~Game~~ Wildlife Code.

30 **Comment.** Section 79157.5 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Food & Agric. Code § 79180 (amended).**

33 SEC. _____. Section 79180 of the Food and Agriculture Code is amended to read:
34 79180. (a) Within 60 days of the effective date of this chapter, the secretary shall
35 establish a list of fishermen eligible to vote on the implementation of this chapter.
36 In establishing the list, the secretary may require that fishermen submit the names
37 and mailing addresses of all fishermen. The secretary also may request the
38 assistance of the Director of Fish and Wildlife for the names of all licensed
39 fishermen engaged in the spiny lobster fishery during the previous season and the

1 volume of landings of each fisherman. The request for information shall be in
2 writing and the information provided shall be confidential and not made public.
3 Notwithstanding Section ~~8022~~ 22205 of the Fish and ~~Game~~ Wildlife Code or any
4 other law, the Director of Fish and Wildlife shall comply with the request within 30
5 days of receipt.

6 (b) A fisherman whose name does not appear on the appropriate list may have his
7 or her name placed on the list by filing with the secretary a signed statement
8 identifying himself or herself as a fisherman and submitting other supporting
9 documentation. Failure to be on the list does not exempt the person from paying
10 assessments and does not invalidate any industry votes conducted pursuant to this
11 article.

12 (c) Proponents and opponents of establishing the commission pursuant to this
13 chapter may contact fishermen on the lists through the secretary in a form and
14 manner prescribed by the secretary, if all expenses associated with those contacts
15 are paid in advance.

16 **Comment.** Section 79180 is amended to reflect the recodification of the former Fish and Game
17 Code.

18 **Food & Agric. Code § 80075 (amended).**

19 SEC. _____. Section 80075 of the Food and Agriculture Code is amended to read:
20 80075. Any native plant that is declared to be a rare, endangered, or threatened
21 species by federal or state law or regulations, including, but not limited to, the Fish
22 and ~~Game~~ Wildlife Code, is exempt from this division.

23 **Comment.** Section 80075 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 GOVERNMENT CODE

26 **Gov't Code § 186 (amended).**

27 SEC. _____. Section 186 of the Government Code is amended to read:
28 186. (a) As used in succeeding subdivisions of this section “public domain” refers
29 to such portion of the public domain of the State of California as is contiguous to
30 the portion of the Klamath River between the mouth of the river and Katamin
31 Rancheria and such portion of the public domain of the State of California as is
32 contiguous to the portion of the Trinity River between the junction of the Klamath
33 and Trinity Rivers and the junction of the Trinity and South Fork Rivers.

34 (b) As used in this section “Indians” refers to those persons listed on the California
35 Indian Roll whose Indian ancestors originated in the area adjacent to the two
36 stretches of river described in subdivision (a).

37 (c) Every Indian may, on the public domain, in the practice of Indian culture,
38 engage in the following activities:

1 (i) Gather acorns, berries, mushrooms, fruits, insects, seaweed, fish, and other
2 natural foods, materials for regalia and ceremonial purposes and for traditional
3 Indian activities such as making baskets, boatmaking, stoneworking, woodworking,
4 and making of nets, such as roots, reeds, bark, wood, skins, feathers, shells, seeds,
5 nuts, grasses, stones, bones, dyestuffs, plants, sticks, and leaves;

6 (ii) Engage in traditional activities, including religious dances and ceremonies,
7 and the making of baskets and woodworking, making of costumes, and other
8 handicrafts.

9 (d) Transportation to or from any area of the public domain or between different
10 areas of the public domain of material possession of which, pursuant to the
11 foregoing provisions of this section, is permitted on the public domain, shall not be
12 unlawful.

13 (e) Indians taking fish and game under this section shall do so in accordance with
14 the rules and regulations of the Fish and Game Commission and under permit issued
15 by the Department of Fish and ~~Game~~ Wildlife. The commission may adopt rules
16 and regulations and impose conditions on the issuance of such permits which shall
17 limit the taking of fish and game to taking for ceremonial purposes in such manner
18 as the commission deems proper.

19 **Comment.** Section 186 is amended to update a reference to the former Department of Fish and
20 Game. See Fish & Wildlife Code § 1500.

21 **Gov't Code § 998.1 (amended).**

22 SEC. _____. Section 998.1 of the Government Code is amended to read:

23 998.1. (a) The sum of two million eight hundred sixty-seven thousand six hundred
24 sixty-seven dollars (\$2,867,667) is hereby transferred from the Lake Davis Northern
25 Pike Eradication Project Relief Account to the City of Portola to provide economic
26 and infrastructure assistance and in satisfaction of the City of Portola's claims
27 against the State of California or its agencies, officers, and employees for all alleged
28 damage or injury it claims to have suffered as a result of the Lake Davis Northern
29 Pike Eradication Project. This sum of money is being paid in accordance with the
30 terms of a settlement agreement and release to be entered into between the City of
31 Portola and the State of California, and shall be reduced by any amounts already
32 expended by the State of California or the Department of Fish and ~~Game~~ Wildlife
33 pursuant to any agreement with the City of Portola concerning the provision of
34 alternate water supplies. With respect to the Lake Davis Northern Pike Eradication
35 Project, and except as otherwise provided in that agreement, all obligations imposed
36 upon the State of California by any such memoranda and by Section 116751 of the
37 Health and Safety Code shall terminate upon enactment of this part.

38 (b) The sum of two million fifty-eight thousand three hundred thirty-three dollars
39 (\$2,058,333) is hereby transferred from the Lake Davis Northern Pike Eradication
40 Project Relief Account to the County of Plumas to provide economic and
41 infrastructure assistance and in satisfaction of the County of Plumas' and Plumas

1 County Flood Control and Water Conservation District’s claims against the State of
2 California and its agencies, officers, and employees for all alleged damage or injury
3 they claim to have suffered as a result of the Lake Davis Northern Pike Eradication
4 Project. This sum of money is being paid in accordance with the terms of a
5 settlement agreement and release between the County of Plumas and Plumas County
6 Flood Control and Water Conservation District and the State of California, and shall
7 be reduced by any amounts already expended by the State of California or the
8 Department of Fish and ~~Game~~ Wildlife pursuant to any agreement with the County
9 of Plumas concerning the provision of alternate water supplies. With regard to the
10 Lake Davis Northern Pike Eradication Project, and except as provided in that
11 agreement, all obligations imposed upon the State of California by such Memoranda
12 and by Section 16751 of the Health and Safety Code, shall terminate upon
13 enactment of this part.

14 (c) The sum of two hundred fifty thousand dollars (\$250,000) shall be transferred
15 from the Lake Davis Northern Pike Eradication Project Relief Account to the
16 County of Plumas to be used as matching funds for the purpose of obtaining a loan
17 or grant from the State Department of Health Services pursuant to Chapter 4.5
18 (commencing with Section 116760) of Part 12 of Division 104 of the Health and
19 Safety Code to make improvements to the Lake Davis Water Treatment Plant. The
20 funds shall be deposited in an interest bearing account and held until the county
21 enters into an agreement with the State Department of Health Services for a loan or
22 grant. If the improvements requested by the County of Plumas are not eligible for a
23 loan or grant, the sum of two hundred fifty thousand dollars (\$250,000), plus any
24 interest earned, shall be returned to the General Fund.

25 (d) The sum of four million dollars (\$4,000,000) shall be available from the Lake
26 Davis Northern Pike Eradication Project Relief Account to pay all other claims
27 including, but not limited to, claims for personal injury, property damage, or
28 business loss, arising out of the Lake Davis Northern Pike Eradication Project. Any
29 unused funds, plus any interest earned, shall revert to the General Fund.

30 **Comment.** Section 998.1 is amended to update references to the former Department of Fish and
31 Game. See Fish & Wildlife Code § 1500.

32 **Gov’t Code § 1322 (amended).**

33 SEC. ____ . Section 1322 of the Government Code is amended to read:

34 1322. In addition to any other statutory provisions requiring confirmation by the
35 Senate of officers appointed by the Governor, the appointments by the Governor of
36 the following officers and the appointments by him or her to the listed boards and
37 commissions are subject to confirmation by the Senate:

- 38 (1) California Horse Racing Board.
- 39 (2) Court Reporters Board of California.
- 40 (3) Chief, Division of Occupational Safety and Health.
- 41 (4) Chief, Division of Labor Standards Enforcement.
- 42 (5) Commissioner of Corporations.

- 1 (6) Contractors State License Board.
- 2 (7) Director of Fish and ~~Game~~ Wildlife.
- 3 (8) Director of Health Care Services.
- 4 (9) Chief Deputy, State Department of Health Care Services.
- 5 (10) Real Estate Commissioner.
- 6 (11) State Athletic Commissioner.
- 7 (12) State Board of Barbering and Cosmetology Examiners.
- 8 (13) State Librarian.
- 9 (14) Director of Social Services.
- 10 (15) Chief Deputy, State Department of Social Services.
- 11 (16) Director of State Hospitals.
- 12 (17) Chief Deputy, State Department of State Hospitals.
- 13 (18) Director of Developmental Services.
- 14 (19) Chief Deputy, State Department of Developmental Services.
- 15 (20) Director of Alcohol and Drug Abuse.
- 16 (21) Director of Rehabilitation.
- 17 (22) Chief Deputy, Department of Rehabilitation.
- 18 (23) Director of the Office of Statewide Health Planning and Development.
- 19 (24) Deputy, Health and Welfare Agency.
- 20 (25) Director, Department of Managed Health Care.
- 21 (26) Patient Advocate, California Health and Human Services Agency.
- 22 (27) State Public Health Officer, State Department of Public Health.
- 23 (28) Chief Deputy, State Department of Public Health.
- 24 **Comment.** Section 1322 is amended to update a reference to the Director of the former
- 25 Department of Fish and Game. See Fish & Wildlife Code § 1500.

26 **Gov't Code § 6276.10 (amended).**

- 27 SEC. ____ . Section 6276.10 of the Government Code is amended to read:
- 28 6276.10. Cancer registries, confidentiality of information, Section 103885, Health
- 29 and Safety Code.
- 30 Candidate for local nonpartisan elective office, confidentiality of ballot statement,
- 31 Section 13311, Elections Code.
- 32 Child abuse information, exchange by multidisciplinary personnel teams, Section
- 33 830, Welfare and Institutions Code.
- 34 Child abuse report and those making report, confidentiality of, Sections 11167
- 35 and 11167.5, Penal Code.
- 36 Child care liability insurance, confidentiality of information, Section 1864,
- 37 Insurance Code.
- 38 Child concealer, confidentiality of address, Section 278.7, Penal Code.
- 39 Child custody investigation report, confidentiality of, Section 3111, Family Code.
- 40 Child day care facility, nondisclosure of complaint, Section 1596.853, Health and
- 41 Safety Code.

1 Child health and disability prevention, confidentiality of health screening and
2 evaluation results, Section 124110, Health and Safety Code.

3 Child sexual abuse reports, confidentiality of reports filed in a contested
4 proceeding involving child custody or visitation rights, Section 3118, Family Code.

5 Child support, confidentiality of income tax return, Section 3552, Family Code.

6 Child support, promise to pay, confidentiality of, Section 7614, Family Code.

7 Childhood lead poisoning prevention, confidentiality of blood lead findings,
8 Section 124130, Health and Safety Code.

9 Children and families commission, local, confidentiality of individually
10 identifiable information, Section 130140.1, Health and Safety Code.

11 Cigarette tax, confidential information, Section 30455, Revenue and Taxation
12 Code.

13 Civil actions, delayed disclosure for 30 days after complaint filed, Section
14 482.050, Code of Civil Procedure.

15 Closed sessions, document assessing vulnerability of state or local agency to
16 disruption by terrorist or other criminal acts, subdivision (aa), Section 6254.

17 Closed sessions, meetings of local governments, pending litigation, Section
18 54956.9.

19 Colorado River Board, confidential information and records, Section 12519,
20 Water Code.

21 Commercial fishing licensee, confidentiality of records, Section ~~7923~~ 21920, Fish
22 and ~~Game~~ Wildlife Code.

23 Commercial fishing reports, Section ~~8022~~ 22205, Fish and ~~Game~~ Wildlife Code.

24 Community care facilities, confidentiality of client information, Section 1557.5,
25 Health and Safety Code.

26 Community college employee, candidate examination records, confidentiality of,
27 Section 88093, Education Code.

28 Community college employee, notice and reasons for nonreemployment,
29 confidentiality, Section 87740, Education Code.

30 **Comment.** Section 6276 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Gov't Code § 6276.18 (amended).**

33 SEC. ____ . Section 6276.18 of the Government Code is amended to read:

34 6276.18. Family Court, records, Section 1818, Family Code.

35 Farm product processor license, confidentiality of financial statements, Section
36 55523.6, Food and Agricultural Code.

37 Farm product processor licensee, confidentiality of grape purchases, Section
38 55601.5, Food and Agricultural Code.

39 Fee payer information, prohibition against disclosure by Board of Equalization
40 and others, Section 55381, Revenue and Taxation Code.

41 Financial institutions, issuance of securities, reports and records of state agencies,
42 subdivision (d), Section 6254.

1 Financial statements of insurers, confidentiality of information received, Section
2 925.3, Insurance Code.

3 Financial statements and questionnaires, of prospective bidders for the state,
4 confidentiality of, Section 10165, Public Contract Code.

5 Financial statements and questionnaires, of prospective bidders for California
6 State University contracts, confidentiality of, Section 10763, Public Contract Code.

7 Firearms, centralized list of exempted federal firearms licensees, disclosure of
8 information compiled from, Sections 24850 to 24890, inclusive, Penal Code.

9 Firearms, centralized list of dealers and licensees, disclosure of information
10 compiled from, Sections 26700 to 26915, inclusive, Penal Code.

11 Firearm license applications, subdivision (u), Section 6254.

12 Firearm sale or transfer, confidentiality of records, Chapter 5 (commencing with
13 Section 28050) of Division 6 of Title 4 of Part 6, Penal Code.

14 Fishing and hunting licenses, confidentiality of names and addresses contained in
15 records submitted to the Department of Fish and ~~Game~~ Wildlife to obtain
16 recreational fishing and hunting licenses, Section ~~4050.6~~ 2915, Fish and ~~Game~~
17 Wildlife Code.

18 Foreign marketing of agricultural products, confidentiality of financial
19 information, Section 58577, Food and Agricultural Code.

20 Forest fires, anonymity of informants, Section 4417, Public Resources Code.

21 Foster homes, identifying information, Section 1536, Health and Safety Code.

22 Franchise Tax Board, access to Franchise Tax Board information by the State
23 Department of Social Services, Section 11025, Welfare and Institutions Code.

24 Franchise Tax Board, auditing, confidentiality of, Section 90005.

25 Franchises, applications, and reports filed with Commissioner of Corporations,
26 disclosure and withholding from public inspection, Section 31504, Corporations
27 Code.

28 Fur dealer licensee, confidentiality of records, Section ~~4041~~ 11335, Fish and
29 ~~Game~~ Wildlife Code.

30 **Comment.** Section 6276.18 is amended to reflect the recodification of the former Fish and Game
31 Code. The section is also amended to update a reference to the former Department of Fish and
32 Game. See Fish & Wildlife Code § 1500.

33 **Gov't Code § 6276.34 (amended).**

34 SEC. ____ . Section 6276.34 of the Government Code is amended to read:

35 6276.34. Parole revocation proceedings, confidentiality of information in reports,
36 Section 3063.5, Penal Code.

37 Passenger fishing boat licenses, records, Section ~~7923~~ 21920, Fish and ~~Game~~
38 Wildlife Code.

39 Paternity, acknowledgement, confidentiality of records, Section 102760, Health
40 and Safety Code.

41 Patient-physician confidential communication, Sections 992 and 994, Evidence
42 Code.

- 1 Patient records, confidentiality of, Section 123135, Health and Safety Code.
- 2 Payment instrument licensee records, inspection of, Section 33206, Financial
- 3 Code.
- 4 Payroll records, confidentiality of, Section 1776, Labor Code.
- 5 Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8,
- 6 Penal Code.
- 7 Penitential communication between penitent and clergy, Sections 1032 and 1033,
- 8 Evidence Code.
- 9 Personal Care Services Program, exemption from disclosure for information
- 10 regarding persons paid by the state to provide personal care services, Section
- 11 6253.2.
- 12 Personal Income Tax, disclosure of information, Article 2 (commencing with
- 13 Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.
- 14 Personal information, Information Practices Act, prohibitions against disclosure
- 15 by state agencies, Sections 1798.24 and 1798.75, Civil Code.
- 16 Personal information, subpoena of records containing, Section 1985.4, Code of
- 17 Civil Procedure.
- 18 Personal representative, confidentiality of personal representative's birth date and
- 19 driver's license number, Section 8404, Probate Code.
- 20 Persons formerly classified as mentally abnormal sex offenders committed to a
- 21 state hospital, confidentiality of records, Section 4135, Welfare and Institutions
- 22 Code.
- 23 Persons with mental health disorders, court-ordered evaluation, confidentiality of
- 24 reports, Section 5202, Welfare and Institutions Code.
- 25 Persons with mental health disorders, confidentiality of written consent to
- 26 detainment, Section 5326.4, Welfare and Institutions Code.
- 27 Persons with mental health disorders voluntarily detained and receiving services,
- 28 confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4,
- 29 5328.8, and 5328.9, Welfare and Institutions Code.
- 30 Persons with mental health disorders, weapons restrictions, confidentiality of
- 31 information about, Section 8103, Welfare and Institutions Code.
- 32 Petition signatures, Section 18650, Elections Code.
- 33 Petroleum supply and pricing, confidential information, Sections 25364 and
- 34 25366, Public Resources Code.
- 35 Pharmacist, alcohol or dangerous drug diversion and rehabilitation records,
- 36 confidentiality of, Section 4372, Business and Professions Code.
- 37 Physical therapist or assistant, records of dangerous drug or alcohol diversion and
- 38 rehabilitation, confidentiality of, Section 2667, Business and Professions Code.
- 39 Physical or mental condition or conviction of controlled substance offense,
- 40 records in Department of Motor Vehicles, confidentiality of, Section 1808.5,
- 41 Vehicle Code.
- 42 Physician and surgeon, rehabilitation and diversion records, confidentiality of,
- 43 Section 2355, Business and Professions Code.

1 Physician assistant, alcohol or dangerous drug diversion and rehabilitation
2 records, confidentiality of, Section 3534.7, Business and Professions Code.

3 Physician competency examination, confidentiality of reports, Section 2294,
4 Business and Professions Code.

5 Physicians and surgeons, confidentiality of reports of patients with a lapse of
6 consciousness disorder, Section 103900, Health and Safety Code.

7 Physician Services Account, confidentiality of patient names in claims, Section
8 16956, Welfare and Institutions Code.

9 Pilots, confidentiality of personal information, Section 1157.1, Harbors and
10 Navigation Code.

11 Pollution Control Financing Authority, financial data submitted to, subdivision
12 (o), Section 6254.

13 Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

14 **Comment.** Section 6276.34 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Gov't Code § 6276.42 (amended).**

17 SEC. ____ . Section 6276.42 of the Government Code is amended to read:
18 6276.42. State agency activities relating to unrepresented employees, subdivision
19 (p) of Section 6254.

20 State agency activities relating to providers of health care, subdivision (a) of
21 Section 6254.

22 State Auditor, access to barred records, Section 8545.2.

23 State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3.

24 State civil service employee, confidentiality of appeal to state personnel board,
25 Section 18952.

26 State civil service employees, confidentiality of reports, Section 18573.

27 State civil service examination, confidentiality of application and examination
28 materials, Section 18934.

29 State Compensation Insurance Fund, exemption from disclosure for various
30 records maintained by the State Compensation Insurance Fund, subdivision (ad),
31 Section 6254.

32 State Contract Act, bids, questionnaires and financial statements, Section 10165,
33 Public Contract Code.

34 State Contract Act, bids, sealing, opening and reading bids, Section 10304, Public
35 Contract Code.

36 State Energy Resources Conservation and Development Commission,
37 confidentiality of proprietary information submitted to, Section 25223, Public
38 Resources Code.

39 State hospital patients, information and records in possession of Superintendent
40 of Public Instruction, confidentiality of, Section 56863, Education Code.

1 State Long-Term Care Ombudsman, access to government agency records,
2 Section 9723, Welfare and Institutions Code.

3 State Long-Term Care Ombudsman office, confidentiality of records and files,
4 Section 9725, Welfare and Institutions Code.

5 State Long-Term Care Ombudsman office, disclosure of information or
6 communications, Section 9715, Welfare and Institutions Code.

7 State Lottery Evaluation Report, disclosure, Section 8880.46.

8 State prisoners, exemption from disclosure for surveys by the California Research
9 Bureau of children of female prisoners, Section 7443, Penal Code.

10 State summary criminal history information, confidentiality of information,
11 Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.

12 State Teachers' Retirement System, confidentiality of information filed with the
13 system by a member, participant, or beneficiary, Sections 22306 and 26215,
14 Education Code.

15 Sterilization of disabled, confidentiality of evaluation report, Section 1955,
16 Probate Code.

17 Strawberry marketing information, confidentiality of, Section 63124, Food and
18 Agricultural Code.

19 Structural pest control licensee records relating to pesticide use, confidentiality
20 of, Section 15205, Food and Agricultural Code.

21 Student driver, records of physical or mental condition, confidentiality of, Section
22 12661, Vehicle Code.

23 Student, community college, information received by school counselor,
24 confidentiality of, Section 72621, Education Code.

25 Student, community college, records, limitations on release, Section 76243,
26 Education Code.

27 Student, community college, record contents, records of administrative hearing to
28 change contents, confidentiality of, Section 76232, Education Code.

29 Student, sexual assault on private higher education institution campus,
30 confidentiality of information, Section 94385, Education Code.

31 Student, sexual assault on public college or university, confidentiality of
32 information, Section 67385, Education Code.

33 Sturgeon egg processors, records, ~~Section 10004~~ subdivision (b) of Section
34 43270, Fish and ~~Game~~ Wildlife Code.

35 **Comment.** Section 6276.42 is amended to reflect the recodification of the former Fish and Game
36 Code.

37 **Gov't Code § 7000 (amended).**

38 SEC. ____ . Section 7000 of the Government Code is amended to read:

39 7000. It is the intent of the Legislature in enacting this chapter to provide a means
40 whereby the Departments of Water Resources, Parks and Recreation, Fish and
41 ~~Game~~ Wildlife, and General Services, of the State of California, may acquire by
42 purchase, gift, grant, bequest, devise, lease, condemnation or otherwise, the fee or

1 any lesser interest or right in real property in order to protect, preserve, maintain,
2 improve, restore, limit the future use of, or otherwise conserve for public use and
3 enjoyment any of the lands and areas, identified below, alongside the Westside
4 Freeway, Interstate Route 5, and the California Aqueduct, which have significant
5 scenic values:

6 (a) Between the California Aqueduct and the Westside Freeway from Highway
7 41 north to Milham Avenue.

8 (b) Between the California Aqueduct and the Westside Freeway from Ness
9 Avenue north to Pioneer Road.

10 (c) Between the California Aqueduct, the Westside Freeway and the Delta-
11 Mendota Canal from Cottonwood Road north to the freeway-aqueduct crossing at
12 Orestimba Creek, and between the aqueduct and freeway north of that point to the
13 Alameda County line.

14 The Department of Transportation may acquire scenic easements along said
15 Westside Freeway, provided that funds for such easements are obtained pursuant to
16 the provisions of Section 319 of Title 23 of the United States Code relating to the
17 purchase of interests in lands adjacent to highway rights-of-way, provided further
18 that the federal government reimburses the state for the costs of such scenic
19 easements, and also provided that the use of money for this purpose will not reduce
20 the amount of funds which would otherwise be available to the state for highway
21 purposes.

22 **Comment.** Section 7000 is amended to update a reference to the former Department of Fish and
23 Game. See Fish & Wildlife Code § 1500.

24 **Gov't Code § 8597 (amended).**

25 SEC. ____ . Section 8597 of the Government Code is amended to read:

26 8597. Whenever a state of emergency is proclaimed to exist within any region or
27 area, or whenever a state of war emergency exists, the following classes of state
28 employees who are within the region or area proclaimed or who may be assigned to
29 duty therein shall be peace officers and shall have the full powers and duties of those
30 officers for all purposes as provided by Section 830.1 of the Penal Code, and shall
31 perform those duties and exercise any powers which are appropriate or which may
32 be directed by their superior officers:

33 (a) All peace officers of the Department of the California Highway Patrol.

34 (b) All deputies of the Department of Fish and ~~Game~~ Wildlife who have been
35 appointed to enforce the provisions of the Fish and ~~Game~~ Wildlife Code pursuant
36 to Section 851 of that code.

37 (c) The Director of Forestry and Fire Protection and the classes of the Department
38 of Forestry and Fire Protection who are designated by the Director of Forestry and
39 Fire Protection as having the powers of peace officers pursuant to Section 4156 of
40 the Public Resources Code.

1 (d) Peace officers who are state employees within the provisions of Section 830.5
2 of the Penal Code.

3 **Comment.** Section 8597 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update a reference to the former Department of Fish and
5 Game. See Fish & Wildlife Code § 1500.

6 **Gov't Code § 8670.4 (amended).**

7 SEC. ____ . Section 8670.4 of the Government Code is amended to read:

8 8670.4. There shall be an administrator for oil spill response. The administrator
9 shall be a chief deputy director of the Department of Fish and ~~Game~~ Wildlife. The
10 administrator shall be appointed by the Governor and shall serve at the pleasure of
11 the Governor. The appointment by the Governor shall be subject to the advice and
12 consent of the Senate. The compensation of the administrator shall be fixed by the
13 Governor pursuant to law.

14 **Comment.** Section 8670.4 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Gov't Code § 8670.59 (amended).**

17 SEC. ____ . Section 8670.59 of the Government Code is amended to read:

18 8670.59. (a) Any civil action brought pursuant to this chapter, or pursuant to
19 Division 7.8 (commencing with Section 8750) of the Public Resources Code, shall
20 be brought in the county in which the spill, discharge, or violation occurred, the
21 county in which the principal place of business of the defendant is located, or the
22 county in which the defendant is doing business in this state.

23 (b)(1) Notwithstanding any other provision of law, all criminal actions for the
24 prosecution of misdemeanor violations of this chapter or Division 7.8 (commencing
25 with Section 8750) of the Public Resources Code shall be commenced within one
26 year from the date of the discovery of the facts or circumstances that constitute the
27 violation.

28 (2) Notwithstanding any other provision of law, all criminal actions for the
29 prosecution of felony violations of this chapter or Division 7.8 (commencing with
30 Section 8750) of the Public Resources Code shall be commenced within three years
31 from the date of the discovery of the facts or circumstances that constitute the
32 violation.

33 (c) Notwithstanding any other provision of law, except as provided in subdivision
34 (d), any action to recover civil damages or penalties shall be commenced within
35 three years from the date of discovery of the facts or circumstances that constitute a
36 violation of this chapter or Division 7.8 (commencing with Section 8750) of the
37 Public Resources Code.

38 (d) Any action to recover civil damages or penalties pursuant to paragraph (3),
39 (4), (5), (6), or (7) of subdivision (h) of Section 8670.56.5 because of effects on
40 natural resources shall be commenced within five years from the date of the
41 discovery of the facts or circumstances that are the basis for the cause of action.

1 (e) Any action to compel the removal of oil or the restoration and rehabilitation
2 of wildlife and wildlife habitat shall be commenced within five years from the date
3 of discovery of the facts or circumstances that constitute a violation of this chapter
4 or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

5 (f) For purposes of subdivisions (b), (c), (d), and (e), “date of discovery” means
6 the actual date that facts sufficient to establish that a violation of this chapter or
7 Division 7.8 (commencing with Section 8750) of the Public Resources Code has
8 occurred are discovered by a peace officer appointed pursuant to Section ~~851~~ 4110
9 of the Fish and ~~Game~~ Wildlife Code.

10 (g) The administrator may adopt regulations prescribing procedures for the
11 implementation of this section.

12 **Comment.** Section 8670.59 is amended to reflect the recodification of the former Fish and Game
13 Code.

14 **Gov’t Code § 8670.61 (amended).**

15 SEC. ____ . Section 8670.61 of the Government Code is amended to read:
16 8670.61. The civil and criminal penalties provided in this chapter and Division
17 7.8 (commencing with Section 8750) of the Public Resources Code shall be separate
18 from, and in addition to, and do not supersede or limit, any and all other remedies,
19 civil or criminal, except as provided in ~~subdivision (j) of Section 5650.1~~ Section
20 6324 of the Fish and ~~Game~~ Wildlife Code.

21 **Comment.** Section 8670.61 is amended to reflect the recodification of the former Fish and Game
22 Code.

23 **Gov’t Code § 11011.2 (amended).**

24 SEC. ____ . Section 11011.2 of the Government Code is amended to read:
25 11011.2. (a)(1) Notwithstanding any other law, including, but not limited to,
26 Sections 11011 and 14670, except as provided in this section, the Department of
27 General Services may lease real property under the jurisdiction of a state agency,
28 department, or district agricultural association, if the Director of General Services
29 determines that the real property is of no immediate need to the state but may have
30 some potential future use to the program needs of the agency, department, or district
31 agricultural association.

32 (2) The Director of General Services may not lease any of the following real
33 property pursuant to this section:

34 (A) Tax-deeded land or lands under the jurisdiction of the State Lands
35 Commission.

36 (B) Land that has escheated to the state or that has been distributed to the state by
37 court decree in estates of deceased persons.

38 (C) Lands under the jurisdiction of the State Coastal Conservancy or another state
39 conservancy.

1 (D) Lands under the jurisdiction of the Department of Transportation or the
2 California State University system, or land owned by the Regents of the University
3 of California.

4 (E) Lands under the jurisdiction of the Department of Parks and Recreation.

5 (F) Lands under the jurisdiction of the Department of Fish and ~~Game~~ Wildlife.

6 (3) A lease entered into pursuant to this section shall be set at the amount of the
7 lease's fair market value, as determined by the Director of General Services. The
8 Director of General Services may determine the length of term or a use of the lease,
9 and specify any other terms and conditions which are determined to be in the best
10 interest of the state.

11 (b) The Department of General Services may enter into a long-term lease of real
12 property pursuant to this section that has outstanding lease revenue bonds and for
13 which the real property cannot be disencumbered from the bonds, only if the issuer
14 and trustee for the bonds approves the lease transaction, and this approval takes into
15 consideration, among other things, that the proposed lease transaction does not
16 breach a covenant or obligation of the issuer or trustee.

17 (c)(1) All issuer- and trustee-related costs for reviewing a proposed lease
18 transaction pursuant to this section, and all other costs of the lease transaction
19 related to the defeasance or other retirement of any bonds, including the cost of
20 nationally recognized bond counsel, shall be paid from the proceeds of that lease.

21 (2) The Department of General Services shall be reimbursed for any reasonable
22 costs or expenses incurred in conducting a transaction pursuant to this section.

23 (3) Notwithstanding subdivision (g) of Section 11011, the Department of General
24 Services shall deposit into the General Fund the net proceeds of a lease entered into
25 pursuant to this section, after deducting the amount of the reimbursement of costs
26 incurred pursuant to this section or the reimbursement of adjustments to the General
27 Fund loan made pursuant to Section 8 of Chapter 20 of the 2009–10 Fourth
28 Extraordinary Session from the lease.

29 (d) The Department of General Services shall transmit a report to each house of
30 the Legislature on or before June 30, 2011, and on or before June 30 each year
31 thereafter, listing every new lease that exceeds a period of five years entered into
32 under the authority of this section and the following information regarding each
33 listed lease:

34 (1) Lease payments.

35 (2) Length of the lease.

36 (3) Identification of the leasing parties.

37 (4) Identification of the leased property.

38 (5) Any other information the Director of General Services determines should be
39 included in the report to adequately describe the material provisions of the lease.

40 **Comment.** Subparagraph (F) of paragraph (2) of subdivision (a) of Section 11011.2 is amended
41 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

1 **Gov't Code § 11125.6 (amended).**

2 SEC. ____ . Section 11125.6 of the Government Code is amended to read:

3 11125.6. (a) An emergency meeting may be called at any time by the president of
4 the Fish and Game Commission or by a majority of the members of the commission
5 to consider an appeal of a closure of or restriction in a fishery adopted pursuant to
6 Section ~~7710~~ 22800 of the Fish and ~~Game~~ Wildlife Code. In the case of an
7 emergency situation involving matters upon which prompt action is necessary due
8 to the disruption or threatened disruption of an established fishery, the commission
9 may hold an emergency meeting without complying with the 10-day notice
10 requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4
11 if the delay necessitated by providing the 10-day notice of a public meeting required
12 by Section 11125 or the 48-hour notice required by Section 11125.4 would
13 significantly adversely impact the economic benefits of a fishery to the participants
14 in the fishery and to the people of the state or significantly adversely impact the
15 sustainability of a fishery managed by the state.

16 (b) At the commencement of an emergency meeting called pursuant to this
17 section, the commission shall make a finding in open session that the delay
18 necessitated by providing notice 10 days prior to a meeting as required by Section
19 11125 or 48 hours prior to a meeting as required by Section 11125.4 would
20 significantly adversely impact the economic benefits of a fishery to the participants
21 in the fishery and to the people of the state or significantly adversely impact the
22 sustainability of a fishery managed by the state. The finding shall set forth the
23 specific facts that constitute the impact to the economic benefits of the fishery or
24 the sustainability of the fishery. The finding shall be adopted by a vote of at least
25 four members of the commission, or, if less than four of the members are present, a
26 unanimous vote of those members present. Failure to adopt the finding shall
27 terminate the meeting.

28 (c) Newspapers of general circulation and radio or television stations that have
29 requested notice of meetings pursuant to Section 11125 shall be notified by the
30 presiding officer of the commission, or a designee thereof, one hour prior to the
31 emergency meeting by telephone.

32 (d) The minutes of an emergency meeting called pursuant to this section, a list of
33 persons who the president of the commission, or a designee thereof, notified or
34 attempted to notify, a copy of the rollcall vote, and any action taken at the meeting
35 shall be posted for a minimum of 10 days in a public place as soon after the meeting
36 as possible.

37 **Comment.** Subdivision (a) of Section 11125.6 is amended to reflect the recodification of the
38 former Fish and Game Code.

39 **Gov't Code § 11343.4 (amended).**

40 SEC. ____ . Section 11343.4 of the Government Code is amended to read:

1 11343.4. (a) Except as otherwise provided in subdivision (b), a regulation or an
2 order of repeal required to be filed with the Secretary of State shall become effective
3 on a quarterly basis as follows:

4 (1) January 1 if the regulation or order of repeal is filed on September 1 to
5 November 30, inclusive.

6 (2) April 1 if the regulation or order of repeal is filed on December 1 to February
7 29, inclusive.

8 (3) July 1 if the regulation or order of repeal is filed on March 1 to May 31,
9 inclusive.

10 (4) October 1 if the regulation or order of repeal is filed on June 1 to August 31,
11 inclusive.

12 (b) The effective dates in subdivision (a) shall not apply in all of the following:

13 (1) The effective date is specifically provided by the statute pursuant to which the
14 regulation or order of repeal was adopted, in which event it becomes effective on
15 the day prescribed by the statute.

16 (2) A later date is prescribed by the state agency in a written instrument filed with,
17 or as part of, the regulation or order of repeal.

18 (3) The agency makes a written request to the office demonstrating good cause
19 for an earlier effective date, in which case the office may prescribe an earlier date.

20 (4)(A) A regulation adopted by the Fish and Game Commission that is governed
21 by ~~Article 2 (commencing with Section 250) of Chapter 2 of Division 1~~ Article 2
22 (commencing with Section 1100) of Chapter 1 of Title 2 of Part 1 of Division 2 of
23 the Fish and ~~Game~~ Wildlife Code.

24 (B) A regulation adopted by the Fish and Game Commission that requires a
25 different effective date in order to conform to a federal regulation.

26 **Comment.** Section 11343.4 is amended to reflect the recodification of the former Fish and Game
27 Code.

28 **Gov't Code § 12805.1 (amended).**

29 SEC. ____ . Section 12805.1 of the Government Code is amended to read:

30 12805.1. The Secretary of the Resources Agency shall facilitate coordination
31 between the Department of Fish and ~~Game~~ Wildlife and the California Coastal
32 Commission in a manner consistent with, and in furtherance of, the goals and
33 policies of Division 20 (commencing with Section 30000) of the Public Resources
34 Code (the California Coastal Act of 1976) and of ~~Chapter 10 (commencing with~~
35 ~~Section 2800) of Division 3~~ Title 2 (commencing with Section 64500) of Part 2 of
36 Division 17 of the Fish and ~~Game~~ Wildlife Code (the Natural Community
37 Conservation Planning Act).

38 **Comment.** Section 12805.1 is amended to reflect the recodification of the former Fish and Game
39 Code. The section is also amended to update a reference to the former Department of Fish and
40 Game. See Fish & Wildlife Code § 1500.

1 **Gov't Code § 12805.3 (amended).**

2 SEC. ____. Section 12805.3 of the Government Code is amended to read:

3 12805.3. (a) The Secretary of the Natural Resources Agency shall convene a
4 committee to develop and submit to the Governor and the Legislature, before July
5 1, 2012, a strategic vision for the Department of Fish and ~~Game~~ Wildlife and the
6 Fish and Game Commission.

7 (b) The committee members shall include all of the following:

8 (1) The Secretary of the Natural Resources Agency.

9 (2) The Director of Fish and ~~Game~~ Wildlife.

10 (3) The president of the Fish and Game Commission.

11 (4) The chair of the State Energy Resources Conservation and Development
12 Commission.

13 (5) A representative of the University of California.

14 (6) Representatives of the United States Fish and Wildlife Service and the
15 National Marine Fisheries Service, if they choose to participate.

16 (c) The strategic vision shall address all of the following matters:

17 (1) Improving and enhancing capacity of the department and the commission to
18 fulfill their public trust responsibilities to protect and manage the state's fish and
19 wildlife for their ecological values and for the use and benefit of the people of the
20 state.

21 (2) Comprehensive biodiversity management, including conservation planning
22 and monitoring.

23 (3) Sustainable ecosystem functions, including terrestrial, freshwater, and marine
24 habitat.

25 (4) Opportunities for sustainable recreational and commercial harvest of fish and
26 wildlife.

27 (5) Permitting, regulatory, and enforcement functions.

28 (6) Science capacity and academic relationships, including strategies to protect
29 and enhance the independence and integrity of the science that forms the basis for
30 department and commission policies and decisions.

31 (7) Education, communication, and relations with the public, landowners,
32 nonprofit entities, and land management agencies.

33 (8) Reforms necessary to take on the challenges of the 21st century, including, but
34 not necessarily limited to:

35 (A) Climate change and adaptation.

36 (B) Meeting California's future renewable energy needs while protecting sensitive
37 habitat.

38 (C) The restoration of the state's native fish species.

39 (D) Implementing and updating the state's Wildlife Action Plan.

40 (9) The development and deployment of technology to meet the department's
41 mission, including data modeling, collection, and online reporting.

42 (10) Budget and fiscal development, accounting, and management.

1 (11) Coordination among state agencies.

2 (12) Recommendations for institutional or governance changes, including
3 clarification of the roles of the commission and the department.

4 (13) Strategies for identifying stable funding options to fulfill the mission of the
5 department while reducing dependency on the General Fund.

6 (14) Other recommendations deemed desirable by the committee.

7 (d) The committee shall seek input from elected officials, governmental agencies,
8 and interested parties, and shall review existing reports and studies on the
9 functioning of the department and other state models for fish and wildlife
10 governance.

11 (e) For the purposes of carrying out this section, the committee may also seek
12 input from other policy and resource leaders.

13 (f)(1) The committee, its members, and state agencies represented on the
14 committee may contract for consultants to assist in the preparation of the strategic
15 vision.

16 (2) Contracts entered into pursuant to paragraph (1) shall terminate no later than
17 December 31, 2011.

18 (3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2
19 (commencing with Section 10100) of Division 2 of the Public Contract Code.

20 (g) The Governor or the committee shall appoint a “blue ribbon” citizen
21 commission or task force, a stakeholder advisory group, and any other group that
22 the Governor or the committee deems necessary or desirable to assist in carrying
23 out this section. A stakeholder advisory group appointed pursuant to this section
24 shall be broadly constructed to represent a diverse range of interests affected by state
25 policies that govern fish and wildlife, including, but not necessarily limited to,
26 persons representing fishing and hunting interests, nonprofit conservation
27 organizations, nonconsumptive recreational users, landowners, scientific and
28 educational interests, and other interests or entities dedicated to habitat conservation
29 and protection of public trust resources. The committee convened pursuant to
30 subdivision (a), in developing the strategic vision, shall take into account the
31 recommendations of any group appointed pursuant to this subdivision.

32 (h)(1) The requirement for submitting the strategic vision imposed under
33 subdivision (a) is inoperative on January 1, 2015, pursuant to Section 10231.5 of
34 the Government Code, or on the date that the strategic vision is submitted,
35 whichever date is later.

36 (2) The strategic vision shall be submitted in compliance with Section 9795 of the
37 Government Code.

38 **Comment.** Section 12805.3 is amended to update a reference to the former Department of Fish
39 and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.

40 **Gov’t Code § 14012 (amended).**

41 SEC. ____ . Section 14012 of the Government Code is amended to read:

1 14012. (a) The director may sell or lease excess right-of-way parcels to
2 municipalities or other local agencies for public purposes, and may accept as all or
3 part of the consideration for such sale or lease any substantial benefits the state will
4 derive from the municipality or other local agency's undertaking maintenance or
5 landscaping costs that would otherwise be the obligation of the state.

6 (b) For the purposes of Section 9 of Article 19 of the California Constitution, the
7 department shall notify, on a quarterly basis, the State Coastal Conservancy, the
8 Department of Parks and Recreation, the Wildlife Conservation Board, and the
9 Department of Fish and ~~Game~~ Wildlife of excess property.

10 **Comment.** Section 14012 is amended to update a reference to the former Department of Fish
11 and Game. See Fish & Wildlife Code § 1500.

12 **Gov't Code § 14659 (amended).**

13 SEC. ____ . Section 14659 of the Government Code is amended to read:

14 14659. The Department of General Services and its director succeed to and are
15 vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested
16 in the California Victim Compensation and Government Claims Board, or its
17 executive officer, under the following statutes as they existed on January 1, 2016:

18 (a) Section 77 of the Code of Civil Procedure.

19 (b) Section 846.1 of the Civil Code.

20 (c) Sections 12117, 24618, and 89750.5 of the Education Code.

21 (d) Sections ~~1122 and 15512~~ 24600 and 25110 of the Fish and ~~Game~~ Wildlife
22 Code.

23 (e) Sections 3955, 14978.2, and 52295 of the Food and Agricultural Code.

24 (f) Sections 800, 850.6, 900.2, 905.2, 905.3, 906, 911.2, 912.5, 915, 920, 925,
25 927.13, 935.6, 935.7, 940.2, 965, 965.1, 965.5, 997.1, 998, 998.2, 1151, 3515.7,
26 8652, 8902, 11007.6, 11014, 11030.1, 11030.2, 11031, 11275, 13332.09, 14600,
27 15202, 16302.1, 16304.6, 16383, 16431, 17051.5, 17201, 19815.4, 20163, 21223,
28 21265, 26749, 68503, 68506, 68543, 68543.5, 68543.8, and 68565 of this code.

29 (g) Sections 13052, 25370, 121265, and 121270 of the Health and Safety Code.

30 (h) Sections 11580.1 and 11872 of the Insurance Code.

31 (i) Sections 4724, 4725, and 4726 of the Labor Code.

32 (j) Sections 422.92, 987.9, 1557, 2786, 11163, and 11172 of the Penal Code.

33 (k) Sections 10301, 10306, 10308, 10311, 10326.2, and 12102.2 of the Public
34 Contract Code.

35 (l) Sections 4116, 4602.6, 5093.68, and 30171.2 of the Public Resources Code.

36 (m) Sections 4461, 14171.5, 14171.6, and 15634 of the Welfare and Institutions
37 Code.

38 **Comment.** Section 14659 is amended to reflect the recodification of the former Fish and Game
39 Code.

40 **Gov't Code § 15855 (amended).**

41 SEC. ____ . Section 15855 of the Government Code is amended to read:

1 15855. (a) Notwithstanding any other law, except as provided in subdivision (b),
2 the State Public Works Board is the only state agency that may exercise the power
3 of eminent domain to acquire property needed by any state agency for any state
4 purpose or function.

5 (b) Subdivision (a) does not affect or limit the right of the Department of
6 Transportation, High-Speed Rail Authority, Department of Water Resources, State
7 Lands Commission, Central Valley Flood Protection Board, Hastings College of the
8 Law, or the Regents of the University of California to exercise the power of eminent
9 domain. Subdivision (a) does not affect or limit the exercise of the power of eminent
10 domain by the Department of Fish and Wildlife pursuant to Section ~~1348~~ 54815
11 of the Fish and ~~Game~~ Wildlife Code.

12 (c) (1) Any eminent domain proceeding commenced by the State Public Works
13 Board for an acquisition for high-speed train system purposes prior to, and pending
14 after, January 1, 2019, shall be deemed to have been commenced by the High-Speed
15 Rail Authority, and the High-Speed Rail Authority shall be automatically
16 substituted for the State Public Works Board as a party in any such action. All
17 subsequent proceedings shall be in the name of the High-Speed Rail Authority.
18 However, any misnomer not affecting the parties' substantial rights shall be
19 disregarded. The court may order substitution at any time, but the absence of such
20 an order does not affect the substitution.

21 (2) The State Public Works Board shall file with the court and serve on all parties
22 to an action described in paragraph (1) a notice that the High-Speed Rail Authority
23 is automatically substituted in place of the State Public Works Board and is the
24 agency exercising the power of eminent domain on behalf of the state in the action.

25 **Comment.** Section 15855 is amended to reflect the recodification of the former Fish and Game
26 Code.

27 **Gov't Code § 20399 (amended).**

28 SEC. _____. Section 20399 of the Government Code is amended to read:

29 20399. "State safety member," includes persons employed in the Department of
30 Fish and ~~Game~~ Wildlife in connection with its warden service, whose principal
31 duties consist of active law enforcement service, including immediate supervision
32 by persons employed to perform the duties performed under the titles of Chief and
33 Assistant Chief of Warden Service, and Captain of Patrol Boats, except those whose
34 principal duties are those of a telephone operator, clerk, stenographer, machinist,
35 mechanic, assistant fish and game warden, or otherwise clearly do not fall within
36 the scope of active law enforcement service, even though the person is subject to
37 occasional call, or is occasionally called upon, to perform duties within the scope of
38 active law enforcement.

39 **Comment.** Section 20399 is amended to update a reference to the former Department of Fish
40 and Game. See Fish & Wildlife Code § 1500.

1 **Gov't Code § 22013.1 (amended).**

2 SEC. ____ . Section 22013.1 of the Government Code is amended to read:

3 22013.1. "Policeman" as used in this part also includes persons employed in the
4 Department of Fish and ~~Game~~ Wildlife in connection with its warden service, whose
5 principal duties consist of active law enforcement service, including immediate
6 supervision by persons employed to perform the duties now performed under the
7 titles of chief and assistant chief of warden service, and captain of patrol boats for
8 the purposes of Section 218(d)(5)(A) of the Social Security Act.

9 **Comment.** Section 22013.1 is amended to update a reference to the former Department of Fish
10 and Game. See Fish & Wildlife Code § 1500.

11 **Gov't Code § 50060 (amended).**

12 SEC. ____ . Section 50060 of the Government Code is amended to read:

13 50060. As used in this article:

14 (a) "District" means a habitat maintenance assessment district formed pursuant to
15 this article.

16 (b) "Improvement" means one or any combination of the following:

17 (1) The acquisition, construction, or rehabilitation of any facilities needed to
18 create, restore, enhance, or maintain natural habitat.

19 (2) The installation or construction of any facilities which are appurtenant to any
20 facilities in paragraph (1) or which are necessary or convenient for the maintenance
21 or servicing thereof, including, but not limited to, grading, clearing, removal of
22 debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving,
23 or water, irrigation, drainage, or electrical facilities.

24 (3) The installation of habitat improvements, including, but not limited to, any of
25 the following:

26 (A) Land preparation, such as grading, leveling, cutting and filling, sod,
27 landscaping, irrigation systems, sidewalks, and drainage.

28 (B) The maintenance or servicing, or both, of any of the foregoing.

29 (4) The acquisition of land for habitat maintenance purposes.

30 (5) The acquisition of any existing improvement otherwise authorized pursuant to
31 this article.

32 (c) "Incidental expenses" include all of the following:

33 (1) The costs of preparation of the report, including plans, specifications,
34 estimates, diagrams, and assessment.

35 (2) The costs of printing, advertising, and the giving of published, posted, and
36 mailed notices.

37 (3) Compensation payable to the county for collection of assessments.

38 (4) Compensation of any engineer, scientist, or attorney employed to render
39 services in proceedings pursuant to this article. The compensation shall not exceed
40 the estimated amount required to provide the service.

1 (5) Any other expenses incidental to the construction, installation, or maintenance
2 and servicing of the improvements.

3 (6) Any expenses incidental to the issuance of bonds or notes pursuant to Section
4 50068.

5 (7) The costs of biological monitoring and evaluation of collected data related to
6 the establishment or operation of natural habitat.

7 (8) The direct costs incurred by the Department of Fish and ~~Game~~ Wildlife in
8 approving long-term natural habitat maintenance plans pursuant to Section ~~2904~~
9 58080 of the Fish and ~~Game~~ Wildlife Code.

10 (d) “Legislative body” means the city council, board of supervisors, or any other
11 governing body of a local agency.

12 (e) “Local agency” means any city, county, or city and county, whether general
13 law or chartered.

14 (f) “Maintain” or “maintenance” means the furnishing of services and materials
15 for the ordinary and usual maintenance, operation, and servicing of any
16 improvement, including, but not limited to, all of the following:

17 (1) Repair, removal, or replacement of all or any part of any improvement.

18 (2) Providing for the life, growth, health, and beauty of habitat, including
19 cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or
20 injury.

21 (3) The removal of trimmings, rubbish, debris, and other solid waste.

22 (4) The operation and management of natural habitat, including biological
23 monitoring and evaluation of collected data.

24 (5) The conduct of biological activities necessary to sustain the species being
25 protected.

26 **Comment.** Paragraph (8) of subdivision (c) of Section 50060 is amended to reflect the
27 recodification of the former Fish and Game Code. That paragraph is also amended to update a
28 reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

29 **Gov’t Code § 50060.5 (amended).**

30 SEC. ____ . Section 50060.5 of the Government Code is amended to read:

31 50060.5. (a) A local agency may, by ordinance or by resolution adopted after
32 notice and hearing, establish a district to provide for the improvement or
33 maintenance of natural habitat. The local agency may perform those functions or
34 contract with the state, another local agency, or a special district to perform those
35 functions. If a local agency establishes a district, it may provide for the levy of
36 assessments for not more than 30 years to pay the cost and incidental expenses of
37 implementing a long-term natural habitat maintenance plan approved by the
38 Department of Fish and ~~Game~~ Wildlife pursuant to Section ~~2904~~ 58080 of the Fish
39 and ~~Game~~ Wildlife Code. Any assessments levied pursuant to this section shall be
40 levied only in accordance with a plan for the conservation of natural habitat
41 approved by the Department of Fish and ~~Game~~ Wildlife. No plan shall be approved
42 by the Department of Fish and ~~Game~~ Wildlife unless it contains provisions for the

1 recovery of all costs incurred by the department in its review of the plan for the
2 conservation of natural habitat.

3 (b) The legislative body of the local agency establishing a district shall serve as
4 the legislative body of the district.

5 (c) Notwithstanding any other provision of this article, assessments levied
6 pursuant to this article shall not be reduced or terminated if doing so would interfere
7 with the implementation of an approved plan for the conservation of natural habitat.

8 (d) This article applies only to the implementation of a long-term natural habitat
9 maintenance plan by a district, and does not alter, limit, or otherwise affect any other
10 district that has been, or may be, established pursuant to law, including, but not
11 limited to, any other district relating to wildlife habitat.

12 (e) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000,
13 Division 3 (commencing with Section 56000) of Title 5, does not apply to a district
14 formed pursuant to this article.

15 **Comment.** Section 50060.5 is amended to reflect the recodification of the former Fish and Game
16 Code. The section is also amended to update references to the former Department of Fish and Game.
17 See Fish & Wildlife Code § 1500.

18 **Gov't Code § 51201 (amended).**

19 SEC. _____. Section 51201 of the Government Code is amended to read:

20 51201. As used in this chapter, unless otherwise apparent from the context, the
21 following terms have the following meanings:

22 (a) "Agricultural commodity" means any and all plant and animal products
23 produced in this state for commercial purposes, including, but not limited to, plant
24 products used for producing biofuels.

25 (b) "Agricultural use" means use of land, including but not limited to greenhouses,
26 for the purpose of producing an agricultural commodity for commercial purposes.

27 (c) "Prime agricultural land" means any of the following:

28 (1) All land that qualifies for rating as class I or class II in the Natural Resource
29 Conservation Service land use capability classifications.

30 (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

31 (3) Land which supports livestock used for the production of food and fiber and
32 which has an annual carrying capacity equivalent to at least one animal unit per acre
33 as defined by the United States Department of Agriculture.

34 (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which
35 have a nonbearing period of less than five years and which will normally return
36 during the commercial bearing period on an annual basis from the production of
37 unprocessed agricultural plant production not less than two hundred dollars (\$200)
38 per acre.

39 (5) Land which has returned from the production of unprocessed agricultural plant
40 products an annual gross value of not less than two hundred dollars (\$200) per acre
41 for three of the previous five years.

1 (d) “Agricultural preserve” means an area devoted to either agricultural use, as
2 defined in subdivision (b), recreational use as defined in subdivision (n), or open-
3 space use as defined in subdivision (o), or any combination of those uses and which
4 is established in accordance with the provisions of this chapter.

5 (e) “Compatible use” is any use determined by the county or city administering
6 the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be
7 compatible with the agricultural, recreational, or open-space use of land within the
8 preserve and subject to contract. “Compatible use” includes agricultural use,
9 recreational use or open-space use unless the board or council finds after notice and
10 hearing that the use is not compatible with the agricultural, recreational or open-
11 space use to which the land is restricted by contract pursuant to this chapter.

12 (f) “Board” means the board of supervisors of a county which establishes or
13 proposes to establish an agricultural preserve or which enters or proposes to enter
14 into a contract on land within an agricultural preserve pursuant to this chapter.

15 (g) “Council” means the city council of a city which establishes or proposes to
16 establish an agricultural preserve or which enters or proposes to enter into a contract
17 on land within an agricultural preserve pursuant to this chapter.

18 (h) Except where it is otherwise apparent from the context, “county” or “city”
19 means the county or city having jurisdiction over the land.

20 (i) A “scenic highway corridor” is an area adjacent to, and within view of, the
21 right-of-way of:

22 (1) An existing or proposed state scenic highway in the state scenic highway
23 system established by the Legislature pursuant to Article 2.5 (commencing with
24 Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which
25 has been officially designated by the Department of Transportation as an official
26 state scenic highway; or

27 (2) A county scenic highway established pursuant to Article 2.5 (commencing
28 with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if
29 each of the following conditions have been met:

30 (A) The scenic highway is included in an adopted general plan of the county or
31 city; and

32 (B) The scenic highway corridor is included in an adopted specific plan of the
33 county or city; and

34 (C) Specific proposals for implementing the plan, including regulation of land
35 use, have been approved by the Advisory Committee on a Master Plan for Scenic
36 Highways, and the county or city highway has been officially designated by the
37 Department of Transportation as an official county scenic highway.

38 (j) A “wildlife habitat area” is a land or water area designated by a board or
39 council, after consulting with and considering the recommendation of the
40 Department of Fish and ~~Game~~ Wildlife, as an area of importance for the protection
41 or enhancement of the wildlife resources of the state.

42 (k) A “saltpond” is an area which, for at least three consecutive years immediately
43 prior to being placed within an agricultural preserve pursuant to this chapter, has

1 been used for the solar evaporation of seawater in the course of salt production for
2 commercial purposes.

3 (l) A “managed wetland area” is an area, which may be an area diked off from the
4 ocean or any bay, river or stream to which water is occasionally admitted, and
5 which, for at least three consecutive years immediately prior to being placed within
6 an agricultural preserve pursuant to this chapter, was used and maintained as a
7 waterfowl hunting preserve or game refuge or for agricultural purposes.

8 (m) A “submerged area” is any land determined by the board or council to be
9 submerged or subject to tidal action and found by the board or council to be of great
10 value to the state as open space.

11 (n) “Recreational use” is the use of land in its agricultural or natural state by the
12 public, with or without charge, for any of the following: walking, hiking, picnicking,
13 camping, swimming, boating, fishing, hunting, or other outdoor games or sports for
14 which facilities are provided for public participation. Any fee charged for the
15 recreational use of land as defined in this subdivision shall be in a reasonable amount
16 and shall not have the effect of unduly limiting its use by the public. Any ancillary
17 structures necessary for a recreational use shall comply with the provisions of
18 Section 51238.1.

19 (o) “Open-space use” is the use or maintenance of land in a manner that preserves
20 its natural characteristics, beauty, or openness for the benefit and enjoyment of the
21 public, to provide habitat for wildlife, or for the solar evaporation of seawater in the
22 course of salt production for commercial purposes, if the land is within:

23 (1) A scenic highway corridor, as defined in subdivision (i).

24 (2) A wildlife habitat area, as defined in subdivision (j).

25 (3) A saltpond, as defined in subdivision (k).

26 (4) A managed wetland area, as defined in subdivision (l).

27 (5) A submerged area, as defined in subdivision (m).

28 (6) An area enrolled in the United States Department of Agriculture Conservation
29 Reserve Program or Conservation Reserve Enhancement Program.

30 (p) “Development” means, as used in Section 51223, the construction of buildings
31 or the use of the restricted property if the buildings or use are unrelated to the
32 agricultural use, the open-space use, or uses compatible with either agricultural or
33 open-space uses of the property, or substantially impair the agricultural, open-space,
34 or a combination of the agricultural and open-space uses of the property.
35 Agricultural use, open-space use, uses compatible with either agricultural or open-
36 space uses, or the acquisition of land or an interest in land are not development.

37 **Comment.** Section 51201 is amended to update a reference to the former Department of Fish
38 and Game. See Fish & Wildlife Code § 1500.

39 **Gov’t Code § 65303.4 (amended).**

40 SEC. ____ . Section 65303.4 of the Government Code is amended to read:

1 65303.4. The Department of Water Resources or the Central Valley Flood
2 Protection Board, as appropriate, and the Department of Fish and ~~Game~~ Wildlife
3 may develop site design and planning policies to assist local agencies which request
4 help in implementing the general plan guidelines for meeting flood control
5 objectives and other land management needs.

6 **Comment.** Section 65303.4 is amended to update a reference to the former Department of Fish
7 and Game. See Fish & Wildlife Code § 1500.

8 **Gov't Code § 65913.4 (amended).**

9 SEC. _____. Section 65913.4 of the Government Code is amended to read:

10 65913.4. (a) A development proponent may submit an application for a
11 development that is subject to the streamlined, ministerial approval process
12 provided by subdivision (b) and is not subject to a conditional use permit if the
13 development satisfies all of the following objective planning standards:

14 (1) The development is a multifamily housing development that contains two or
15 more residential units.

16 (2) The development is located on a site that satisfies all of the following:

17 (A) A site that is a legal parcel or parcels located in a city if, and only if, the city
18 boundaries include some portion of either an urbanized area or urban cluster, as
19 designated by the United States Census Bureau, or, for unincorporated areas, a legal
20 parcel or parcels wholly within the boundaries of an urbanized area or urban cluster,
21 as designated by the United States Census Bureau.

22 (B) A site in which at least 75 percent of the perimeter of the site adjoins parcels
23 that are developed with urban uses. For the purposes of this section, parcels that are
24 only separated by a street or highway shall be considered to be adjoined.

25 (C) A site that is zoned for residential use or residential mixed-use development,
26 or has a general plan designation that allows residential use or a mix of residential
27 and nonresidential uses, with at least two-thirds of the square footage of the
28 development designated for residential use.

29 (3) (A) The development proponent has committed to record, prior to the issuance
30 of the first building permit, a land use restriction or covenant providing that any
31 lower income housing units required pursuant to subparagraph (B) of paragraph (4)
32 shall remain available at affordable housing costs or rent to persons and families of
33 lower income for no less than the following periods of time:

34 (i) Fifty-five years for units that are rented.

35 (ii) Forty-five years for units that are owned.

36 (B) The city or county shall require the recording of covenants or restrictions
37 implementing this paragraph for each parcel or unit of real property included in the
38 development.

39 (4) The development satisfies both of the following:

40 (A) Is located in a locality that the department has determined is subject to this
41 subparagraph on the basis that the number of units that have been issued building
42 permits is less than the locality's share of the regional housing needs, by income

1 category, for that reporting period. A locality shall remain eligible under this
2 subparagraph until the department’s determination for the next reporting period.

3 (B) The development is subject to a requirement mandating a minimum
4 percentage of below market rate housing based on one of the following:

5 (i) The locality did not submit its latest production report to the department by the
6 time period required by Section 65400, or that production report reflects that there
7 were fewer units of above moderate-income housing issued building permits than
8 were required for the regional housing needs assessment cycle for that reporting
9 period. In addition, if the project contains more than 10 units of housing, the project
10 seeking approval dedicates a minimum of 10 percent of the total number of units to
11 housing affordable to households making below 80 percent of the area median
12 income. If the locality has adopted a local ordinance that requires that greater than
13 10 percent of the units be dedicated to housing affordable to households making
14 below 80 percent of the area median income, that local ordinance applies.

15 (ii) The locality’s latest production report reflects that there were fewer units of
16 housing issued building permits affordable to either very low income or low-income
17 households by income category than were required for the regional housing needs
18 assessment cycle for that reporting period, and the project seeking approval
19 dedicates 50 percent of the total number of units to housing affordable to households
20 making below 80 percent of the area median income, unless the locality has adopted
21 a local ordinance that requires that greater than 50 percent of the units be dedicated
22 to housing affordable to households making below 80 percent of the area median
23 income, in which case that local ordinance applies.

24 (iii) The locality did not submit its latest production report to the department by
25 the time period required by Section 65400, or if the production report reflects that
26 there were fewer units of housing affordable to both income levels described in
27 clauses (i) and (ii) that were issued building permits than were required for the
28 regional housing needs assessment cycle for that reporting period, the project
29 seeking approval may choose between utilizing clause (i) or (ii).

30 (5) The development, excluding any additional density or any other concessions,
31 incentives, or waivers of development standards granted pursuant to the Density
32 Bonus Law in Section 65915, is consistent with objective zoning standards,
33 objective subdivision standards, and objective design review standards in effect at
34 the time that the development is submitted to the local government pursuant to this
35 section. For purposes of this paragraph, “objective zoning standards,” “objective
36 subdivision standards,” and “objective design review standards” mean standards
37 that involve no personal or subjective judgment by a public official and are
38 uniformly verifiable by reference to an external and uniform benchmark or criterion
39 available and knowable by both the development applicant or proponent and the
40 public official before submittal. These standards may be embodied in alternative
41 objective land use specifications adopted by a city or county, and may include, but

1 are not limited to, housing overlay zones, specific plans, inclusionary zoning
2 ordinances, and density bonus ordinances, subject to the following:

3 (A) A development shall be deemed consistent with the objective zoning
4 standards related to housing density, as applicable, if the density proposed is
5 compliant with the maximum density allowed within that land use designation,
6 notwithstanding any specified maximum unit allocation that may result in fewer
7 units of housing being permitted.

8 (B) In the event that objective zoning, general plan, subdivision, or design review
9 standards are mutually inconsistent, a development shall be deemed consistent with
10 the objective zoning and subdivision standards pursuant to this subdivision if the
11 development is consistent with the standards set forth in the general plan.

12 (C) The amendments to this subdivision made by the act adding this subparagraph
13 do not constitute a change in, but are declaratory of, existing law.

14 (6) The development is not located on a site that is any of the following:

15 (A) A coastal zone, as defined in Division 20 (commencing with Section 30000)
16 of the Public Resources Code.

17 (B) Either prime farmland or farmland of statewide importance, as defined
18 pursuant to United States Department of Agriculture land inventory and monitoring
19 criteria, as modified for California, and designated on the maps prepared by the
20 Farmland Mapping and Monitoring Program of the Department of Conservation, or
21 land zoned or designated for agricultural protection or preservation by a local ballot
22 measure that was approved by the voters of that jurisdiction.

23 (C) Wetlands, as defined in the United States Fish and Wildlife Service Manual,
24 Part 660 FW 2 (June 21, 1993).

25 (D) Within a very high fire hazard severity zone, as determined by the Department
26 of Forestry and Fire Protection pursuant to Section 51178, or within a high or very
27 high fire hazard severity zone as indicated on maps adopted by the Department of
28 Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
29 This subparagraph does not apply to sites excluded from the specified hazard zones
30 by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have
31 adopted fire hazard mitigation measures pursuant to existing building standards or
32 state fire mitigation measures applicable to the development.

33 (E) A hazardous waste site that is listed pursuant to Section 65962.5 or a
34 hazardous waste site designated by the Department of Toxic Substances Control
35 pursuant to Section 25356 of the Health and Safety Code, unless the Department of
36 Toxic Substances Control has cleared the site for residential use or residential mixed
37 uses.

38 (F) Within a delineated earthquake fault zone as determined by the State
39 Geologist in any official maps published by the State Geologist, unless the
40 development complies with applicable seismic protection building code standards
41 adopted by the California Building Standards Commission under the California
42 Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13

1 of the Health and Safety Code), and by any local building department under Chapter
2 12.2 (commencing with Section 8875) of Division 1 of Title 2.

3 (G) Within a special flood hazard area subject to inundation by the 1 percent
4 annual chance flood (100-year flood) as determined by the Federal Emergency
5 Management Agency in any official maps published by the Federal Emergency
6 Management Agency. If a development proponent is able to satisfy all applicable
7 federal qualifying criteria in order to provide that the site satisfies this subparagraph
8 and is otherwise eligible for streamlined approval under this section, a local
9 government shall not deny the application on the basis that the development
10 proponent did not comply with any additional permit requirement, standard, or
11 action adopted by that local government that is applicable to that site. A
12 development may be located on a site described in this subparagraph if either of the
13 following are met:

14 (i) The site has been subject to a Letter of Map Revision prepared by the Federal
15 Emergency Management Agency and issued to the local jurisdiction.

16 (ii) The site meets Federal Emergency Management Agency requirements
17 necessary to meet minimum flood plain management criteria of the National Flood
18 Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60
19 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
20 Code of Federal Regulations.

21 (H) Within a regulatory floodway as determined by the Federal Emergency
22 Management Agency in any official maps published by the Federal Emergency
23 Management Agency, unless the development has received a no-rise certification in
24 accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
25 If a development proponent is able to satisfy all applicable federal qualifying criteria
26 in order to provide that the site satisfies this subparagraph and is otherwise eligible
27 for streamlined approval under this section, a local government shall not deny the
28 application on the basis that the development proponent did not comply with any
29 additional permit requirement, standard, or action adopted by that local government
30 that is applicable to that site.

31 (I) Lands identified for conservation in an adopted natural community
32 conservation plan pursuant to the Natural Community Conservation Planning Act
33 (~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
34 with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code),
35 habitat conservation plan pursuant to the federal Endangered Species Act of 1973
36 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

37 (J) Habitat for protected species identified as candidate, sensitive, or species of
38 special status by state or federal agencies, fully protected species, or species
39 protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
40 seq.), the California Endangered Species Act (~~Chapter 1.5 (commencing with~~
41 ~~Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division~~
42 17 of the Fish and Game Wildlife Code), or the Native Plant Protection Act (~~Chapter~~

1 ~~10 (commencing with Section 1900) of Division 2 Title 1 (commencing with~~
2 ~~Section 53800) of Part 3 of Division 14 of the Fish and Game Wildlife Code).~~

3 (K) Lands under conservation easement.

4 (7) The development is not located on a site where any of the following apply:

5 (A) The development would require the demolition of the following types of
6 housing:

7 (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts
8 rents to levels affordable to persons and families of moderate, low, or very low
9 income.

10 (ii) Housing that is subject to any form of rent or price control through a public
11 entity's valid exercise of its police power.

12 (iii) Housing that has been occupied by tenants within the past 10 years.

13 (B) The site was previously used for housing that was occupied by tenants that
14 was demolished within 10 years before the development proponent submits an
15 application under this section.

16 (C) The development would require the demolition of a historic structure that was
17 placed on a national, state, or local historic register.

18 (D) The property contains housing units that are occupied by tenants, and units at
19 the property are, or were, subsequently offered for sale to the general public by the
20 subdivider or subsequent owner of the property.

21 (8) The development proponent has done both of the following, as applicable:

22 (A) Certified to the locality that either of the following is true, as applicable:

23 (i) The entirety of the development is a public work for purposes of Chapter 1
24 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

25 (ii) If the development is not in its entirety a public work, that all construction
26 workers employed in the execution of the development will be paid at least the
27 general prevailing rate of per diem wages for the type of work and geographic area,
28 as determined by the Director of Industrial Relations pursuant to Sections 1773 and
29 1773.9 of the Labor Code, except that apprentices registered in programs approved
30 by the Chief of the Division of Apprenticeship Standards may be paid at least the
31 applicable apprentice prevailing rate. If the development is subject to this
32 subparagraph, then for those portions of the development that are not a public work
33 all of the following shall apply:

34 (I) The development proponent shall ensure that the prevailing wage requirement
35 is included in all contracts for the performance of the work.

36 (II) All contractors and subcontractors shall pay to all construction workers
37 employed in the execution of the work at least the general prevailing rate of per
38 diem wages, except that apprentices registered in programs approved by the Chief
39 of the Division of Apprenticeship Standards may be paid at least the applicable
40 apprentice prevailing rate.

41 (III) Except as provided in subclause (V), all contractors and subcontractors shall
42 maintain and verify payroll records pursuant to Section 1776 of the Labor Code and
43 make those records available for inspection and copying as provided therein.

1 (IV) Except as provided in subclause (V), the obligation of the contractors and
2 subcontractors to pay prevailing wages may be enforced by the Labor
3 Commissioner through the issuance of a civil wage and penalty assessment pursuant
4 to Section 1741 of the Labor Code, which may be reviewed pursuant to Section
5 1742 of the Labor Code, within 18 months after the completion of the development,
6 by an underpaid worker through an administrative complaint or civil action, or by a
7 joint labor-management committee through a civil action under Section 1771.2 of
8 the Labor Code. If a civil wage and penalty assessment is issued, the contractor,
9 subcontractor, and surety on a bond or bonds issued to secure the payment of wages
10 covered by the assessment shall be liable for liquidated damages pursuant to Section
11 1742.1 of the Labor Code.

12 (V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors
13 performing work on the development are subject to a project labor agreement that
14 requires the payment of prevailing wages to all construction workers employed in
15 the execution of the development and provides for enforcement of that obligation
16 through an arbitration procedure. For purposes of this clause, “project labor
17 agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of
18 Section 2500 of the Public Contract Code.

19 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
20 requirement that employer payments not reduce the obligation to pay the hourly
21 straight time or overtime wages found to be prevailing shall not apply if otherwise
22 provided in a bona fide collective bargaining agreement covering the worker. The
23 requirement to pay at least the general prevailing rate of per diem wages does not
24 preclude use of an alternative workweek schedule adopted pursuant to Section 511
25 or 514 of the Labor Code.

26 (B) (i) For developments for which any of the following conditions apply,
27 certified that a skilled and trained workforce shall be used to complete the
28 development if the application is approved:

29 (I) On and after January 1, 2018, until December 31, 2021, the development
30 consists of 75 or more units with a residential component that is not 100 percent
31 subsidized affordable housing and will be located within a jurisdiction located in a
32 coastal or bay county with a population of 225,000 or more.

33 (II) On and after January 1, 2022, until December 31, 2025, the development
34 consists of 50 or more units with a residential component that is not 100 percent
35 subsidized affordable housing and will be located within a jurisdiction located in a
36 coastal or bay county with a population of 225,000 or more.

37 (III) On and after January 1, 2018, until December 31, 2019, the development
38 consists of 75 or more units with a residential component that is not 100 percent
39 subsidized affordable housing and will be located within a jurisdiction with a
40 population of fewer than 550,000 and that is not located in a coastal or bay county.

41 (IV) On and after January 1, 2020, until December 31, 2021, the development
42 consists of more than 50 units with a residential component that is not 100 percent

1 subsidized affordable housing and will be located within a jurisdiction with a
2 population of fewer than 550,000 and that is not located in a coastal or bay county.

3 (V) On and after January 1, 2022, until December 31, 2025, the development
4 consists of more than 25 units with a residential component that is not 100 percent
5 subsidized affordable housing and will be located within a jurisdiction with a
6 population of fewer than 550,000 and that is not located in a coastal or bay county.

7 (ii) For purposes of this section, “skilled and trained workforce” has the same
8 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
9 Division 2 of the Public Contract Code.

10 (iii) If the development proponent has certified that a skilled and trained
11 workforce will be used to complete the development and the application is
12 approved, the following shall apply:

13 (I) The applicant shall require in all contracts for the performance of work that
14 every contractor and subcontractor at every tier will individually use a skilled and
15 trained workforce to complete the development.

16 (II) Every contractor and subcontractor shall use a skilled and trained workforce
17 to complete the development.

18 (III) Except as provided in subclause (IV), the applicant shall provide to the
19 locality, on a monthly basis while the development or contract is being performed,
20 a report demonstrating compliance with Chapter 2.9 (commencing with Section
21 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report
22 provided to the locality pursuant to this subclause shall be a public record under the
23 California Public Records Act (Chapter 3.5 (commencing with Section 6250) of
24 Division 7 of Title 1) and shall be open to public inspection. An applicant that fails
25 to provide a monthly report demonstrating compliance with Chapter 2.9
26 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code
27 shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for
28 each month for which the report has not been provided. Any contractor or
29 subcontractor that fails to use a skilled and trained workforce shall be subject to a
30 civil penalty of two hundred dollars (\$200) per day for each worker employed in
31 contravention of the skilled and trained workforce requirement. Penalties may be
32 assessed by the Labor Commissioner within 18 months of completion of the
33 development using the same procedures for issuance of civil wage and penalty
34 assessments pursuant to Section 1741 of the Labor Code, and may be reviewed
35 pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall
36 be paid to the State Public Works Enforcement Fund.

37 (IV) Subclause (III) shall not apply if all contractors and subcontractors
38 performing work on the development are subject to a project labor agreement that
39 requires compliance with the skilled and trained workforce requirement and
40 provides for enforcement of that obligation through an arbitration procedure. For
41 purposes of this subparagraph, “project labor agreement” has the same meaning as
42 set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract
43 Code.

1 (C) Notwithstanding subparagraphs (A) and (B), a development that is subject to
2 approval pursuant to this section is exempt from any requirement to pay prevailing
3 wages or use a skilled and trained workforce if it meets both of the following:

4 (i) The project includes 10 or fewer units.

5 (ii) The project is not a public work for purposes of Chapter 1 (commencing with
6 Section 1720) of Part 7 of Division 2 of the Labor Code.

7 (9) The development did not or does not involve a subdivision of a parcel that is,
8 or, notwithstanding this section, would otherwise be, subject to the Subdivision Map
9 Act (Division 2 (commencing with Section 66410)) or any other applicable law
10 authorizing the subdivision of land, unless the development is consistent with all
11 objective subdivision standards in the local subdivision ordinance, and either of the
12 following apply:

13 (A) The development has received or will receive financing or funding by means
14 of a low-income housing tax credit and is subject to the requirement that prevailing
15 wages be paid pursuant to subparagraph (A) of paragraph (8).

16 (B) The development is subject to the requirement that prevailing wages be paid,
17 and a skilled and trained workforce used, pursuant to paragraph (8).

18 (10) The development shall not be upon an existing parcel of land or site that is
19 governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with
20 Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational
21 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of
22 Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part
23 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety
24 Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section
25 18860) of Division 13 of the Health and Safety Code).

26 (b) (1) If a local government determines that a development submitted pursuant
27 to this section is in conflict with any of the objective planning standards specified
28 in subdivision (a), it shall provide the development proponent written
29 documentation of which standard or standards the development conflicts with, and
30 an explanation for the reason or reasons the development conflicts with that standard
31 or standards, as follows:

32 (A) Within 60 days of submittal of the development to the local government
33 pursuant to this section if the development contains 150 or fewer housing units.

34 (B) Within 90 days of submittal of the development to the local government
35 pursuant to this section if the development contains more than 150 housing units.

36 (2) If the local government fails to provide the required documentation pursuant
37 to paragraph (1), the development shall be deemed to satisfy the objective planning
38 standards specified in subdivision (a).

39 (c) (1) Any design review or public oversight of the development may be
40 conducted by the local government's planning commission or any equivalent board
41 or commission responsible for review and approval of development projects, or the
42 city council or board of supervisors, as appropriate. That design review or public

1 oversight shall be objective and be strictly focused on assessing compliance with
2 criteria required for streamlined projects, as well as any reasonable objective design
3 standards published and adopted by ordinance or resolution by a local jurisdiction
4 before submission of a development application, and shall be broadly applicable to
5 development within the jurisdiction. That design review or public oversight shall be
6 completed as follows and shall not in any way inhibit, chill, or preclude the
7 ministerial approval provided by this section or its effect, as applicable:

8 (A) Within 90 days of submittal of the development to the local government
9 pursuant to this section if the development contains 150 or fewer housing units.

10 (B) Within 180 days of submittal of the development to the local government
11 pursuant to this section if the development contains more than 150 housing units.

12 (2) If the development is consistent with the requirements of subparagraph (A) or
13 (B) of paragraph (9) of subdivision (a) and is consistent with all objective
14 subdivision standards in the local subdivision ordinance, an application for a
15 subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with
16 Section 66410)) shall be exempt from the requirements of the California
17 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
18 Public Resources Code) and shall be subject to the public oversight timelines set
19 forth in paragraph (1).

20 (d) (1) Notwithstanding any other law, a local government, whether or not it has
21 adopted an ordinance governing automobile parking requirements in multifamily
22 developments, shall not impose automobile parking standards for a streamlined
23 development that was approved pursuant to this section in any of the following
24 instances:

25 (A) The development is located within one-half mile of public transit.

26 (B) The development is located within an architecturally and historically
27 significant historic district.

28 (C) When on-street parking permits are required but not offered to the occupants
29 of the development.

30 (D) When there is a car share vehicle located within one block of the development.

31 (2) If the development does not fall within any of the categories described in
32 paragraph (1), the local government shall not impose automobile parking
33 requirements for streamlined developments approved pursuant to this section that
34 exceed one parking space per unit.

35 (e) (1) If a local government approves a development pursuant to this section,
36 then, notwithstanding any other law, that approval shall not expire if the project
37 includes public investment in housing affordability, beyond tax credits, where 50
38 percent of the units are affordable to households making below 80 percent of the
39 area median income.

40 (2) If a local government approves a development pursuant to this section and the
41 project does not include 50 percent of the units affordable to households making
42 below 80 percent of the area median income, that approval shall automatically
43 expire after three years except that a project may receive a one-time, one-year

1 extension if the project proponent can provide documentation that there has been
2 significant progress toward getting the development construction ready, such as
3 filing a building permit application.

4 (3) If a local government approves a development pursuant to this section, that
5 approval shall remain valid for three years from the date of the final action
6 establishing that approval and shall remain valid thereafter for a project so long as
7 vertical construction of the development has begun and is in progress. Additionally,
8 the development proponent may request, and the local government shall have
9 discretion to grant, an additional one-year extension to the original three-year
10 period. The local government’s action and discretion in determining whether to
11 grant the foregoing extension shall be limited to considerations and process set forth
12 in this section.

13 (f) A local government shall not adopt any requirement, including, but not limited
14 to, increased fees or inclusionary housing requirements, that applies to a project
15 solely or partially on the basis that the project is eligible to receive ministerial or
16 streamlined approval pursuant to this section.

17 (g) This section shall not affect a development proponent’s ability to use any
18 alternative streamlined by right permit processing adopted by a local government,
19 including the provisions of subdivision (i) of Section 65583.2.

20 (h) The California Environmental Quality Act (Division 13 (commencing with
21 Section 21000) of the Public Resources Code) does not apply to actions taken by a
22 state agency or local government to lease, convey, or encumber land owned by the
23 local government or to facilitate the lease, conveyance, or encumbrance of land
24 owned by the local government, or to provide financial assistance to a development
25 that receives streamlined approval pursuant to this section that is to be used for
26 housing for persons and families of very low, low, or moderate income, as defined
27 in Section 50093 of the Health and Safety Code.

28 (i) For purposes of this section, the following terms have the following meanings:

29 (1) “Affordable housing cost” has the same meaning as set forth in Section
30 50052.5 of the Health and Safety Code.

31 (2) “Affordable rent” has the same meaning as set forth in Section 50053 of the
32 Health and Safety Code.

33 (3) “Department” means the Department of Housing and Community
34 Development.

35 (4) “Development proponent” means the developer who submits an application
36 for streamlined approval pursuant to this section.

37 (5) “Completed entitlements” means a housing development which has received
38 all the required land use approvals or entitlements necessary for the issuance of a
39 building permit.

40 (6) “Locality” or “local government” means a city, including a charter city, a
41 county, including a charter county, or a city and county, including a charter city and
42 county.

1 (7) “Production report” means the information reported pursuant to subparagraph
2 (H) of paragraph (2) of subdivision (a) of Section 65400.

3 (8) “State agency” includes every state office, officer, department, division,
4 bureau, board, and commission, but does not include the California State University
5 or the University of California.

6 (9) “Subsidized” means units that are price or rent restricted such that the units
7 are permanently affordable to households meeting the definitions of very low and
8 lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety
9 Code.

10 (10) “Reporting period” means either of the following:

11 (A) The first half of the regional housing needs assessment cycle.

12 (B) The last half of the regional housing needs assessment cycle.

13 (11) “Urban uses” means any current or former residential, commercial, public
14 institutional, transit or transportation passenger facility, or retail use, or any
15 combination of those uses.

16 (j) The department may review, adopt, amend, and repeal guidelines to implement
17 uniform standards or criteria that supplement or clarify the terms, references, or
18 standards set forth in this section. Any guidelines or terms adopted pursuant to this
19 subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340)
20 of Part 1 of Division 3 of Title 2 of the Government Code.

21 (k) The determination of whether an application for a development is subject to
22 the streamlined ministerial approval process provided by subdivision (b) is not a
23 “project” as defined in Section 21065 of the Public Resources Code.

24 (l) It is the policy of the state that this section be interpreted and implemented in
25 a manner to afford the fullest possible weight to the interest of, and the approval and
26 provision of, increased housing supply.

27 (m) This section shall remain in effect only until January 1, 2026, and as of that
28 date is repealed.

29 **Comment.** Subparagraphs (I) and (J) of paragraph (6) of subdivision (a) of Section 65913.4 are
30 amended to reflect the recodification of the former Fish and Game Code.

31 **Gov’t Code § 65966 (amended).**

32 SEC. _____. Section 65966 of the Government Code is amended to read:

33 65966. (a) Any conservation easement created as a component of satisfying a local
34 or state mitigation requirement shall be perpetual in duration, whether created
35 pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1
36 of Title 5 of this code or Chapter 4 (commencing with Section 815) of Title 2 of
37 Part 2 of the Civil Code.

38 (b) Any local or state agency that requires property to be protected pursuant to
39 subdivision (a) or (b) of Section 65967 may identify how the funding needs of the
40 long-term stewardship of the property will be met. Nothing in this chapter shall be
41 construed as otherwise precluding other methods of funding for the long-term

1 stewardship of the property. If an endowment is conveyed or secured at the time the
2 property is protected, all of the following shall apply:

3 (1) The endowment shall be held, managed, invested, and disbursed solely for,
4 and permanently restricted to, the long-term stewardship of the specific property for
5 which the funds were set aside.

6 (2) The endowment shall be calculated to include a principal amount that, when
7 managed and invested, is reasonably anticipated to cover the annual stewardship
8 costs of the property in perpetuity.

9 (3) The endowment shall be held, managed, invested, disbursed, and governed as
10 described in subdivision (a) of Section 65965 consistent with the Uniform Prudent
11 Management of Institutional Funds Act (Part 7 (commencing with Section 18501)
12 of Division 9 of the Probate Code).

13 (c) If a nonprofit corporation holds the endowment, the nonprofit shall utilize
14 generally accepted accounting practices that are promulgated by the Financial
15 Accounting Standards Board or any successor entity.

16 (d) If a local agency holds the endowment, the local agency shall do all of the
17 following:

18 (1) Hold, manage, and invest the endowment consistent with subdivision (b) to
19 the extent allowed by law.

20 (2) Disburse funds on a timely basis to meet the stewardship expenses of the entity
21 holding the property.

22 (3) Utilize accounting standards consistent with standards promulgated by the
23 Governmental Accounting Standards Board or any successor entity.

24 (e)(1) Unless the mitigation agreement provides that another person or entity shall
25 prepare the annual fiscal report described below, a governmental entity, community
26 foundation, special district, a congressionally chartered foundation, or a nonprofit
27 organization that holds funds pursuant to this chapter, including an endowment or
28 moneys for initial stewardship costs, shall provide the local or state agency that
29 required the endowment with an annual fiscal report that contains at least the
30 following elements with respect to each individual endowment dedicated and held
31 by that entity:

32 (A) The balance of each individual endowment at the beginning of the reporting
33 period.

34 (B) The amount of any contribution to the endowment during the reporting period
35 including, but not limited to, gifts, grants, and contributions received.

36 (C) The net amounts of investment earnings, gains, and losses during the reporting
37 period, including both realized and unrealized amounts.

38 (D) The amounts distributed during the reporting period that accomplish the
39 purpose for which the endowment was established.

40 (E) The administrative expenses charged to the endowment from internal or third-
41 party sources during the reporting period.

42 (F) The balance of the endowment or other fund at the end of the reporting period.

1 (G) The specific asset allocation percentages including, but not limited to, cash,
2 fixed income, equities, and alternative investments.

3 (H) The most recent financial statements for the organization audited by an
4 independent auditor who is, at a minimum, a certified public accountant.

5 (2) If an entity is required to submit an identical annual fiscal report pursuant to
6 paragraph (1) to the Department of Fish and ~~Game~~ Wildlife and any other state or
7 local agency, then that report shall be provided only to the Department of Fish and
8 ~~Game~~ Wildlife. In that instance, the Department of Fish and ~~Game~~ Wildlife shall
9 provide a copy of that annual fiscal report on its Internet Web site for a minimum
10 of five years.

11 (f) If a state agency authorizes a governmental entity, special district, or nonprofit
12 organization to hold property pursuant to subdivision (a) or (b) of Section 65967 in
13 connection with a development project, the agency may require the project
14 proponent to pay a one-time fee that does not exceed the reasonable costs of the
15 agency in reviewing qualifications of potential holders of the property and
16 approving those holders. This one-time fee shall be collected only if the agency can
17 demonstrate its actual review of qualifications and approval of holders.

18 (g) If a local agency authorizes a governmental entity, special district, or nonprofit
19 organization to hold property or an endowment pursuant to this chapter, the agency
20 may require the project proponent to pay a one-time fee that does not exceed the
21 reasonable costs of the agency in reviewing qualifications of the parties identified
22 in the mitigation agreement, approving those parties, and any regular oversight over
23 those parties to ensure that the parties are complying with all applicable laws. This
24 one-time fee shall be collected only if the agency can demonstrate its actual review
25 of qualifications, approval of parties, or regular oversight of compliance and
26 performance.

27 (h) A local agency may require a project proponent to provide a one-time payment
28 that will provide for the initial stewardship costs for up to three years while the
29 endowment begins to accumulate investment earnings. The funds for the initial
30 stewardship costs are distinct from the funds that may be conveyed for long-term
31 stewardship, construction, or other costs. If there are funds remaining at the
32 completion of the initial stewardship period, the funds shall be conveyed to the
33 project proponent.

34 (i) The local agency may contract with or designate a qualified third party to do
35 any of the following:

36 (1) Review the qualifications of a governmental entity, special district, or
37 nonprofit organization to effectively manage and steward natural land or resources
38 pursuant to subdivision (c) of Section 65967.

39 (2) Review the qualifications of a governmental entity, community foundation, or
40 nonprofit organization to hold and manage the endowment that is set aside for long-
41 term stewardship of the property.

42 (3) Review reports or other performance indicators to evaluate the stewardship of
43 lands, natural resources, or funds, and compliance with the mitigation agreement.

1 (j) If a property conserved pursuant to subdivision (a) or (b) of Section 65967 is
2 condemned, the net proceeds from the condemnation of the real property interest set
3 aside for mitigation purposes shall be used for the purchase of property that replaces
4 the natural resource characteristics the original mitigation was intended to protect,
5 or as near as reasonably feasible. Any endowment held for the condemned property
6 shall be held for the long-term stewardship of the replacement property.

7 (k) Unless prohibited by law, no provision in this chapter is intended to prohibit
8 for-profit entities from holding, acquiring, or providing property for mitigation
9 purposes.

10 (l) Nothing in this section shall prohibit a state agency from exercising any powers
11 described in subdivision (d), (g), or (h).

12 (m) A governmental entity, special district, or nonprofit organization may contract
13 with a community foundation or congressionally chartered foundation at any time
14 to hold, manage, and invest the endowment for a mitigation property and disburse
15 payments from the endowment to the holder of the mitigation property consistent
16 with the fund agreement.

17 (n) Except as expressly authorized in paragraph (1) of subdivision (e), the
18 mitigation agreement shall not include any provision to waive or exempt the parties
19 from any requirement, in whole or part, of this chapter.

20 (o) Subdivisions (b) to (e), inclusive, shall not apply to funds, including funds
21 from mitigation fees, held for the long-term management and stewardship of
22 property pursuant to either an interim or approved habitat conservation plan
23 pursuant to Chapter 35 (commencing with Section 1531) of Title 16 of the United
24 States Code or an interim or approved natural community conservation plan
25 pursuant to ~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2
26 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game
27 Wildlife Code, if, in the interim or approved plan documents, the permitting agency
28 determines the endowment to be established with those funds will be adequate and
29 provides a schedule for funding the endowment.

30 **Comment.** Subdivision (o) of Section 65966 is amended to reflect the recodification of the
31 former Fish and Game Code. The section is also amended to update references to the former
32 Department of Fish and Game. See Fish & Wildlife Code § 1500.

33 **Gov't Code § 65968 (amended).**

34 SEC. _____. Section 65968 of the Government Code is amended to read:

35 65968. (a) Notwithstanding Section ~~13014~~ Title 2 (commencing with Section
36 58050) of Part 3 of Division 15 of the Fish and Game Wildlife Code, if an
37 endowment is conveyed pursuant to Section 65966 for property conveyed pursuant
38 to Section 65967, the endowment may be held by the same governmental entity,
39 special district, or nonprofit organization that holds the property pursuant to this
40 section.

41 (b)(1) Except as permitted pursuant to paragraph (2), the endowment shall be held
42 by one of the following:

1 (A) The agency or agencies that required the mitigation.

2 (B) The governmental entity, special district, or nonprofit organization that either
3 holds the property, or holds an interest in the property, for conservation purposes.

4 (C) The governmental entity or special district that retains the property after
5 conveying an interest in the property for conservation purposes if that governmental
6 entity or special district is protecting, restoring, or enhancing the property that was
7 retained.

8 (2) The exceptions to paragraph (1) are the following:

9 (A) An endowment that is held by an entity other than the state or holder of the
10 mitigation property as of January 1, 2012.

11 (B) An endowment that is held by another entity, which is qualified pursuant to
12 this chapter, pursuant to the terms of a natural community conservation plan
13 (~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
14 with Section 64500) of Part 2 of Division 17 of the Fish and ~~Game Wildlife~~ Code)
15 or a safe harbor agreement (~~Article 3.7 (commencing with Section 2089.2) of~~
16 ~~Chapter 1.5 of Division 3~~ Title 5 (commencing with Section 63900) of Part 1 of
17 Division 17 of the Fish and ~~Game Wildlife~~ Code). In order for this paragraph to
18 apply, prior to setting aside any endowments, the implementation agreement that is
19 a part of an approved natural community conservation plan, the planning agreement
20 for any natural community conservation plan that has not yet been approved, or the
21 safe harbor agreement shall specifically address the arrangements for the
22 endowment including, but not limited to, qualifications of the endowment holder,
23 capitalization rate, return objectives, and the spending rule and disbursement
24 policies.

25 (C) If existing law prohibits the holder of the mitigation property to hold the
26 endowment, including for-profit entities.

27 (D) If the project proponent and the holder of the mitigation property or
28 conservation easement agree that a community foundation or a congressionally
29 chartered foundation shall hold the endowment.

30 (E) If the mitigation property is held or managed by a federal agency.

31 (F) If any of the same mitigation property is required to be conveyed pursuant to
32 both a federal and state governmental approval, and under the federal governmental
33 approval the federal agency does not approve one of the entities described in
34 paragraph (1) of subdivision (b) as chosen to hold the endowment by the agreement
35 of the project proponent and the holder of the mitigation property or conservation
36 easement.

37 (c) A community foundation or congressionally chartered foundation that holds
38 an endowment pursuant to subparagraphs (A) to (F), inclusive, of paragraph (2) of
39 subdivision (b), shall meet all the qualifications and requirements of this chapter for
40 holding, managing, investing, and disbursing the endowment funds.

41 (d) Any entity that holds an endowment under this chapter shall hold, manage,
42 invest, and disburse the funds in furtherance of the long-term stewardship of the
43 property in accordance with subdivision (a) of Section 65965.

1 (e) The holder of an endowment shall certify to the project proponent or the holder
2 of the mitigation property or a conservation easement and the local or state agency
3 that required the endowment that it meets all of the following requirements:

4 (1) The holder has the capacity to effectively manage the mitigation funds.

5 (2) The holder has the capacity to achieve reasonable rates of return on the
6 investment of those funds similar to those of other prudent investors for endowment
7 funds and shall manage and invest the endowment in good faith and with the care
8 an ordinarily prudent person in a like position would exercise under similar
9 circumstances, consistent with the Uniform Prudent Management of Institutional
10 Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate
11 Code).

12 (3) The holder utilizes generally accepted accounting practices as promulgated by
13 either of the following:

14 (A) The Financial Accounting Standards Board or any successor entity for
15 nonprofit organizations.

16 (B) The Governmental Accounting Standards Board or any successor entity for
17 public agencies, to the extent those practices do not conflict with any requirement
18 for special districts in Article 2 (commencing with Section 53630) of Chapter 4 of
19 Part 1 of Division 2 of Title 5.

20 (4) The holder will be able to ensure that funds are accounted for, and tied to, a
21 specific property.

22 (5) If the holder is a nonprofit organization, a community foundation, or a
23 congressionally chartered foundation, it has an investment policy that is consistent
24 with the Uniform Prudent Management of Institutional Funds Act (Part 7
25 (commencing with Section 18501) of Division 9 of the Probate Code).

26 (f) If a governmental entity, community foundation, special district, nonprofit
27 organization, or a congressionally chartered foundation meets the requirements of
28 this chapter, it is qualified to be a holder of the endowment for the purpose of
29 obtaining any permit, clearance, or mitigation approval from a state or local agency.

30 (g) Except for a mitigation agreement prepared by a state agency, the mitigation
31 agreement that authorizes the funds to be conveyed to a governmental entity,
32 community foundation, special district, a congressionally chartered foundation, or
33 nonprofit organization pursuant to subdivision (a) shall include a provision that
34 requires the endowment be held by a governmental entity, special district, or a
35 nonprofit organization to revert to the local agency, or to a successor organization
36 identified by the agency and subject to subdivision (e), if any of the following
37 occurs:

38 (1) The governmental entity, community foundation, special district, a
39 congressionally chartered foundation, or nonprofit organization ceases to exist.

40 (2) The governmental entity, community foundation, special district, a
41 congressionally chartered foundation, or nonprofit organization is dissolved.

1 (3) The governmental entity, community foundation, special district, a
2 congressionally chartered foundation, or nonprofit organization becomes bankrupt
3 or insolvent.

4 (4) The local agency reasonably determines that the endowment held by the
5 governmental entity, community foundation, special district, or nonprofit
6 organization, or its successor entity, is not being held, managed, invested, or
7 disbursed for conservation purposes and consistent with the mitigation agreement
8 and legal requirements. Any reverted funds shall continue to be held, managed, and
9 disbursed only for long-term stewardship and benefit of the specific property for
10 which they were set aside. If the funds revert from the governmental entity,
11 community foundation, special district, or nonprofit organization, the special district
12 or nonprofit organization may choose to relinquish the property. If the property is
13 relinquished, the local agency shall accept title to the property or identify an
14 approved governmental entity, community foundation, special district, or nonprofit
15 organization to accept title to the property.

16 (h) Nothing in this section shall prohibit a state or local agency from determining
17 that a governmental entity, community foundation, special district, a
18 congressionally chartered foundation, or nonprofit organization meets the
19 requirements of this section and is qualified to hold the endowment, or including a
20 provision in the mitigation agreement as described in subdivision (g).

21 (i) A state or local agency may allow the endowment to be held temporarily in an
22 escrow account until December 31, 2012, after which time the funds shall be
23 transferred to the entity that will permanently hold the endowment.

24 (j) Subject to subdivision (g), any endowment that is conveyed to and held by a
25 governmental entity, special district, or nonprofit organization pursuant to this
26 section shall continue to be held by the entity if this section is repealed.

27 (k) A state or local agency shall not require, as a condition of obtaining any permit,
28 clearance, agreement, or mitigation approval from the state or local agency, that a
29 preferred or exclusively named entity by the state or local agency be named as the
30 entity to hold, manage, invest, and disburse the funds in furtherance of the long-
31 term stewardship of the property for which the funds were set aside.

32 (l) This section shall remain in effect only until January 1, 2022, and as of that
33 date is repealed, unless a later enacted statute, that is enacted before January 1, 2022,
34 deletes or extends that date.

35 **Comment.** Section 65968(a) and (b)(2)(B) are amended to reflect the recodification of the
36 former Fish and Game Code.

37 **Gov't Code § 66412.8 (amended).**

38 SEC. ____ . Section 66412.8 of the Government Code is amended to read:

39 66412.8. (a) A project located in Los Angeles County that is approved by a public
40 agency before the effective date of the act adding this section is not in violation of
41 any requirement of this division by reason of the failure to construct a roadway
42 across the property transferred to the state pursuant to subdivision (c) of Section

1 21080.29 of the Public Resources Code and to construct a bridge over the adjacent
2 Ballona Channel in Los Angeles County, otherwise required as a condition of
3 approval of a vesting tentative map or a tentative map, if all of the following
4 conditions apply:

5 (1) The improvements specified in subdivision (a) are not constructed, due in
6 whole or in part, to the project owner's or developer's relinquishment of easement
7 rights to construct the improvements.

8 (2) The easement rights specified in paragraph (1) are relinquished in connection
9 with the acquisition by the State of California, acting by and through the Wildlife
10 Conservation Board of the Department of Fish and ~~Game~~ Wildlife, of a wetlands
11 project that is a minimum of 400 acres in size and located in the coastal zone.

12 (b) Where the easement rights have been relinquished, any municipal ordinance
13 or regulation adopted by a charter city or a general law city shall be inapplicable to
14 the extent that the ordinance or regulation requires construction of the transportation
15 improvements specified in subdivision (a), or would otherwise require reprocessing
16 or resubmittal of a permit or approval, including, but not limited to, a final recorded
17 map, a vesting tentative map, or a tentative map, as a result of the transportation
18 improvements specified in subdivision (a) not being constructed.

19 **Comment.** Section 66412.8 is amended to update a reference to the former Department of Fish
20 and Game. See Fish & Wildlife Code § 1500.

21 **Gov't Code § 66478.4 (amended).**

22 SEC. _____. Section 66478.4 of the Government Code is amended to read:

23 66478.4. (a) No local agency shall approve either a tentative or a final map of any
24 proposed subdivision to be fronted upon a public waterway, river, or stream which
25 does not provide, or have available, reasonable public access by fee or easement
26 from a public highway to that portion of the bank of the river or stream bordering
27 or lying within the proposed subdivision.

28 (b) Reasonable public access shall be determined by the local agency in which the
29 proposed subdivision is to be located. In making the determination of what shall be
30 reasonable access, the local agency shall consider all of the following:

31 (1) That access may be by highway, foot trail, bike trail, horse trail, or any other
32 means of travel.

33 (2) The size of the subdivision.

34 (3) The type of riverbank and the various appropriate recreational, educational,
35 and scientific uses, including, but not limited to, swimming, diving, boating, fishing,
36 water skiing, scientific collection, and teaching.

37 (4) The likelihood of trespass on private property and reasonable means of
38 avoiding these trespasses.

39 (c) A public waterway, river, or stream for the purposes of Sections 66477.2,
40 66478.4, 66478.5 and 66478.6 means those waterways, rivers and streams defined
41 in Sections 100 through 106 of the Harbors and Navigation Code, any stream

1 declared to be a public highway for fishing pursuant to Sections 25660 through
2 25662 of the Government Code, the rivers listed in Section ~~4505~~ 60900 of the Fish
3 and ~~Game~~ Wildlife Code as spawning areas, all waterways, rivers and streams
4 downstream from any state or federal salmon or steelhead fish hatcheries.

5 **Comment.** Section 66478.4 is amended to reflect the recodification of the former Fish and Game
6 Code.

7 **Gov't Code § 66632.4 (amended).**

8 SEC. _____. Section 66632.4 of the Government Code is amended to read:

9 66632.4. Within any portion or portions of the shoreline band that are located
10 outside the boundaries of water-oriented priority land uses, as fixed and established
11 pursuant to Section 66611, the commission may deny an application for a permit for
12 a proposed project only on the grounds that the project fails to provide maximum
13 feasible public access, consistent with the proposed project, to the bay and its
14 shoreline. When considering whether a project provides maximum feasible public
15 access in areas of sensitive habitat, including tidal marshlands and mudflats, the
16 commission shall, after consultation with the Department of Fish and ~~Game~~
17 Wildlife, and using the best available scientific evidence, determine whether the
18 access is compatible with wildlife protection in the bay.

19 **Comment.** Section 66632.4 is amended to update a reference to the former Department of Fish
20 and Game. See Fish & Wildlife Code § 1500.

21 **Gov't Code § 66680 (amended).**

22 SEC. _____. Section 66680 of the Government Code is amended to read:

23 66680. The commission shall review and approve, or disapprove, the plan on the
24 basis of whether the plan provides all of the following:

25 (a) Permanent protection and enhancement of marshes, tidelands, tidally
26 influenced wetlands, and upland habitat sufficient to assure the long-term usefulness
27 of White Slough as a wildlife habitat, a flood basin consistent with wetland
28 enhancement goals, and a wetland resource for the city and the region, including the
29 establishment, operation, and maintenance of adequate tidal action and water quality
30 to preclude algal blooms, to provide a fishery, and to provide waterfowl feeding,
31 resting, and breeding areas.

32 (b) Location and siting for a project that consists of a State Highway Route 37
33 widened to not more than four lanes, with the minimum medians and shoulders
34 necessary to assure highway safety, interchanges between State Highway Route 37
35 and State Highway Route 29 and Sacramento Street, the covering of the flooded
36 sewerline south of State Highway Route 37 and the relocation of the flooded line
37 north of State Highway Route 37 within the area required for the widening of State
38 Highway Route 37, and that provides for all of the following:

39 (1) A tidal control structure or structures or open channels, sufficient to assure
40 adequate waterflow for suitable water quality, wetland enhancement of South White

1 Slough, and flood protection, between the wetlands north and south of the State
2 Highway Route 37 corridor.

3 (2) Adequate height and design to protect developed areas of the city from
4 flooding.

5 (3) No access from the widened State Highway Route 37 to tidal wetlands north
6 of the highway.

7 (4) The minimum wetland fill necessary, but in no event more than 13 acres.

8 (5) Mitigation measures, specifically including the following:

9 (A) Prior to the placing of fill or commencement of other highway construction
10 work, acquisition of upland areas in the vicinity of White Slough which do not
11 presently provide unique or especially significant wildlife habitat and which are four
12 times the size of the area to be filled.

13 (B) The conversion of these lands to wetlands during highway construction.

14 (C) The hiring of an independent biologist to assess current conditions on the
15 wetlands to be filled and to monitor the conditions of the newly created wetlands
16 over time.

17 (D) The permanent protection of the created wetlands.

18 (E) Assurances that the created wetlands will be functioning in a manner which
19 fully replaces the filled wetlands within five years. If, after three years it does not
20 appear that the created wetlands will be fully functioning within the five-year
21 period, then the wetlands shall be further improved in a manner which ensures full
22 replacement of the filled wetlands or which provides additional new wetlands. After
23 the five years, the department shall no longer be required to maintain the created
24 wetlands, but may transfer the created wetlands either to the Department of Fish and
25 ~~Game~~ Wildlife or to another appropriate resource agency for the wetlands'
26 permanent management for wildlife habitat purposes.

27 (c) Levees within and adjacent to South White Slough necessary for flood control,
28 wetland habitat enhancement, and public access purposes. The department shall not
29 be responsible for the construction and maintenance of the levees within and
30 adjacent to South White Slough, except for the White Slough Project. Fill for flood
31 control and public access purposes shall be the minimum necessary and shall be
32 mitigated by the acquisition, excavation, and conversion to wetlands of uplands in
33 the vicinity of the project and which do not presently provide unique or especially
34 significant wildlife habitat, to provide an area of wetland habitat at least twice the
35 area to be filled.

36 (d) Acquisition of interests in real property sufficient to preserve and maintain
37 permanently the wetland, tidal, water-covered, and public access areas of White
38 Slough.

39 (e) Recognition that the project constructed in accordance with the plan is required
40 to meet the requirements of the federal Clean Water Act and the Rivers and Harbors
41 Act, if applicable.

1 **Comment.** Subparagraph (E) of paragraph (5) of subdivision (b) of Section 66680 is amended
2 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

3 **Gov't Code § 66681 (amended).**

4 SEC. _____. Section 66681 of the Government Code is amended to read:

5 66681. The plan shall be implemented as follows:

6 (a) The city and the county shall adopt the relevant provisions of the plan into
7 their general and specific plans, shall adopt land use ordinances that implement the
8 policies of the plan, and shall review and issue or deny any necessary local permits
9 for projects within White Slough based on the requirements of the plan and
10 implementing ordinances.

11 (b) In addition to obtaining any other permit required by law from the city or
12 county or any state, regional, or local agency, any person placing fill, extracting
13 materials, or making any substantial change in use of any area within White Slough
14 shall obtain a permit from the commission. The commission shall issue a permit for
15 these activities only if it finds the project consistent with the plan, this chapter, and,
16 where not inconsistent with the plan and this chapter, this title, the San Francisco
17 Bay Plan, and other relevant state and local law.

18 (c) The Department of Fish and ~~Game~~ Wildlife, the Wildlife Conservation Board,
19 the State Lands Commission, the State Coastal Conservancy, and the Department
20 of ~~Transportation~~ Transportation shall exercise their powers and allocate available
21 resources to acquire, enhance, or manage wetlands and public access areas within
22 White Slough in a manner consistent with the plan, subject to statewide goals and
23 priorities of the agencies.

24 **Comment.** Section 66681 is amended to update a reference to the former Department of Fish
25 and Game. See Fish & Wildlife Code § 1500. The section is also amended to make a technical
26 correction.

27 **Gov't Code § 66703.7 (amended).**

28 SEC. _____. Section 66703.7 of the Government Code is amended to read:

29 66703.7. (a) Not later than six months after the date of the board's first meeting
30 described in subdivision (a) of Section 66703.6, the board shall convene a Bay
31 Restoration Advisory Committee to assist and advise the board in carrying out the
32 functions of the board. The advisory committee shall meet on a regular basis.

33 (b) The membership of the advisory committee shall be determined by the
34 authority based upon criteria that provide a broad representation of community and
35 agency interests within the authority's jurisdiction over the restoration of wetland
36 areas in the San Francisco Bay and along its shoreline. The membership of the
37 advisory committee may include, but is not limited to, representatives from the
38 following:

39 (1) The Department of Fish and ~~Game~~ Wildlife.

40 (2) The State Coastal Conservancy.

1 (3) The San Francisco Bay National Wildlife Refuge Complex operated by the
2 United States Fish and Wildlife Service.

3 (4) Open space and park districts that own or operate shoreline parcels in the San
4 Francisco Bay Area.

5 (5) The San Francisco Bay Regional Water Quality Control Board.

6 (6) The San Francisco Bay Conservation and Development Commission.

7 (7) The San Francisco Bay Joint Venture Management Board.

8 (8) The San Francisco Bay Trail Project.

9 (9) The San Francisco Estuary Project.

10 (10) Nongovernmental organizations working to restore, protect, and enhance San
11 Francisco Bay wetlands and wildlife habitat.

12 (11) Members of the public from bayside cities and counties in the San Francisco
13 Bay Area.

14 **Comment.** Section 66703.7 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Gov't Code § 67679 (amended).**

17 SEC. ____ . Section 67679 of the Government Code is amended to read:

18 67679. (a)(1) The board shall identify those basewide public capital facilities
19 described in the Fort Ord Reuse Plan, including, but not limited to, roads, freeway
20 ramps, air transportation facilities, and freight hauling and handling facilities;
21 sewage and water conveyance and treatment facilities; school, library, and other
22 educational facilities; and recreational facilities, that serve residents or will serve
23 future residents of the base territory and could most efficiently or conveniently be
24 planned, negotiated, financed, constructed, or repaired, remodeled, or replaced by
25 the board to further the integrated future use of the base. The board shall undertake
26 to plan for and arrange the provision of those facilities, including arranging for their
27 financing and construction or repair, remodeling, or replacement. The board may
28 plan, design, construct, repair, remodel, or replace and finance these public capital
29 facilities, or delegate any of those powers to one or more member agencies.
30 Notwithstanding any other provision of law, no permit or permission of any kind
31 from any city or county shall be required for any project undertaken by the board
32 pursuant to this section.

33 (2) The board shall identify significant local public capital facilities, as
34 distinguished from the basewide public capital facilities identified in the paragraph
35 (1) which are described in the Fort Ord Reuse Plan. Local public capital facilities
36 shall be the responsibility of the city or county with land use jurisdiction or the
37 redevelopment agency if the facilities are located within an established project area
38 and the board of the redevelopment agency determines that it will assume
39 responsibility.

40 (3) The board may construct or otherwise act to improve a local public capital
41 facility only with the consent of the city or county with land use authority over the

1 area where the facility is or will be located. A city or county or a local
2 redevelopment agency may construct or otherwise act to improve a basewide public
3 capital facility only with the consent of the board.

4 (b) If all or any portion of the Fritzsche Army Air Field is transferred to the City
5 of Marina, the board shall not consider those portions of the air field that continue
6 to be used as an airport to be basewide capital facilities, except with the consent of
7 the legislative body of the city. If all or any portion of the two Army golf courses
8 within the territory of Seaside are transferred to the City of Seaside, the board shall
9 not consider those portions of the golf courses that continue in use as golf courses
10 to be basewide capital facilities, except with the consent of the legislative body of
11 the city.

12 (c) The board may seek state and federal grants and loans or other assistance to
13 help fund public facilities.

14 (d) The board may, in any year, levy assessments, reassessments, or special taxes
15 and issue bonds to finance these basewide public facilities in accordance with, and
16 pursuant to, any of the following:

17 (1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000)
18 of the Streets and Highways Code).

19 (2) The Improvement Bond Act of 1915 (Division 10 (commencing with Section
20 8500) of the Streets and Highways Code).

21 (3) The Municipal Improvement Act of 1913 (Division 12 (commencing with
22 Section 10000) of the Streets and Highways Code).

23 (4) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section
24 54703)).

25 (5) The Landscape and Lighting Act of 1972 (Part 2 (commencing with Section
26 22500) of Division 15 of the Streets and Highways Code).

27 (6) The Integrated Financing District Act (Chapter 1.5 (commencing with Section
28 53175) of Division 2 of Title 5).

29 (7) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing
30 with Section 53311) of Part 1 of Division 2 of Title 5).

31 (8) The Infrastructure Financing District Act (Chapter 2.8 (commencing with
32 Section 53395) of Division 2 of Title 5).

33 (9) The Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing
34 with Section 6584) of Chapter 5 of Division 7 of Title 1).

35 (10) The Revenue Bond Act of 1941 (Chapter 6 (commencing with Section
36 54300) of Division 2 of Title 5).

37 (11) Fire suppression assessments levied pursuant to Article 3.6 (commencing
38 with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5.

39 (12) The Habitat Maintenance Funding Act (~~Chapter 11 (commencing with~~
40 ~~Section 2900) of Division 3~~ Title 3 (commencing with Section 58075) of Part 3 of
41 Division 15 of the Fish and Game Wildlife Code).

42 Notwithstanding any other provision of law, the board may create any of these
43 financing districts within the area of Fort Ord to finance basewide public facilities

1 without the consent of any city or county. In addition, until January 1, 2000, the
2 board may, but is not obligated to create, within the area of Fort Ord, any of these
3 financing districts which authorize financing for public services and may levy
4 authorized assessments or special taxes in order to pass through funding for these
5 services to the local agencies. Notwithstanding any other provision of law, no city
6 or county with jurisdiction over any area of the base, whether now or in the future,
7 shall create any land-based financing district or levy any assessment or tax secured
8 by a lien on real property within the area of the base without the consent of the
9 board, except that the city or county may create these financing districts for the
10 purposes and subject to any financing limitations that may be specified in the capital
11 improvement program prepared pursuant to Section 67675.

12 (e) The board may levy development fees on development projects within the area
13 of the base. Any development fees shall comply with the requirements of Chapter 5
14 (commencing with Section 66000) of Division 1 of Title 5. No local agency shall
15 issue any building permit for any development within the area of Fort Ord until the
16 board has certified that all development fees that it has levied with respect to the
17 development project have been paid or otherwise satisfied.

18 **Comment.** Paragraph (12) of subdivision (d) of Section 67679 is amended to reflect the
19 recodification of the former Fish and Game Code.

20 **Gov't Code § 68090.8 (amended).**

21 SEC. ____ . Section 68090.8 of the Government Code is amended to read:

22 68090.8. (a)(1) The Legislature finds that the management of civil and criminal
23 cases, including traffic cases, and the accounting for funds in the trial courts requires
24 these courts to implement appropriate levels of administrative automation.

25 (2) The purpose of this section is to make a fund available for the development of
26 automated administrative systems, including automated accounting, automated data
27 collection through case management systems, and automated case-processing
28 systems for the trial courts, together with funds to train operating personnel, and for
29 the maintenance and enhancement of the systems. As used in this paragraph,
30 “automated administrative systems” does not include electronic reporting systems
31 for use in a courtroom.

32 (3) Automated data collection shall provide the foundation for planning, research,
33 and evaluation programs that are generated from within and outside of the judicial
34 branch. This system shall be a resource to the courts, the Judicial Council and its
35 committees, the Administrative Office of the Courts, the Legislature, the Governor,
36 and the public. During the developmental stage and prior to the implementation of
37 the system, the Legislature shall make recommendations to the Judicial Council as
38 to the breadth and level of detail of the data to be collected.

39 (b) Prior to making any other required distribution, the county treasurer shall
40 transmit 2 percent of all fines, penalties, and forfeitures collected in criminal cases,
41 including, but not limited to, moneys collected pursuant to Chapter 12 (commencing

1 with Section 76000) of Title 8 of this code, Section ~~13003~~ 3610 of the Fish and
2 ~~Game~~ Wildlife Code, Section 11502 of the Health and Safety Code, and Chapter 1
3 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into the
4 State Trial Court Improvement and Modernization Fund established pursuant to
5 Section 77209, to be used exclusively to pay the costs of automated systems for the
6 trial courts, as described in paragraph (2) of subdivision (a). These systems shall
7 meet Judicial Council performance standards, including production of reports as
8 needed by the state, the counties, and local governmental entities.

9 **Comment.** Section 68090.8 is amended to reflect the recodification of the former Fish and Game
10 Code.

11 **Gov't Code § 70372 (amended).**

12 SEC. _____. Section 70372 of the Government Code is amended to read:

13 70372. (a)(1) Except as otherwise provided in this article, there shall be levied a
14 state court construction penalty, in the amount of five dollars (\$5) for every ten
15 dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture
16 imposed and collected by the courts for all criminal offenses, including, but not
17 limited to, all offenses involving a violation of a section of the Fish and ~~Game~~
18 Wildlife Code, the Health and Safety Code, or the Vehicle Code or any local
19 ordinance adopted pursuant to the Vehicle Code. This penalty is in addition to any
20 other state or local penalty, including, but not limited to, the penalty provided by
21 Section 1464 of the Penal Code and Section 76000.

22 (2) This construction penalty does not apply to the following:

23 (A) Any restitution fine.

24 (B) Any penalty authorized by Section 1464 of the Penal Code or Chapter 12
25 (commencing with Section 76000) of Title 8.

26 (C) Any parking offense subject to Article 3 (commencing with Section 40200)
27 of Chapter 1 of Division 17 of the Vehicle Code.

28 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

29 (3) Any bail schedule adopted pursuant to Section 1269b of the Penal Code or
30 adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may
31 include the necessary amount to pay the penalty established by this section, the
32 penalties authorized by Section 1464 of the Penal Code and Chapter 12
33 (commencing with Section 76000) of Title 8, and the surcharge authorized by
34 Section 1465.7 of the Penal Code for all matters where a personal appearance is not
35 mandatory and the bail is posted primarily to guarantee payment of the fine. After a
36 determination by the court of the amount due, the clerk of the court shall collect the
37 penalty and transmit it immediately to the county treasury and the county treasurer
38 shall transmit these sums as provided in subdivision (f).

39 (b) In addition to the penalty provided by subdivision (a), for every parking
40 offense where a parking penalty, fine, or forfeiture is imposed, an added state court
41 construction penalty of four dollars and fifty cents (\$4.50) shall be included in the
42 total penalty, fine, or forfeiture. These moneys shall be taken from fines and

1 forfeitures deposited with the county treasurer prior to any division pursuant to
2 Section 1462.3 or 1463.009 of the Penal Code. In those cities, districts, or other
3 issuing agencies which elect to accept parking penalties, and otherwise process
4 parking violations pursuant to Article 3 (commencing with Section 40200) of
5 Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency
6 shall observe the increased bail amounts as established by the court reflecting the
7 added penalty provided for by this subdivision. Each agency that elects to process
8 parking violations shall pay to the county treasurer four dollars and fifty cents
9 (\$4.50) for the parking penalty imposed by this subdivision for each violation that
10 is not filed in court. Those payments to the county treasurer shall be made monthly,
11 and the county treasurer shall transmit these sums as provided in paragraph (2) of
12 subdivision (f). In the event these payments were deposited in a local courthouse
13 construction fund and expended pursuant to the provisions of Chapter 592 of the
14 Statutes of 2003, no county or processing agency shall be liable for the failure to
15 transmit the payments to the Controller during the 2008 calendar year.

16 (c) If multiple offenses are involved, the state court construction penalty under
17 subdivision (a) shall be based upon the total fine or bail for each case. If a fine is
18 suspended, in whole or in part, the state court construction penalty under subdivision
19 (a) shall be reduced in proportion to the suspension.

20 (d) If any deposited bail is made for an offense to which this section applies, and
21 for which a court appearance is not mandatory, the person making the deposit shall
22 also deposit a sufficient amount to include the state court construction penalty
23 prescribed by subdivision (a) for forfeited bail. If bail is returned, the state court
24 construction penalty paid thereon pursuant to subdivision (a) shall also be returned.

25 (e) In any case where a person convicted of any offense, to which this section
26 applies, is in prison until the fine is satisfied, the judge may waive all or any part of
27 the state court construction penalty, the payment of which would work a hardship
28 on the person convicted or his or her immediate family.

29 (f)(1) Within 45 days after the end of the month that moneys are deposited in the
30 county treasury pursuant to subdivision (a), the county treasurer shall transmit the
31 moneys to the Controller, to be deposited as follows:

32 (A) The total to be deposited pursuant to subdivision (a) shall be multiplied by a
33 fraction as follows:

34 (i) The numerator is the amount imposed as of January 1, 1998, as an additional
35 penalty on every ten dollars (\$10), or part of ten dollars (\$10), upon every fine,
36 penalty, or forfeiture, if any, for deposit into the local courthouse construction fund
37 in that county established pursuant to Sections 76000 and 76100. The numerator
38 shall be expressed in whole dollars and fractions of a dollar.

39 (ii) The denominator is five dollars (\$5).

40 (B) The resulting amount shall be deposited in the Immediate and Critical Needs
41 Account of the State Court Facilities Construction Fund, established in Section
42 70371.5.

1 (C) The remaining amount of the deposit shall be deposited in the State Court
2 Facilities Construction Fund.

3 (2) Within 45 days after the end of the month that moneys are deposited in the
4 county treasury pursuant to subdivision (b), the county treasurer shall transmit the
5 moneys to the Controller to be deposited as follows: one-third of the total amount
6 shall be deposited in the State Court Facilities Construction Fund and two-thirds of
7 the total amount shall be deposited in the Immediate and Critical Needs Account of
8 the State Court Facilities Construction Fund, established in Section 70371.5.

9 **Comment.** Paragraph (1) of subdivision (a) of Section 70372 is amended to reflect the
10 recodification of the former Fish and Game Code.

11 HARBORS AND NAVIGATION CODE

12 **Harb. & Nav. Code § 64 (amended).**

13 SEC. ____ . Section 64 of the Harbor and Navigations Code is amended to read:

14 64. (a) The Legislature hereby finds and declares that the growth of water hyacinth
15 (Eichhornia crassipes), Brazilian elodea (Egeria densa), and South American
16 spongeplant (Limnobiium laevigatum) in the Sacramento-San Joaquin Delta, its
17 tributaries, and the Suisun Marsh has occurred at an unprecedented level and that
18 the resulting accumulations of water hyacinth (Eichhornia crassipes), Brazilian
19 elodea (Egeria densa), and South American spongeplant (Limnobiium laevigatum)
20 obstruct navigation, impair other recreational uses of waterways, have the potential
21 for damaging manmade facilities, and may threaten the health and stability of
22 fisheries and other ecosystems within the delta and marsh. Accordingly, it is
23 necessary that the state, in cooperation with agencies of the United States, undertake
24 an aggressive program for the effective control of water hyacinth (Eichhornia
25 crassipes), Brazilian elodea (Egeria densa), and South American spongeplant
26 (Limnobiium laevigatum) in the delta, its tributaries, and the marsh.

27 (b) The department is designated as the lead agency of the state for the purpose of
28 cooperating with agencies of the United States and other public agencies in
29 controlling water hyacinth (Eichhornia crassipes), Brazilian elodea (Egeria densa),
30 and South American spongeplant (Limnobiium laevigatum) in the delta, its
31 tributaries, and the marsh.

32 (c) The department, other state agencies, cities, counties, and districts are hereby
33 authorized to cooperate with one another and with agencies of the United States in
34 controlling water hyacinth (Eichhornia crassipes), Brazilian elodea (Egeria densa),
35 and South American spongeplant (Limnobiium laevigatum) in the delta, its
36 tributaries, and the marsh and may furnish money, services, equipment, and other
37 property to that end.

38 (d) Up to five thousand dollars (\$5,000) per year of the funds available for
39 expenditure by the Department of Fish and Game Wildlife to implement this section
40 shall be paid from the Harbors and Watercraft Revolving Fund.

1 (e) Whenever any control program is proposed to take place in Rock Slough, the
2 department and the Contra Costa Water District shall develop a memorandum of
3 understanding establishing the parameters of the control program. This subdivision
4 does not apply to any control program proposed for Sand Mound Slough.

5 **Comment.** Section 64 is amended to update a reference to the former Department of Fish and
6 Game. See Fish & Wildlife Code § 1500.

7 **Harb. & Nav. Code § 86 (amended).**

8 SEC. _____. Section 86 of the Harbor and Navigations Code is amended to read:

9 86. (a) The local public agency shall annually certify to the department that for a
10 small craft harbor or boating facility project that is, or has been, funded pursuant to
11 Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from
12 the State Lands Commission from tidelands oil revenues, adequate restroom and
13 sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required
14 pursuant to Section 776, walkways, oil recycling facilities, receptacles for the
15 purpose of separating, reusing, or recycling all solid waste materials, and other
16 necessary shoreside facilities sufficient for the use and operation of all vessels using
17 the harbor or facility are provided or provide written findings showing why the
18 facility cannot certify to these conditions.

19 (b) A city, county, or district, which has received or is receiving moneys under
20 this division for the construction or improvement of small craft harbors that provides
21 facilities for the operation of commercial fishing vessels registered pursuant to
22 ~~Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of~~
23 Article 1 (commencing with Section 14750) of Chapter 2 of Title 2 of Part 6 of
24 Division 6 of the Fish and ~~Game~~ Wildlife Code, shall not prohibit the commercial
25 operation and use of those facilities by commercial passenger fishing vessels of the
26 same or similar displacement, which are licensed pursuant to Section ~~7920~~ 21905
27 of the Fish and ~~Game~~ Wildlife Code, or the use by private recreational vessels unless
28 otherwise expressly provided by law, unless the city, county, or district provides,
29 elsewhere in the same harbor, alternative, equivalent facilities available at
30 comparable cost for the commercial operation and use of commercial passenger
31 fishing vessels and private recreational vessels or unless the city, county, or district
32 adopts written findings showing why the existing facility cannot accommodate the
33 operation of commercial fishing vessels, including commercial passenger fishing
34 vessels, or private recreational vessels and why the facility cannot be modified to
35 do so or why alternative, equivalent facilities cannot be provided in the same harbor
36 to accommodate those operations. This subdivision does not require a facility to
37 accept an application for the operation of an additional commercial passenger
38 fishing boat at that facility if the harbor provides alternative, equivalent, adequate,
39 safe facilities at comparable cost for the operation and use of commercial passenger
40 fishing boats or if accommodations for the operation of the additional commercial

1 passenger fishing boat are not reasonably available at the facility under the contract
2 or agreement.

3 For the purposes of this subdivision, an alternative, equivalent facility in the same
4 harbor shall provide, at comparable cost, adequate restroom and sanitary facilities,
5 parking, refuse disposal, vessel pumpout facilities, walkways, oil recycling
6 facilities, receptacles for the purpose of separating, reusing, or recycling all solid
7 waste materials, power and water service, and other shoreside facilities and
8 equivalent docks, water channels, navigation aids, and weather protection,
9 including, but not limited to, breakwaters, which are equivalent to the facility funded
10 pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.

11 (c)(1) A loan, grant, contract or agreement, or plan funded pursuant to Section 70,
12 70.2, 70.8, 71.4, 72.5, or 76.3 for a small craft harbor or boating facility project shall
13 provide for construction, development, or improvement of facilities to meet the
14 provisions of subdivisions (a) and (b), and provide vehicular access roads to the
15 harbor or facility, as recommended by the Department of Transportation pursuant
16 to Division 13 (commencing with Section 21000) of the Public Resources Code,
17 unless the reasons for not meeting those provisions and recommendations are set
18 forth in the contract or agreement with the department, or an addendum thereto.

19 (2) The small craft harbor or boating facility shall be designed, constructed,
20 developed, improved, and operated to meet, at a minimum, applicable certification
21 standards described in the Tier 1 standards of the California Green Building
22 Standards Code (Part 11 of Title 24 of the California Code of Regulations).

23 (d) During the term of any existing or new loan contract made pursuant to Section
24 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70,
25 70.2, or 70.8, the department shall supervise and monitor compliance with this
26 section and the operation and maintenance of the harbor or facility to assure that the
27 planning, construction, development, or improvement fully complies with this
28 section and the contract or agreement terms and conditions.

29 (e) For the purposes of this chapter and Article 3 (commencing with Section 70)
30 of Chapter 2, a harbor or facility that is the subject of a contract or agreement as
31 described in subdivision (d), is under the jurisdiction of the department.

32 **Comment.** Subdivision (b) of Section 86 is amended to reflect the recodification of the former
33 Fish and Game Code.

34  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
35 sections that are cross-referenced in subdivision (b) of the section above have been continued in
36 several different sections of the proposed Fish and Wildlife Code.

37 **The Commission requests public comment on the proposed conforming revision of those**
38 **provisions in the section above.**

39 **Harb. & Nav. Code § 153 (amended).**

40 SEC. _____. Section 153 of the Harbor and Navigations Code is amended to read:
41 153. Any recovery or settlement of money damages, including, but not limited to,
42 civil penalties, arising out of any civil action filed and maintained by the Attorney

1 General in the enforcement of this chapter shall be deposited in the Fish and Wildlife
2 Pollution ~~Cleanup and Abatement~~ Account in the Fish and Game Preservation Fund
3 established pursuant to ~~Section 12017~~ paragraph (3) of subdivision (b) of Section
4 67505 of the Fish and ~~Game~~ Wildlife Code.

5 **Comment.** Section 153 is amended to reflect the recodification of the former Fish and Game
6 Code. The section is also amended to update the name of the former Fish and Wildlife Pollution
7 Cleanup and Abatement Account in the Fish and Game Preservation Fund.

8 **Harb. & Nav. Code § 676 (amended).**

9 SEC. _____. Section 676 of the Harbor and Navigations Code is amended to read:

10 676. (a) All moneys deposited in the Harbors and Watercraft Revolving Fund
11 pursuant to Section 675 shall be available, upon appropriation by the Legislature,
12 for the following purposes:

13 (1) For reasonable costs incurred by the department associated with determining
14 the prevention fee and adoption of regulations pursuant to Section 675, and with
15 administering the grants pursuant to subdivision (b).

16 (2)(A) For reasonable costs, not to exceed 15 percent of the remaining revenues
17 deposited into the fund, of the Department of Fish and ~~Game~~ Wildlife for
18 implementation of ~~subparagraph (A) or (C) of paragraph (2) of, or paragraph (1) of,~~
19 ~~subdivision (a) of Section 2301 or Section 2302~~ Section 49950, subdivision (a), (b),
20 or (d) of Section 49960, or Chapter 2 (commencing with Section 50100) of Title 2
21 of Part 11 of Division 11 of the Fish and ~~Game~~ Wildlife Code in those areas of the
22 state where a dreissenid mussel infestation prevention plan has not been
23 implemented.

24 (B) The amount specified in subparagraph (A) is in addition to moneys available
25 pursuant to subdivision (d) of Section 85.2.

26 (3) An amount not less than 85 percent of the remaining revenues deposited into
27 the fund shall be made available for grants to entities subject to ~~subdivision (a) of~~
28 ~~Section 2302~~ 50105 of the Fish and ~~Game~~ Wildlife Code for the reasonable
29 regulatory costs incident to the implementation of a dreissenid mussel infestation
30 prevention plan implemented either before or after January 1, 2013, that is
31 consistent with the requirements of ~~Section 2302~~ Chapter 2 (commencing with
32 Section 50100) of Title 2 of Part 11 of Division 11 of the Fish and ~~Game~~ Wildlife
33 Code.

34 (b) For the purposes of awarding grants pursuant to paragraph (3) of subdivision
35 (a), the department shall do all of the following:

36 (1) Give priority to dreissenid mussel infestation prevention plans that are
37 consistent with ~~Section 2302~~ Chapter 2 (commencing with Section 50100) of Title
38 2 of Part 11 of Division 11 of the Fish and ~~Game~~ Wildlife Code and that also include
39 visual and manual inspection standards and other infestation prevention procedures
40 consistent with either the Department of Fish and ~~Game's~~ Wildlife's Invasive
41 Mussel Guidebook for Recreational Water Managers and Users, dated September
42 2010, or the Natural Resource Agency's Aquatic Invasive Species Management

1 Plan, dated January 2008, or subsequently adopted guidebooks and management
2 plans.

3 (2) Take into consideration the benefits of regional-scale dreissenid mussel
4 infestation prevention plans.

5 (3) Take into consideration the unique economic, ecological, and recreational
6 impacts to rural and urban reservoirs from dreissenid mussel infestation.

7 (c) For purposes of this article, reasonable regulatory costs include costs
8 associated with the investigation and inspection of a conveyance for the presence of
9 dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of
10 the Water Code. None of the revenues collected pursuant to subdivision (a) of
11 Section 675 shall be used for any purpose other than those explicitly authorized by
12 this section.

13 (d) For the purposes of this section, conveyances include boats and other
14 watercraft, and associated vehicles, containers, and trailers that may carry or contain
15 adult or larval dreissenid mussels.

16 (e) As a condition of receiving grant funding pursuant to this section, an entity
17 shall report to the department data, as deemed appropriate by the department,
18 regarding dreissenid mussel prevention and inspection programs implemented with
19 the funding.

20 **Comment.** Section 676 is amended to reflect the recodification of the former Fish and Game
21 Code. The section is also amended to update references to the former Department of Fish and Game.
22 See Fish & Wildlife Code § 1500.

23 **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
24 sections that are cross-referenced in the section above have been continued in several different
25 sections of the proposed Fish and Wildlife Code.

26 **The Commission requests public comment on the proposed conforming revision of those**
27 **provisions in the section above.**

28 HEALTH AND SAFETY CODE

29 **Health & Safety Code § 11358 (amended).**

30 SEC. _____. Section 11358 of the Health and Safety Code is amended to read:

31 11358. Each person who plants, cultivates, harvests, dries, or processes cannabis
32 plants, or any part thereof, except as otherwise provided by law, shall be punished
33 as follows:

34 (a) Each person under the age of 18 who plants, cultivates, harvests, dries, or
35 processes any cannabis plants shall be punished in the same manner provided in
36 paragraph (1) of subdivision (b) of Section 11357.

37 (b) Each person at least 18 years of age but less than 21 years of age who plants,
38 cultivates, harvests, dries, or processes not more than six living cannabis plants shall
39 be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

40 (c) Each person 18 years of age or over who plants, cultivates, harvests, dries, or
41 processes more than six living cannabis plants shall be punished by imprisonment

1 in a county jail for a period of not more than six months or by a fine of not more
2 than five hundred dollars (\$500), or by both that fine and imprisonment.

3 (d) Notwithstanding subdivision (c), a person 18 years of age or over who plants,
4 cultivates, harvests, dries, or processes more than six living cannabis plants, or any
5 part thereof, except as otherwise provided by law, may be punished by
6 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any
7 of the following conditions exist:

8 (1) The person has one or more prior convictions for an offense specified in clause
9 (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the
10 Penal Code or for an offense requiring registration pursuant to subdivision (c) of
11 Section 290 of the Penal Code.

12 (2) The person has two or more prior convictions under subdivision (c).

13 (3) The offense resulted in any of the following:

14 (A) Violation of Section 1052 of the Water Code relating to illegal diversion of
15 water.

16 (B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code
17 relating to discharge of water.

18 (C) Violation of Section ~~5650~~ or ~~5652~~ Section 66500 or 66525 of the Fish and
19 ~~Game~~ Wildlife Code relating to waters of the state.

20 (D) Violation of Section ~~1602~~ Title 3 (commencing with Sections 69700) of Part
21 4 of Division 17 of the Fish and ~~Game~~ Wildlife Code relating to rivers, streams, and
22 lakes.

23 (E) Violation of Section 374.8 of the Penal Code relating to hazardous substances
24 or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to
25 hazardous waste.

26 (F) Violation of Section ~~2080~~ 62600 of the Fish and ~~Game~~ Wildlife Code relating
27 to endangered and threatened species or Section ~~3513~~ 29855 of the Fish and ~~Game~~
28 Wildlife Code relating to the Migratory Bird Treaty Act, or Section ~~2000~~ 8000
29 of the Fish and ~~Game~~ Wildlife Code relating to the unlawful taking of fish and wildlife.

30 (G) Intentionally or with gross negligence causing substantial environmental
31 harm to public lands or other public resources.

32 **Comment.** Paragraph (3) of subdivision (d) of Section 11358 is amended to reflect the
33 recodification of the former Fish and Game Code.

34 **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be
35 continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-
36 reference revision above would refer to the title that contains all of those sections, rather than
37 referring to the five sections individually. That seems unproblematic, because the entire title relates
38 to the substance of Section 1602.

39 **The Commission requests public comment on whether that simplified reference would**
40 **cause any problems.**

41 (2) Health and Safety Code Section 11358 was amended in 2016 by an initiative statute,
42 Proposition 64. The Commission believes that the proposed technical revision of that section would
43 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
44 and associated text.

1 **Health & Safety Code § 25150 (amended).**

2 SEC. _____. Section 25150 of the Health and Safety Code is amended to read:

3 25150. (a) The department shall adopt, and revise when appropriate, standards
4 and regulations for the management of hazardous wastes to protect against hazards
5 to the public health, to domestic livestock, to wildlife, or to the environment.

6 (b) The department and the local officers and agencies authorized to enforce this
7 chapter pursuant to subdivision (a) of Section 25180 shall apply the standards and
8 regulations adopted pursuant to subdivision (a) to the management of hazardous
9 waste.

10 (c) Except as provided in subdivision (d), the department may limit the application
11 of the standards and regulations adopted or revised pursuant to subdivision (a) at
12 facilities operating pursuant to a hazardous waste facilities permit or other grant of
13 authorization issued by the department in any manner that the department
14 determines to be appropriate, including, but not limited to, requiring these facilities
15 to apply for, and receive, a permit modification prior to the application of the
16 standards and regulations.

17 (d) The department shall not adopt or revise standards and regulations which
18 result in the imposition of any requirement for the management of a RCRA waste
19 that is less stringent than a corresponding requirement adopted by the
20 Environmental Protection Agency pursuant to the federal act.

21 (e) The department shall adopt, and revise when appropriate, regulations for the
22 recycling of hazardous waste to protect against hazards to the public health,
23 domestic livestock, wildlife, or to the environment, and to encourage the best use of
24 natural resources.

25 (f) Before the adoption of regulations, the department shall notify all agencies of
26 interested local governments, including, but not limited to, certified unified program
27 agencies, local governing bodies, local planning agencies, local health authorities,
28 local building inspection departments, the Department of Pesticide Regulation, the
29 Department of the California Highway Patrol, the Department of Fish and ~~Game~~
30 Wildlife, the Department of Industrial Relations, the Division of Industrial Safety,
31 the State Air Resources Board, the State Water Resources Control Board, the State
32 Fire Marshal, regional water quality control boards, the State Building Standards
33 Commission, the Office of Environmental Health Hazard Assessment, and the
34 California Integrated Waste Management Board.

35 **Comment.** Section 25150 is amended to update a reference to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Health & Safety Code § 25197.2 (amended).**

38 SEC. _____. Section 25197.2 of the Health and Safety Code is amended to read:

39 25197.2. (a) The department shall establish a statewide Hazardous Waste Strike
40 Force which shall consist of a representative from each of the following agencies:

41 (1) The Department of Transportation.

42 (2) The Department of Industrial Relations.

- 1 (3) The Department of Food and Agriculture.
- 2 (4) The State Water Resources Control Board.
- 3 (5) The State Air Resources Board.
- 4 (6) The Department of the California Highway Patrol.
- 5 (7) The Office of the State Fire Marshal in the Department of Forestry and Fire
- 6 Protection.
- 7 (8) The California Integrated Waste Management Board.
- 8 (9) The Department of Fish and ~~Game~~ Wildlife.
- 9 (10) The Office of Emergency Services.
- 10 (11) The Department of Toxic Substances Control.
- 11 (12) The Attorney General.
- 12 (13) The Department of Pesticide Regulation.

13 (b) The director, or the director's designee, shall direct and coordinate the
14 activities of the Hazardous Waste Strike Force.

15 (c) The Hazardous Waste Strike Force shall do all of the following:

16 (1) Recommend standardized programs among the agencies represented on the
17 Hazardous Waste Strike Force for the purposes of uniformly enforcing state
18 hazardous waste statutes and regulations and reporting violators of these statutes
19 and regulations.

20 (2) Recommend programs to publicize and improve the statewide telephone
21 number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.

22 (3) Recommend local and regional programs to report information concerning
23 violations of this chapter and any other hazardous waste statutes and regulations.

24 **Comment.** Section 25197.2 is amended to update a reference to the former Department of Fish
25 and Game. See Fish & Wildlife Code § 1500.

26 **Health & Safety Code § 25209.2 (amended).**

27 SEC. _____. Section 25209.2 of the Health and Safety Code is amended to read:

28 25209.2. The state board, in consultation, as necessary, with other appropriate
29 state agencies, shall adopt or amend emergency regulations that establish minimum
30 requirements for the design, construction, operation, and closure of a solar
31 evaporator. The regulations shall include, but are not limited to, requirements to
32 ensure all of the following:

33 (a) The operation of a solar evaporator does not result in a discharge of on-farm
34 agricultural drainage water outside the boundaries of the area of land that makes up
35 the solar evaporator.

36 (b)(1) The solar evaporator is designed, constructed, and operated so that, under
37 reasonably ~~forseeable~~ foreseeable operating conditions, the discharge of agricultural
38 water to the solar evaporator does not result in standing water or drift of salt spray,
39 mist, or particles outside the boundaries of the solar evaporator to the extent that
40 drift constitutes a nuisance condition.

1 (2) Notwithstanding paragraph (1), a solar evaporator may be designed,
2 constructed, and operated to accommodate standing water, if it includes a water
3 catchment basin.

4 (3) The board may specify those conditions under which a solar evaporator is
5 required to include a water catchment basin to prevent standing water that would
6 otherwise occur within the solar evaporator.

7 (c) Avian wildlife is adequately protected. In adopting regulations pursuant to this
8 subdivision, the state board shall do the following:

9 (1) Consider and, to the extent feasible, incorporate best management practices
10 recommended or adopted by the United States Fish and Wildlife Service.

11 (2) Establish guidelines for the authorized inspection of a solar evaporator by the
12 regional board pursuant to Section 25209.15. The guidelines shall include technical
13 advice developed in consultation with the Department of Fish and ~~Game~~ Wildlife
14 and the United States Fish and Wildlife Service that may be used by regional board
15 personnel to identify observed conditions relating to the operation of a solar
16 evaporator that indicate an unreasonable threat to avian wildlife.

17 (d) Constituents in agricultural drainage water discharged to the solar evaporator
18 will not migrate from the solar evaporator into the vadose zone or the waters of the
19 state in concentrations that pollute or threaten to pollute the waters of the state.

20 (e) Adequate groundwater monitoring and recordkeeping is performed to ensure
21 compliance with this article.

22 (f) Salt isolated in a solar evaporator shall be managed in accordance with all
23 applicable laws and shall eventually be harvested and sold for commercial purposes,
24 used for beneficial purposes, or stored or disposed in a facility authorized to accept
25 that waste pursuant to this chapter or Division 30 (commencing with Section 40000)
26 of the Public Resources Code.

27 **Comment.** Section 25209.2 is amended to update a reference to the former Department of Fish
28 and Game. See Fish & Wildlife Code § 1500. The section is also amended to make a technical
29 correction.

30 **Health & Safety Code § 25261 (amended).**

31 SEC. _____. Section 25261 of the Health and Safety Code is amended to read:

32 25261. (a) There is within the California Environmental Protection Agency a Site
33 Designation Committee. The membership of the committee consists of the
34 following six persons:

35 (1) Secretary for Environmental Protection.

36 (2) Director of Toxic Substances Control.

37 (3) Chairperson of the State Water Resources Control Board.

38 (4) Director of Fish and ~~Game~~ Wildlife.

39 (5) Director of the Office of Environmental Health Hazard Assessment.

40 (6) Chairperson of the State Air Resources Board.

41 (b) The committee shall carry out the functions described in Sections 25262,
42 25263, and 25265 and shall meet as necessary to ensure that those functions are

1 carried out in a timely manner. The decisions of the committee shall be subject to
2 the concurrence of four members. The committee shall choose a chairperson from
3 among its members. A committee member may designate an employee of the
4 member's agency to participate in committee meetings in the member's place.

5 **Comment.** Section 25261 is amended to update a reference to the Director of the former
6 Department of Fish and Game. See Fish & Wildlife Code § 1500.

7 **Health & Safety Code § 25262 (amended).**

8 SEC. ____ . Section 25262 of the Health and Safety Code is amended to read:

9 25262. (a) A responsible party for a hazardous materials release site may request
10 the committee at any time to designate an administering agency to oversee a site
11 investigation and remedial action at the site. The committee shall designate an
12 administering agency as responsible for the site within 45 days of the date the
13 request is received. A request to designate an administering agency may be denied
14 only if the committee makes one of the following findings:

15 (1) No single agency in state or local government has the expertise needed to
16 adequately oversee a site investigation and remedial action at the site.

17 (2) Designating an administering agency will have the effect of reversing a
18 regulatory or enforcement action initiated by an agency that has jurisdiction over
19 the site, a facility on the site, or an activity at the site.

20 (3) Designating an administering agency will prevent a regulatory or enforcement
21 action required by federal law or regulations.

22 (4) The administering agency and the responsible party are local agencies formed,
23 in whole or in part, by the same political subdivision.

24 (b) A responsible party who requests the designation of an administering agency
25 for a hazardous materials release site shall provide the committee with a brief
26 description of the site, an analysis of the known or suspected nature of the release
27 or threatened release that is the subject of required site investigation or remedial
28 action, a description of the type of facility from which the release occurred or the
29 type of activity that caused the release, a specification of the regulatory or
30 enforcement actions that have been taken, or are pending, with respect to the release,
31 and a statement of which agency the responsible party believes should be designated
32 as administering agency for the site.

33 (c)(1) The committee shall take all of the following factors into account in
34 determining which agency to designate as administering agency for a site:

35 (A) The type of release that is the subject of site investigation and remedial action.

36 (B) The nature of the threat that the release poses to human health and safety or
37 to the environment.

38 (C) The source of the release, the type of facility or activity from which the release
39 occurred, the regulatory programs that govern the facility or activity involved, and
40 the agency or agencies that administer those regulatory programs.

41 (D) The regulatory history of the site, the types of regulatory actions or
42 enforcement actions that have been taken with respect to the site or the facility or

1 activity from which the release occurred, and the experience and involvement that
2 various agencies have had with the site.

3 (E) The capabilities and expertise of the agencies that are candidates for
4 designation as the administering agency for the site and the degree to which those
5 capabilities and that expertise are applicable to the type of release at the site, the
6 nature of the threat that the release poses to health and safety or the environment
7 and the probable remedial measures that will be required.

8 (2) After weighing the factors described in paragraph (1) as they apply to the site,
9 the committee shall use the criteria specified in subparagraphs (A), (B), (C), and (D)
10 as guidelines for designating the administering agency. If more than one of the
11 criteria apply to the site, the committee shall use its best judgment, taking into
12 account the known facts concerning the hazardous materials release at the site and
13 its regulatory history, in determining which agency may best serve as the
14 administering agency. The criteria are as follows:

15 (A) The administering agency shall be the Department of Toxic Substances
16 Control if one of the following applies:

17 (i) The department has issued an order, or otherwise initiated action, with respect
18 to the release at the site pursuant to Section 25355, 25355.5, or 25358.3.

19 (ii) The department has issued an order for corrective action at the site pursuant
20 to Section 25187.

21 (iii) The source of the release is a facility or hazardous waste management unit or
22 an activity that is, or was, regulated by the department pursuant to Chapter 6.5
23 (commencing with Section 25100).

24 (iv) The department is conducting, or has conducted, oversight of the site
25 investigation and remedial action at the site at the request of the responsible party.

26 (B) The administering agency shall be the California regional water quality
27 control board for the region in which the site is located, if one of the following
28 applies:

29 (i) The California regional water quality control board has issued a cease and
30 desist order pursuant to Section 13301, or a cleanup and abatement order pursuant
31 to Section 13304 of the Water Code in connection with the release at the site.

32 (ii) The source of the release is a facility or an activity that is subject to waste
33 discharge requirements issued by the California regional water quality control board
34 pursuant to Section 13263 of the Water Code or that is regulated by the California
35 regional water quality control board pursuant to Article 5.6 (commencing with
36 Section 25159.10) of, or Article 9.5 (commencing with Section 25208) of, Chapter
37 6.5, or pursuant to Chapter 6.67 (commencing with Section 25270).

38 (iii) The California regional water quality control board has jurisdiction over the
39 site pursuant to Chapter 5.6 (commencing with Section 13390) of Division 7 of the
40 Water Code.

41 (C) The administering agency shall be the Department of Fish and Game Wildlife
42 if the release has polluted or contaminated the waters of the state and the department
43 has taken action against the responsible party pursuant to Section ~~2014 or 12015~~ of;

1 ~~or Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6~~
2 ~~4470 or 6500, Article 2 (commencing with Section 6320) of Chapter 3 of Title 17~~
3 ~~of Part 4 of Division 3 of, Title 1 (commencing with Section 66500) of Part 3 of, or~~
4 ~~Title 1 (commencing with Section 71000) of Part 5 of, Division 17 of, the Fish and~~
5 ~~Game Wildlife Code, subsection (f) of Section 107 of the Comprehensive~~
6 ~~Environmental Response, Compensation, and Liability Act, as amended, (42 U.S.C.~~
7 ~~Sec. 9607 (f)), or Section 311 of the Federal Water Pollution Act, as amended (33~~
8 ~~U.S.C. Sec. 1321).~~

9 (D) The administering agency shall be a local agency if any one of the following
10 circumstances is applicable:

11 (i) The source of the release at the site is an underground storage tank, as defined
12 in subdivision (y) of Section 25281, the local agency is the agency described in
13 subdivision (i) of Section 25281, and there is no evidence of any extensive
14 groundwater contamination at the site.

15 (ii) The local agency has accepted responsibility for overseeing the site
16 investigation or remedial action at the site and a state agency is not involved.

17 (iii) The local agency has agreed to oversee the site investigation or remedial
18 action at the site and is certified, or has been approved, by a state agency to conduct
19 that oversight.

20 (d) A responsible party for a hazardous materials release site may request the
21 designation of an administering agency for the site pursuant to this section only
22 once. The action of the committee on the request is a final action and is not subject
23 to further administrative or judicial review.

24 **Comment.** Subparagraph (C) of paragraph (2) of subdivision (c) of Section 25262 is amended
25 to reflect the recodification of the former Fish and Game Code. That subparagraph is also amended
26 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

27 **Health & Safety Code § 25395.66 (amended).**

28 SEC. ____ . Section 25395.66 of the Health and Safety Code is amended to read:

29 25395.66. “Applicable law” means all of the provisions of the following state
30 statutory and common laws that impose liability on an owner or occupant of
31 property for pollution conditions caused by a release or threatened release of
32 hazardous material on, under, or adjacent to the property:

33 (a) Title 1 (commencing with Section 3479) of, Title 2 (commencing with Section
34 3490) of, and Title 3 (commencing with Section 3501) of, Part 3 of Division 4 of
35 the Civil Code.

36 (b) Chapter 2 (commencing with Section 731) of Title 10 of Part 2 of the Code of
37 Civil Procedure, but not including Section 736 of the Code of Civil Procedure.

38 (c) ~~Section 5650~~ Article 1 (commencing with Section 66500 of Chapter 1 of Title
39 1 of Part 3 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

40 (d) Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing
41 with Section 25299.10), and Chapter 6.8 (commencing with Section 25300), of this
42 division.

1 (e) Chapter 1 (commencing with Section 13000) to Chapter 5 (commencing with
2 Section 13300), inclusive, of Division 7 of the Water Code.

3 (f) State common law regarding contribution, nuisance, trespass, and equitable
4 indemnity.

5 **Comment.** Section 25395.66 is amended to reflect the recodification of the former Fish and
6 Game Code.

7 **Health & Safety Code § 41861 (amended).**

8 SEC. _____. Section 41861 of the Health and Safety Code is amended to read:

9 41861. No burning shall be conducted for the improvement of land for wildlife or
10 game habitat until the person desiring to conduct such burning obtains from the
11 Department of Fish and ~~Game~~ Wildlife a written statement certifying that the
12 burning is desirable and proper for the improvement of land for wildlife or game
13 habitat and such statement is filed with the air pollution control officer having
14 jurisdiction in the area in which the burning is to take place. As to burning conducted
15 by the Department of Fish and ~~Game~~ Wildlife, the department shall, on its own
16 behalf, issue and file such statements.

17 **Comment.** Section 41861 is amended to update references to the former Department of Fish and
18 Game. See Fish & Wildlife Code § 1500.

19 **Health & Safety Code § 110795 (amended).**

20 SEC. _____. Section 110795 of the Health and Safety Code is amended to read:

21 110795. (a) The department may adopt regulations that name and describe the
22 characteristics of salmon and any other fish or other seafood it considers
23 appropriate. The department shall consult with the Department of Fish and ~~Game~~
24 Wildlife, the Joint Committee on Fisheries and Aquaculture, consumers,
25 commercial fishermen, aquaculturists, and seafood processors, wholesalers,
26 restaurateurs, and other retailers before adopting these regulations. The department
27 shall not adopt any regulation that conflicts with the common name of any fish
28 designated by the Department of Fish and Game pursuant to **former** Section 8023
29 of the Fish and Game Code.

30 (b) In addition to the consultations required by subdivision (a), the department
31 shall consult and seek the recommendations of the groups named in that subdivision
32 concerning the possible need for, or desirability of, any further legislation or
33 regulations affecting seafood labeling.

34 (c) No regulation adopted pursuant to this section shall deviate from a pertinent
35 United States standard where the fish or seafood product specified is packed or
36 processed as a standardized product under a United States standard.

37 (d) Nothing in this section or in regulations adopted pursuant to this section shall
38 be construed to require the use of more than the common family name of any fish
39 or seafood by any restaurant in menus or advertisements.

1 **Comment.** Section 110795 is amended to reflect the recodification of the former Fish and Game
2 Code. The section is also amended to update a reference to the former Department of Fish and
3 Game. See Fish & Wildlife Code § 1500.

4  **Note.** Fish and Game Code Section 8023, which is cross-referenced in the section above, was
5 repealed in 1986. See 1986 Cal. Stat. ch. 1049, § 18. The former section concerned landing receipts.
6 Its last paragraph read: “The names used in the receipt for designating the species of the fish dealt
7 with shall be those in common usage, and may be designated by the department.” That rule seems
8 to provide the department with authority to designate the common names of different species of
9 fish.

10 Existing Section 8045 provides a similar, but different rule: “The names used in the landing
11 receipt and transportation receipt made under Sections 8043 and 8047 for designating the species
12 of fish dealt with shall be those in common usage unless otherwise designated by the department.”
13 The “unless otherwise designated” language suggests that the department has authority to designate
14 names *other than* common names.

15 The revision of Health and Safety Code Section 11079 proposed above takes a conservative
16 approach, strictly construing the existing language as a reference to former Section 8023. However,
17 that may not be the best way to preserve the spirit of the provision. It might be better to substitute
18 a reference to Section 8045.

19 **The Commission requests public comment on how best to revise the reference to Section**
20 **8023.**

21 **Health & Safety Code § 111067 (amended).**

22 SEC. _____. Section 111067 of the Health and Safety Code is amended to read:

23 111067. (a) Any city, county, or city and county may adopt an ordinance that
24 provides for the regulation of the disposition of bullfrogs and turtles imported for
25 sale in live animal markets for use as food. The ordinances may provide for all of
26 the following:

27 (1) The designation of a local agency to carry out this article.

28 (2) Require a permit, issued by an agency designated by the city, county, or city
29 and county to issue permits, for the sale of bullfrogs and turtles imported for sale in
30 live animal markets for use as food.

31 (3) Establish a fee for the permit in an amount determined sufficient to offset the
32 administrative cost of issuing the permit and enforcing the provisions of the
33 ordinance.

34 (4) Require that animals sold pursuant to the permit be dispatched at the time of
35 sale.

36 (5) Require that signs be posted at the permittee’s place of business, stating that
37 animals must be properly dispatched and that release into the wild in a live state is
38 unlawful.

39 (6) Authorize the local agency, after notice and opportunity for a hearing, to
40 suspend or revoke a permit issued pursuant to paragraph (1) for violation of any
41 provision of the ordinance adopted pursuant to this article.

42 (b) The State Department of Health Services and the Department of Fish and
43 ~~Game~~ Wildlife may consult with a city, county, or city and county for purposes
44 related to this article.

1 **Comment.** Section 111067 is amended to update a reference to the former Department of Fish
2 and Game. See Fish & Wildlife Code § 1500.

3 **Health & Safety Code § 112160 (amended).**

4 SEC. _____. Section 112160 of the Health and Safety Code is amended to read:

5 112160. (a) The director may declare any area within the jurisdiction of this state
6 to be a closed area if it is determined that shellfish taken from the growing area may
7 be unsafe or unfit for human consumption.

8 (b) The director shall close to the taking of shellfish for a period deemed advisable
9 any waters to which shellfish from a closed area may have been transferred.

10 (c) The director shall establish by order the areas that he or she declares unsafe or
11 unfit for shellfish harvesting and shall modify or revoke the order in accordance
12 with the results of chemical, toxicologic, and bacteriological surveys conducted by
13 the department. The director shall file the order in the office of the department, and
14 shall furnish copies of the orders describing closed areas to the Department of Fish
15 and ~~Game~~ Wildlife, the State Water Resources Control Board, and to any interested
16 person without charge.

17 (d) Prior to the director's declaration that shellfish-growing waters may be unsafe
18 and shellfish grown in these waters may not be taken for human consumption, the
19 department shall do all of the following:

20 (1) Give at least 20 days' notice of its intended action. The notice shall include a
21 statement of either the terms or substance of the intended action or a description of
22 the subject and issues involved, and the time when, the place where, and the manner
23 in which, interested persons may present their views thereon.

24 (2) Afford all interested persons reasonable opportunity to submit data, views, or
25 arguments orally or in writing. The department shall consider fully all written and
26 oral submissions respecting the proposed action.

27 (e) If the department finds that the shellfish harvested from an area is unsafe or
28 unfit for human consumption and states in writing its reasons for that finding, it may
29 proceed without prior notice or hearing to take emergency action. The action may
30 be effective for a period of not longer than 30 days, during which time the
31 department shall initiate the procedures contained in subdivision (d).

32 **Comment.** Section 112160 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Health & Safety Code § 112175 (amended).**

35 SEC. _____. Section 112175 of the Health and Safety Code is amended to read:

36 112175. It is unlawful for any person to engage in commercial shellfish cultivation
37 or the harvesting for human consumption of shellfish from naturally occurring
38 populations, except as provided for in Sections ~~5670, 7850, 8500, and 1510+~~ 14500,
39 14615, 23600, 23605, 23610, 23700, 45010, and 45505 of the Fish and ~~Game~~
40 Wildlife Code and in regulations adopted by the department pursuant to this chapter,

1 with regard to growing areas, relaying and depuration procedures, and aquaculture
2 facilities.

3 **Comment.** Section 112175 is amended to reflect the recodification of the former Fish and Game
4 Code.

5 **Health & Safety Code § 112185 (amended).**

6 SEC. _____. Section 112185 of the Health and Safety Code is amended to read:

7 112185. (a) It is unlawful for any person to take, sell, offer, or hold for sale any
8 shellfish from an area declared by the director to be unsuitable for harvesting for
9 human consumption, without complying with all regulations adopted by the
10 department to ensure that the shellfish have been purified.

11 (b) The intent of this section is not to prohibit the transplanting of shellfish from
12 restricted or prohibited growing areas, if permission for the transplanting is first
13 obtained from the Department of Fish and ~~Game~~ Wildlife pursuant to Section 237
14 of Title 14 of the California Code of Regulations.

15 **Comment.** Section 112185 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
17 designations.

18 **Health & Safety Code § 114031 (amended).**

19 SEC. _____. Section 114031 of the Health and Safety Code is amended to read:

20 114031. (a) Game animals shall be received from an approved source.

21 (b) A game animal shall not be received for sale or service if it is a species of
22 wildlife that is listed in 50 C.F.R. 17 Endangered and Threatened Wildlife and
23 Plants or is listed as an endangered or threatened animal by the Department of Fish
24 and ~~Game~~ Wildlife.

25 (c) The enforcement agency may approve the use of legally obtained donated fish
26 and game by nonprofit organizations authorized to serve meals to indigent persons.

27 (1) “Fish,” as used in this subdivision, shall be defined as that term is used in
28 Section ~~45~~ 335 of the Fish and ~~Game~~ Wildlife Code.

29 (2) “Game,” as used in this subdivision, means any game bird, as defined in
30 Section ~~3500~~ 410 or 490 of the Fish and ~~Game~~ Wildlife Code, or game mammal, as
31 defined in Section ~~3950~~ 375 of the Fish and ~~Game~~ Wildlife Code.

32 **Comment.** Section 114031 is amended to reflect the recodification of the former Fish and Game
33 Code. The section is also amended to update a reference to the former Department of Fish and
34 Game. See Fish & Wildlife Code § 1500.

35 **Health & Safety Code § 114775 (amended).**

36 SEC. _____. Section 114775 of the Health and Safety Code is amended to read:

37 114775. The department, utilizing available funds and in cooperation with the
38 Department of Fish and ~~Game~~ Wildlife and the Joint Committee on Fisheries and
39 Aquaculture, shall do all of the following:

1 (a) Cooperate with any federal agency that conducts monitoring of marine life or
2 ocean waters, or both, at the sites of radioactive waste dumping off the California
3 coast to determine the effects of the dumping.

4 (b) Purchase and test samples of seafood taken in the vicinity of the Farallon
5 Islands radioactive waste dump site to determine whether the seafood contains
6 radioactivity beyond natural and artificial background levels.

7 (c) Make annual reports to the Legislature on the implementation of this section,
8 including any recommendations for legislation it deems necessary to protect the
9 health of Californians.

10 (d) Take emergency action pursuant to the general authority contained in the
11 Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section
12 109875)) to prohibit the commercial sale of seafood for human consumption if, in
13 the judgment of the director, samples analyzed pursuant to subdivision (b), are
14 found to contain radioactivity that poses a threat to human health.

15 **Comment.** Section 114775 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Health & Safety Code § 114780 (amended).**

18 SEC. _____. Section 114780 of the Health and Safety Code is amended to read:

19 114780. (a) The Legislature finds and declares that the dumping of radioactive
20 waste, including the scuttling of radioactive nuclear submarines, into the Pacific
21 Ocean, could adversely affect the California coastal zone.

22 (b) The California Coastal Commission, in cooperation when appropriate with the
23 department, the Department of Justice, the Department of Fish and ~~Game~~ Wildlife,
24 and the Joint Committee on Fisheries and Aquaculture, shall use any means
25 available to the commission, pursuant to law, to prevent any dumping of radioactive
26 waste in the Pacific Ocean by any public or private entity, unless the commission
27 finds that the dumping would be consistent with the goals and policies of Division
28 20 (commencing with Section 30000) of the Public Resources Code.

29 **Comment.** Section 114780 is amended to update a reference to the former Department of Fish
30 and Game. See Fish & Wildlife Code § 1500.

31 **Health & Safety Code § 121870 (amended).**

32 SEC. _____. Section 121870 of the Health and Safety Code is amended to read:

33 121870. This chapter, or any regulations adopted pursuant thereto, shall not
34 authorize the importation, transportation, or possession of any live wild animals
35 enumerated in ~~Chapter 2 (commencing with Section 2116) of Division 3~~ Section
36 5280 or 5282, or Title 1 (commencing with Section 26500) or Title 2 (commencing
37 with Section 26600) of Part 6 of Division 7, of the Fish and ~~Game~~ Wildlife Code or
38 the regulations of the Fish and Game Commission adopted pursuant thereto, except
39 as provided in ~~Chapter 2 (commencing with Section 2116) of Division 3~~ Title 1
40 (commencing with Section 26500) or Title 2 (commencing with Section 26600) of
41 Part 6 of Division 7 of the Fish and ~~Game~~ Wildlife Code.

1 **Comment.** Section 121870 is amended to reflect the recodification of the former Fish and Game
2 Code.

3  **Note.** The revisions proposed above would continue all of the referenced provisions, with one
4 exception. The enforcement rules in existing Fish and Game Code Sections 2118.4, 2128, and 2125
5 are not included in the revised cross-reference. Those provisions do not seem germane to the
6 references.

7 **The Commission requests public comment on whether that approach would cause any**
8 **problems.**

9 **Health & Safety Code § 131052 (amended).**

10 SEC. _____. Section 131052 of the Health and Safety Code is amended to read:

11 131052. In implementing the transfer of jurisdiction pursuant to this article, the
12 State Department of Public Health succeeds to and is vested with all the statutory
13 duties, powers, purposes, responsibilities, and jurisdiction of the former State
14 Department of Health Services as they relate to public health as provided for or
15 referred to in all of the following provisions of law:

16 (1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5,
17 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950,
18 22973.2, and 22974.8 of the Business and Professions Code.

19 (2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

20 (3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405,
21 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and
22 76403 of the Education Code.

23 (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and
24 Agricultural Code.

25 (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

26 (6) Sections ~~1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700~~
27 11500, 13805, 24800, 31700, 45450, 45455, 45460, 45500, 45515, and 65970 of the
28 Fish and Game Wildlife Code.

29 (7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of
30 subdivision (s) of Section 6254 of the Government Code, the term “State
31 Department of Health Services” is hereby deemed to refer to the State Department
32 of Public Health.

33 (8)(A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5,
34 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21,
35 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29,
36 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2,
37 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

38 (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8,
39 8.3, 8.5, 8.6, 9, and 11 of Division 2.

40 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and
41 Part 3 of Division 101.

42 (D) Division 102, including Sections 102230 and 102231.

1 (E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187,
2 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321,
3 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and
4 105430.

5 (F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855,
6 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475,
7 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736,
8 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375,
9 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

10 (G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480,
11 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

12 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and
13 Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

14 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and
15 11520 of the Insurance Code.

16 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009,
17 and 9022 of the Labor Code.

18 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550,
19 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

20 (12) Section 4806 of the Probate Code.

21 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308,
22 44103, and 71081 of the Public Resources Code.

23 (14) Section 10405 of the Public Contract Code.

24 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

25 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6,
26 43010.1, and 43011.1 of the Revenue and Taxation Code.

27 (17) Section 11020 of the Unemployment Insurance Code.

28 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

29 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24
30 of the Welfare and Institutions Code. Payment for services provided under the
31 Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program
32 pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through
33 the State Department of Health Care Services. The State Department of Public
34 Health and the State Department of Health Care Services may enter into an
35 interagency agreement for the administration of those payments. This paragraph, to
36 the extent that it applies to the Family PACT Waiver Program, shall become
37 inoperative on June 30, 2012.

38 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5,
39 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4,
40 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824,
41 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
42 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892,
43 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4,

1 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022,
2 14025, 14026, 14027, and 14029 of the Water Code.

3 **Comment.** Section 131052(6) is amended to reflect the recodification of the former Fish and
4 Game Code.

5 **LABOR CODE**

6 **Labor Code § 226 (amended).**

7 SEC. ____ . Section 226 of the Labor Code is amended to read:

8 226. (a) An employer, semimonthly or at the time of each payment of wages, shall
9 furnish to his or her employee, either as a detachable part of the check, draft, or
10 voucher paying the employee's wages, or separately if wages are paid by personal
11 check or cash, an accurate itemized statement in writing showing (1) gross wages
12 earned, (2) total hours worked by the employee, except as provided in subdivision
13 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
14 employee is paid on a piece-rate basis, (4) all deductions, provided that all
15 deductions made on written orders of the employee may be aggregated and shown
16 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
17 employee is paid, (7) the name of the employee and only the last four digits of his
18 or her social security number or an employee identification number other than a
19 social security number, (8) the name and address of the legal entity that is the
20 employer and, if the employer is a farm labor contractor, as defined in subdivision
21 (b) of Section 1682, the name and address of the legal entity that secured the services
22 of the employer, and (9) all applicable hourly rates in effect during the pay period
23 and the corresponding number of hours worked at each hourly rate by the employee
24 and, beginning July 1, 2013, if the employer is a temporary services employer as
25 defined in Section 201.3, the rate of pay and the total hours worked for each
26 temporary services assignment. The deductions made from payment of wages shall
27 be recorded in ink or other indelible form, properly dated, showing the month, day,
28 and year, and a copy of the statement and the record of the deductions shall be kept
29 on file by the employer for at least three years at the place of employment or at a
30 central location within the State of California. For purposes of this subdivision,
31 "copy" includes a duplicate of the itemized statement provided to an employee or a
32 computer-generated record that accurately shows all of the information required by
33 this subdivision.

34 (b) An employer that is required by this code or any regulation adopted pursuant
35 to this code to keep the information required by subdivision (a) shall afford current
36 and former employees the right to inspect or receive a copy of records pertaining to
37 their employment, upon reasonable request to the employer. The employer may take
38 reasonable steps to ensure the identity of a current or former employee. If the
39 employer provides copies of the records, the actual cost of reproduction may be
40 charged to the current or former employee.

1 (c) An employer who receives a written or oral request to inspect or receive a copy
2 of records pursuant to subdivision (b) pertaining to a current or former employee
3 shall comply with the request as soon as practicable, but no later than 21 calendar
4 days from the date of the request. A violation of this subdivision is an infraction.
5 Impossibility of performance, not caused by or a result of a violation of law, shall
6 be an affirmative defense for an employer in any action alleging a violation of this
7 subdivision. An employer may designate the person to whom a request under this
8 subdivision will be made.

9 (d) This section does not apply to any employer of a person employed by the
10 owner or occupant of a residential dwelling whose duties are incidental to the
11 ownership, maintenance, or use of the dwelling, including the care and supervision
12 of children, or whose duties are personal and not in the course of the trade, business,
13 profession, or occupation of the owner or occupant.

14 (e) (1) An employee suffering injury as a result of a knowing and intentional
15 failure by an employer to comply with subdivision (a) is entitled to recover the
16 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
17 a violation occurs and one hundred dollars (\$100) per employee for each violation
18 in a subsequent pay period, not to exceed an aggregate penalty of four thousand
19 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

20 (2) (A) An employee is deemed to suffer injury for purposes of this subdivision if
21 the employer fails to provide a wage statement.

22 (B) An employee is deemed to suffer injury for purposes of this subdivision if the
23 employer fails to provide accurate and complete information as required by any one
24 or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
25 promptly and easily determine from the wage statement alone one or more of the
26 following:

27 (i) The amount of the gross wages or net wages paid to the employee during the
28 pay period or any of the other information required to be provided on the itemized
29 wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision
30 (a).

31 (ii) Which deductions the employer made from gross wages to determine the net
32 wages paid to the employee during the pay period. Nothing in this subdivision alters
33 the ability of the employer to aggregate deductions consistent with the requirements
34 of item (4) of subdivision (a).

35 (iii) The name and address of the employer and, if the employer is a farm labor
36 contractor, as defined in subdivision (b) of Section 1682, the name and address of
37 the legal entity that secured the services of the employer during the pay period.

38 (iv) The name of the employee and only the last four digits of his or her social
39 security number or an employee identification number other than a social security
40 number.

41 (C) For purposes of this paragraph, "promptly and easily determine" means a
42 reasonable person would be able to readily ascertain the information without
43 reference to other documents or information.

1 (3) For purposes of this subdivision, a “knowing and intentional failure” does not
2 include an isolated and unintentional payroll error due to a clerical or inadvertent
3 mistake. In reviewing for compliance with this section, the factfinder may consider
4 as a relevant factor whether the employer, prior to an alleged violation, has adopted
5 and is in compliance with a set of policies, procedures, and practices that fully
6 comply with this section.

7 (f) A failure by an employer to permit a current or former employee to inspect or
8 receive a copy of records within the time set forth in subdivision (c) entitles the
9 current or former employee or the Labor Commissioner to recover a seven-hundred-
10 fifty-dollar (\$750) penalty from the employer.

11 (g) The listing by an employer of the name and address of the legal entity that
12 secured the services of the employer in the itemized statement required by
13 subdivision (a) shall not create any liability on the part of that legal entity.

14 (h) An employee may also bring an action for injunctive relief to ensure
15 compliance with this section, and is entitled to an award of costs and reasonable
16 attorney’s fees.

17 (i) This section does not apply to the state, to any city, county, city and county,
18 district, or to any other governmental entity, except that if the state or a city, county,
19 city and county, district, or other governmental entity furnishes its employees with
20 a check, draft, or voucher paying the employee’s wages, the state or a city, county,
21 city and county, district, or other governmental entity shall use no more than the last
22 four digits of the employee’s social security number or shall use an employee
23 identification number other than the social security number on the itemized
24 statement provided with the check, draft, or voucher.

25 (j) An itemized wage statement furnished by an employer pursuant to subdivision
26 (a) shall not be required to show total hours worked by the employee if any of the
27 following apply:

28 (1) The employee’s compensation is solely based on salary and the employee is
29 exempt from payment of overtime under subdivision (a) of Section 515 or any
30 applicable order of the Industrial Welfare Commission.

31 (2) The employee is exempt from the payment of minimum wage and overtime
32 under any of the following:

33 (A) The exemption for persons employed in an executive, administrative, or
34 professional capacity provided in any applicable order of the Industrial Welfare
35 Commission.

36 (B) The exemption for outside salespersons provided in any applicable order of
37 the Industrial Welfare Commission.

38 (C) The overtime exemption for computer software professionals paid on a
39 salaried basis provided in Section 515.5.

40 (D) The exemption for individuals who are the parent, spouse, child, or legally
41 adopted child of the employer provided in any applicable order of the Industrial
42 Welfare Commission.

1 (E) The exemption for participants, director, and staff of a live-in alternative to
2 incarceration rehabilitation program with special focus on substance abusers
3 provided in Section 8002 of the Penal Code.

4 (F) The exemption for any crew member employed on a commercial passenger
5 fishing boat licensed pursuant to ~~Article 5 (commencing with Section 7920) of~~
6 ~~Chapter 1 of Part 3 of Division 6~~ Section 21905 of the Fish and Game Wildlife Code
7 provided in any applicable order of the Industrial Welfare Commission.

8 (G) The exemption for any individual participating in a national service program
9 provided in any applicable order of the Industrial Welfare Commission.

10 **Comment.** Subparagraph (F) of paragraph (2) of subdivision (j) of Section 226 is amended to
11 reflect the recodification of the former Fish and Game Code.

12 **Labor Code § 3212 (amended).**

13 SEC. ____. Section 3212 of the Labor Code is amended to read:

14 3212. In the case of members of a sheriff's office or the California Highway
15 Patrol, district attorney's staff of inspectors and investigators or of police or fire
16 departments of cities, counties, cities and counties, districts or other public or
17 municipal corporations or political subdivisions, whether those members are
18 volunteer, partly paid, or fully paid, and in the case of active firefighting members
19 of the Department of Forestry and Fire Protection whose duties require firefighting
20 or of any county forestry or firefighting department or unit, whether voluntary, fully
21 paid, or partly paid, and in the case of members of the warden service of the Wildlife
22 Protection Branch of the Department of Fish and Game Wildlife whose principal
23 duties consist of active law enforcement service, excepting those whose principal
24 duties are clerical or otherwise do not clearly fall within the scope of active law
25 enforcement service such as stenographers, telephone operators, and other
26 ~~office workers~~ office workers, the term "injury" as used in this act includes hernia
27 when any part of the hernia develops or manifests itself during a period while the
28 member is in the service in the office, staff, division, department, or unit, and in the
29 case of members of fire departments, except those whose principal duties are
30 clerical, such as stenographers, telephone operators, and other ~~office workers~~ office
31 workers, and in the case of county forestry or firefighting departments, except those
32 whose principal duties are clerical, such as stenographers, telephone operators, and
33 other office workers, and in the case of active firefighting members of the
34 Department of Forestry and Fire Protection whose duties require firefighting, and
35 in the case of members of the warden service of the Wildlife Protection Branch of
36 the Department of Fish and Game Wildlife whose principal duties consist of active
37 law enforcement service, excepting those whose principal duties are clerical or
38 otherwise do not clearly fall within the scope of active law enforcement service such
39 as stenographers, telephone operators, and other ~~office workers~~ office workers, the
40 term "injury" includes pneumonia and heart trouble that develops or manifests itself
41 during a period while the member is in the service of the office, staff, department,
42 or unit. In the case of regular salaried county or city and county peace officers, the

1 term “injury” also includes any hernia that manifests itself or develops during a
2 period while the officer is in the service. The compensation that is awarded for the
3 hernia, heart trouble, or pneumonia shall include full hospital, surgical, medical
4 treatment, disability indemnity, and death benefits, as provided by the workers’
5 compensation laws of this state.

6 The hernia, heart trouble, or pneumonia so developing or manifesting itself in
7 those cases shall be presumed to arise out of and in the course of the employment.
8 This presumption is disputable and may be controverted by other evidence, but
9 unless so controverted, the appeals board is bound to find in accordance with it. The
10 presumption shall be extended to a member following termination of service for a
11 period of three calendar months for each full year of the requisite service, but not to
12 exceed 60 months in any circumstance, commencing with the last date actually
13 worked in the specified capacity.

14 The hernia, heart trouble, or pneumonia so developing or manifesting itself in
15 those cases shall in no case be attributed to any disease existing prior to that
16 development or manifestation.

17 **Comment.** Section 3212 is amended update references to the former Department of Fish and
18 Game. See Fish & Wildlife Code § 1500. The section is also amended to make technical
19 corrections.

20 **Labor Code § 3363 (amended).**

21 SEC. _____. Section 3363 of the Labor Code is amended to read:

22 3363. Each member registered with the Department of Fish and ~~Game~~ Wildlife as
23 an active member of the reserve fish and game warden program of the department
24 is an employee of the department for the purposes of this division, and is entitled to
25 receive compensation from the department in accordance with the provisions
26 thereof.

27 **Comment.** Section 3363 is amended to update a cross-reference to the former Department of
28 Fish and Game. See Fish & Wildlife Code § 1500.

29 **Labor Code § 6302 (amended).**

30 SEC. _____. Section 6302 of the Labor Code is amended to read:

31 6302. As used in this division:

32 (a) “Director” means the Director of Industrial Relations.

33 (b) “Department” means the Department of Industrial Relations.

34 (c) “Insurer” includes the State Compensation Insurance Fund and any private
35 company, corporation, mutual association, and reciprocal or interinsurance
36 exchange, authorized under the laws of this state to insure employers against
37 liability for compensation under this part and under Division 4 (commencing with
38 Section 3201), and any employer to whom a certificate of consent to self-insure has
39 been issued.

40 (d) “Division” means the Division of Occupational Safety and Health.

1 (e) “Standards board” means the Occupational Safety and Health Standards
2 Board, within the department.

3 (f) “Appeals board” means the Occupational Safety and Health Appeals Board,
4 within the department.

5 (g) “Aquaculture” means a form of agriculture as defined in Section ~~17~~ 225 of the
6 Fish and ~~Game~~ Wildlife Code.

7 (h) “Serious injury or illness” means any injury or illness occurring in a place of
8 employment or in connection with any employment which requires inpatient
9 hospitalization for a period in excess of 24 hours for other than medical observation
10 or in which an employee suffers a loss of any member of the body or suffers any
11 serious degree of permanent disfigurement, but does not include any injury or illness
12 or death caused by the commission of a Penal Code violation, except the violation
13 of Section 385 of the Penal Code, or an accident on a public street or highway.

14 (i) “Serious exposure” means any exposure of an employee to a hazardous
15 substance when the exposure occurs as a result of an incident, accident, emergency,
16 or exposure over time and is in a degree or amount sufficient to create a substantial
17 probability that death or serious physical harm in the future could result from the
18 exposure.

19 **Comment.** Section 6302 is amended to reflect the recodification of the former Fish and Game
20 Code.

21 MILITARY AND VETERANS CODE

22 **Mil. & Vet. Code § 88 (amended).**

23 SEC. ____ . Section 88 of the Military and Veterans Code is amended to read:

24 88. (a) Notwithstanding other provisions of law, including, but not limited to,
25 Section 1 of Chapter 648 of the Statutes of 1992, as amended, the Department of
26 Veterans Affairs shall enter into an agreement with the Department of Fish and
27 ~~Game~~ Wildlife that grants to the Department of Fish and ~~Game~~ Wildlife for a period
28 of 99 years, exclusive authority over management and control of approximately 340
29 acres of land being portions of Sections 19, 28, 29, and 30 of Township 7 North,
30 Range 4 West, Mount Diablo Base and Meridian, in the vicinity of the Rector
31 Reservoir, Napa County, to be utilized by the Department of Fish and ~~Game~~
32 Wildlife exclusively for open space or conservation purposes. The agreement may
33 be terminated only upon the mutual agreement of the Department of Veterans
34 Affairs and the Department of Fish and ~~Game~~ Wildlife.

35 (b) If the agreement described in subdivision (a) is not entered into by December
36 31, 1997, exclusive authority over the management and control of the property
37 described in subdivision (a) is hereby granted to the Department of Fish and ~~Game~~
38 Wildlife, effective January 1, 1998.

39 (c) Upon the effective date of the agreement entered into pursuant to subdivision
40 (a) or upon the operation of subdivision (b), the provisions of Section 1 of Chapter

1 648 of the Statutes of 1992, as amended, authorizing the property described in
2 subdivision (a) as surplus property are repealed.

3 **Comment.** Section 88 is amended to update references to the former Department of Fish and
4 Game. See Fish & Wildlife Code § 1500.

5
6 PENAL CODE

6 **Penal Code § 409.5 (amended).**

7 SEC. ____ . Section 409.5 of the Penal Code is amended to read:

8 409.5. (a) Whenever a menace to the public health or safety is created by a
9 calamity including a flood, storm, fire, earthquake, explosion, accident, or other
10 disaster, officers of the Department of the California Highway Patrol, police
11 departments, marshal's office or sheriff's office, any officer or employee of the
12 Department of Forestry and Fire Protection designated a peace officer by
13 subdivision (g) of Section 830.2, any officer or employee of the Department of Parks
14 and Recreation designated a peace officer by subdivision (f) of Section 830.2, any
15 officer or employee of the Department of Fish and ~~Game~~ Wildlife designated a
16 peace officer under subdivision (e) of Section 830.2, and any publicly employed
17 full-time lifeguard or publicly employed full-time marine safety officer while acting
18 in a supervisory position in the performance of his or her official duties, may close
19 the area where the menace exists for the duration thereof by means of ropes,
20 markers, or guards to any and all persons not authorized by the lifeguard or officer
21 to enter or remain within the enclosed area. If the calamity creates an immediate
22 menace to the public health, the local health officer may close the area where the
23 menace exists pursuant to the conditions set forth in this section.

24 (b) Officers of the Department of the California Highway Patrol, police
25 departments, marshal's office or sheriff's office, officers of the Department of Fish
26 and ~~Game~~ Wildlife designated as peace officers by subdivision (e) of Section 830.2,
27 or officers of the Department of Forestry and Fire Protection designated as peace
28 officers by subdivision (g) of Section 830.2 may close the immediate area
29 surrounding any emergency field command post or any other command post
30 activated for the purpose of abating any calamity enumerated in this section or any
31 riot or other civil disturbance to any and all unauthorized persons pursuant to the
32 conditions set forth in this section whether or not the field command post or other
33 command post is located near to the actual calamity or riot or other civil disturbance.

34 (c) Any unauthorized person who willfully and knowingly enters an area closed
35 pursuant to subdivision (a) or (b) and who willfully remains within the area after
36 receiving notice to evacuate or leave shall be guilty of a misdemeanor.

37 (d) Nothing in this section shall prevent a duly authorized representative of any
38 news service, newspaper, or radio or television station or network from entering the
39 areas closed pursuant to this section.

1 **Comment.** Section 409.5 is amended to update references to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Penal Code § 597 (amended).**

4 SEC. ____ . Section 597 of the Penal Code is amended to read:

5 597. (a) Except as provided in subdivision (c) of this section or Section 599c,
6 every person who maliciously and intentionally maims, mutilates, tortures, or
7 wounds a living animal, or maliciously and intentionally kills an animal, is guilty of
8 a crime punishable pursuant to subdivision (d).

9 (b) Except as otherwise provided in subdivision (a) or (c), every person who
10 overdrives, overloads, drives when overloaded, overworks, tortures, torments,
11 deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or
12 cruelly kills any animal, or causes or procures any animal to be so overdriven,
13 overloaded, driven when overloaded, overworked, tortured, tormented, deprived of
14 necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly
15 killed; and whoever, having the charge or custody of any animal, either as owner or
16 otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty
17 upon the animal, or in any manner abuses any animal, or fails to provide the animal
18 with proper food, drink, or shelter or protection from the weather, or who drives,
19 rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty
20 of a crime punishable pursuant to subdivision (d).

21 (c) Every person who maliciously and intentionally maims, mutilates, or tortures
22 any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is
23 guilty of a crime punishable pursuant to subdivision (d).

24 (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by
25 imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more
26 than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or
27 alternatively, as a misdemeanor by imprisonment in a county jail for not more than
28 one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by
29 both that fine and imprisonment.

30 (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish ~~which~~
31 that is a creature described as follows:

32 (1) Endangered species or threatened species as described in ~~Chapter 1.5~~
33 ~~(commencing with Section 2050) of Division 3 Part 1 (commencing with Section~~
34 62000) of Division 17 of the Fish and Game Wildlife Code.

35 (2) Fully protected birds described in Section ~~351+~~ 345 of the Fish and Game
36 Wildlife Code.

37 (3) Fully protected mammals described in ~~Chapter 8 (commencing with Section~~
38 4700) of Part 3 of Division 4 Section 355 of the Fish and Game Wildlife Code.

39 (4) Fully protected reptiles and amphibians described in ~~Chapter 2 (commencing~~
40 with Section 5050) of Division 5 Section 340 and 360 of the Fish and Game Wildlife
41 Code.

1 (5) Fully protected fish as described in Section ~~5515~~ 350 of the Fish and Game
2 Code.

3 This subdivision does not supersede or affect any provisions of law relating to
4 taking of the described species, including, but not limited to, ~~Section 12008~~ Sections
5 5320, 5400, 5600, 5950, and 6202 of the Fish and Game Wildlife Code.

6 (f) For the purposes of subdivision (c), each act of malicious and intentional
7 maiming, mutilating, or torturing a separate specimen of a creature described in
8 subdivision (e) is a separate offense. If any person is charged with a violation of
9 subdivision (c), the proceedings shall be subject to Section ~~12157~~ 4570 of the Fish
10 and Game Wildlife Code.

11 (g)(1) Upon the conviction of a person charged with a violation of this section by
12 causing or permitting an act of cruelty, as defined in Section 599b, all animals
13 lawfully seized and impounded with respect to the violation by a peace officer,
14 officer of a humane society, or officer of a pound or animal regulation department
15 of a public agency shall be adjudged by the court to be forfeited and shall thereupon
16 be awarded to the impounding officer for proper disposition. A person convicted of
17 a violation of this section by causing or permitting an act of cruelty, as defined in
18 Section 599b, shall be liable to the impounding officer for all costs of impoundment
19 from the time of seizure to the time of proper disposition.

20 (2) Mandatory seizure or impoundment shall not apply to animals in properly
21 conducted scientific experiments or investigations performed under the authority of
22 the faculty of a regularly incorporated medical college or university of this state.

23 (h) Notwithstanding any other provision of law, if a defendant is granted probation
24 for a conviction under this section, the court shall order the defendant to pay for,
25 and successfully complete, counseling, as determined by the court, designed to
26 evaluate and treat behavior or conduct disorders. If the court finds that the defendant
27 is financially unable to pay for that counseling, the court may develop a sliding fee
28 schedule based upon the defendant's ability to pay. An indigent defendant may
29 negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant
30 has the ability to pay the nominal fee. County mental health departments or Medi-
31 Cal shall be responsible for the costs of counseling required by this section only for
32 those persons who meet the medical necessity criteria for mental health managed
33 care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations
34 or the targeted population criteria specified in Section 5600.3 of the Welfare and
35 Institutions Code. The counseling specified in this subdivision shall be in addition
36 to any other terms and conditions of probation, including any term of imprisonment
37 and any fine. This provision specifies a mandatory additional term of probation and
38 is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision
39 (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the
40 court does not order custody as a condition of probation for a conviction under this
41 section, the court shall specify on the court record the reason or reasons for not

1 ordering custody. This subdivision shall not apply to cases involving police dogs or
2 horses as described in Section 600.

3 **Comment.** Subdivisions (e) and (f) of Section 597 are amended to reflect the recodification of
4 the former Fish and Game Code.

5 **Penal Code § 597.5 (amended).**

6 SEC. _____. Section 597.5 of the Penal Code is amended to read:

7 597.5. (a) Any person who does any of the following is guilty of a felony and is
8 punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16
9 months, or two or three years, or by a fine not to exceed fifty thousand dollars
10 (\$50,000), or by both that fine and imprisonment:

11 (1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be
12 engaged in an exhibition of fighting with another dog.

13 (2) For amusement or gain, causes any dog to fight with another dog, or causes
14 any dogs to injure each other.

15 (3) Permits any act in violation of paragraph (1) or (2) to be done on any premises
16 under his or her charge or control, or aids or abets that act.

17 (b) Any person who is knowingly present, as a spectator, at any place, building,
18 or tenement where preparations are being made for an exhibition of the fighting of
19 dogs, with the intent to be present at those preparations, or is knowingly present at
20 that exhibition or at any other fighting or injuring as described in paragraph (2) of
21 subdivision (a), with the intent to be present at that exhibition, fighting, or injuring,
22 is guilty of an offense punishable by imprisonment in a county jail not to exceed
23 one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that
24 imprisonment and fine.

25 (c) Nothing in this section shall prohibit any of the following:

26 (1) The use of dogs in the management of livestock, as defined by Section 14205
27 of the Food and Agricultural Code, by the owner of the livestock or his or her
28 employees or agents or other persons in lawful custody thereof.

29 (2) The use of dogs in hunting as permitted by the Fish and ~~Game~~ Wildlife Code,
30 including, but not limited to, ~~Sections 4002 and 4756~~ Section 32150, and by the
31 rules and regulations of the Fish and Game Commission.

32 **Comment.** Section 597.5 is amended to reflect the recodification of the former Fish and Game
33 Code. A cross-reference to former Fish and Game Code Section 4756 is not continued. That section
34 was repealed in 2012. See 2012 Cal. Stat. ch. 595.

35 **Penal Code § 597s (amended).**

36 SEC. _____. Section 597s of the Penal Code is amended to read:

37 597s. (a) Every person who willfully abandons any animal is guilty of a
38 misdemeanor.

39 (b) This section shall not apply to the release or rehabilitation and release of native
40 California wildlife pursuant to statute or regulations of the ~~California~~ Department
41 of Fish and ~~Game~~ Wildlife.

1 **Comment.** Section 597s is amended to update a reference to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Penal Code § 626.9 (amended).**

4 SEC. _____. Section 626.9 of the Penal Code is amended to read:

5 626.9. (a) This section shall be known, and may be cited, as the Gun-Free School
6 Zone Act of 1995.

7 (b) Any person who possesses a firearm in a place that the person knows, or
8 reasonably should know, is a school zone, as defined in paragraph (4) of subdivision
9 (e), shall be punished as specified in subdivision (f).

10 (c) Subdivision (b) does not apply to the possession of a firearm under any of the
11 following circumstances:

12 (1) Within a place of residence or place of business or on private property, if the
13 place of residence, place of business, or private property is not part of the school
14 grounds and the possession of the firearm is otherwise lawful.

15 (2) When the firearm is an unloaded pistol, revolver, or other firearm capable of
16 being concealed on the person and is in a locked container or within the locked trunk
17 of a motor vehicle.

18 This section does not prohibit or limit the otherwise lawful transportation of any
19 other firearm, other than a pistol, revolver, or other firearm capable of being
20 concealed on the person, in accordance with state law.

21 (3) When the person possessing the firearm reasonably believes that he or she is
22 in grave danger because of circumstances forming the basis of a current restraining
23 order issued by a court against another person or persons who has or have been
24 found to pose a threat to his or her life or safety. This subdivision does not apply
25 when the circumstances involve a mutual restraining order issued pursuant to
26 Division 10 (commencing with Section 6200) of the Family Code absent a factual
27 finding of a specific threat to the person's life or safety. Upon a trial for violating
28 subdivision (b), the trier of a fact shall determine whether the defendant was acting
29 out of a reasonable belief that he or she was in grave danger.

30 (4) When the person is exempt from the prohibition against carrying a concealed
31 firearm pursuant to Section 25615, 25625, 25630, or 25645.

32 (5) When the person holds a valid license to carry the firearm pursuant to Chapter
33 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, who is
34 carrying that firearm in an area that is not in, or on the grounds of, a public or private
35 school providing instruction in kindergarten or grades 1 to 12, inclusive, but within
36 a distance of 1,000 feet from the grounds of the public or private school.

37 (d) Except as provided in subdivision (b), it shall be unlawful for any person, with
38 reckless disregard for the safety of another, to discharge, or attempt to discharge, a
39 firearm in a school zone, as defined in paragraph (4) of subdivision (e).

40 The prohibition contained in this subdivision does not apply to the discharge of a
41 firearm to the extent that the conditions of paragraph (1) of subdivision (c) are
42 satisfied.

1 (e) As used in this section, the following definitions shall apply:

2 (1) “Concealed firearm” has the same meaning as that term is given in Sections
3 25400 and 25610.

4 (2) “Firearm” has the same meaning as that term is given in subdivisions (a) to
5 (d), inclusive, of Section 16520.

6 (3) “Locked container” has the same meaning as that term is given in Section
7 16850.

8 (4) “School zone” means an area in, or on the grounds of, a public or private
9 school providing instruction in kindergarten or grades 1 to 12, inclusive, or within
10 a distance of 1,000 feet from the grounds of the public or private school.

11 (f)(1) A person who violates subdivision (b) by possessing a firearm in, or on the
12 grounds of, a public or private school providing instruction in kindergarten or grades
13 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of
14 Section 1170 for two, three, or five years.

15 (2) A person who violates subdivision (b) by possessing a firearm within a
16 distance of 1,000 feet from the grounds of a public or private school providing
17 instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

18 (A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three,
19 or five years, if any of the following circumstances apply:

20 (i) If the person previously has been convicted of any felony, or of any crime made
21 punishable by any provision listed in Section 16580.

22 (ii) If the person is within a class of persons prohibited from possessing or
23 acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or
24 Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of
25 this code or Section 8100 or 8103 of the Welfare and Institutions Code.

26 (iii) If the firearm is any pistol, revolver, or other firearm capable of being
27 concealed upon the person and the offense is punished as a felony pursuant to
28 Section 25400.

29 (B) By imprisonment in a county jail for not more than one year or by
30 imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five
31 years, in all cases other than those specified in subparagraph (A).

32 (3) A person who violates subdivision (d) shall be punished by imprisonment
33 pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

34 (g)(1) A person convicted under this section for a misdemeanor violation of
35 subdivision (b) who has been convicted previously of a misdemeanor offense
36 enumerated in Section 23515 shall be punished by imprisonment in a county jail for
37 not less than three months, or if probation is granted or if the execution or imposition
38 of sentence is suspended, it shall be a condition thereof that he or she be imprisoned
39 in a county jail for not less than three months.

40 (2) A person convicted under this section of a felony violation of subdivision (b)
41 or (d) who has been convicted previously of a misdemeanor offense enumerated in
42 Section 23515, if probation is granted or if the execution of sentence is suspended,

1 it shall be a condition thereof that he or she be imprisoned in a county jail for not
2 less than three months.

3 (3) A person convicted under this section for a felony violation of subdivision (b)
4 or (d) who has been convicted previously of any felony, or of any crime made
5 punishable by any provision listed in Section 16580, if probation is granted or if the
6 execution or imposition of sentence is suspended, it shall be a condition thereof that
7 he or she be imprisoned in a county jail for not less than three months.

8 (4) The court shall apply the three-month minimum sentence specified in this
9 subdivision, except in unusual cases where the interests of justice would best be
10 served by granting probation or suspending the execution or imposition of sentence
11 without the minimum imprisonment required in this subdivision or by granting
12 probation or suspending the execution or imposition of sentence with conditions
13 other than those set forth in this subdivision, in which case the court shall specify
14 on the record and shall enter on the minutes the circumstances indicating that the
15 interests of justice would best be served by this disposition.

16 (h) Notwithstanding Section 25605, any person who brings or possesses a loaded
17 firearm upon the grounds of a campus of, or buildings owned or operated for student
18 housing, teaching, research, or administration by, a public or private university or
19 college, that are contiguous or are clearly marked university property, unless it is
20 with the written permission of the university or college president, his or her
21 designee, or equivalent university or college authority, shall be punished by
22 imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four
23 years. Notwithstanding subdivision (k), a university or college shall post a
24 prominent notice at primary entrances on noncontiguous property stating that
25 firearms are prohibited on that property pursuant to this subdivision.

26 (i) Notwithstanding Section 25605, any person who brings or possesses a firearm
27 upon the grounds of a campus of, or buildings owned or operated for student
28 housing, teaching, research, or administration by, a public or private university or
29 college, that are contiguous or are clearly marked university property, unless it is
30 with the written permission of the university or college president, his or her
31 designee, or equivalent university or college authority, shall be punished by
32 imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three
33 years. Notwithstanding subdivision (k), a university or college shall post a
34 prominent notice at primary entrances on noncontiguous property stating that
35 firearms are prohibited on that property pursuant to this subdivision.

36 (j) For purposes of this section, a firearm shall be deemed to be loaded when there
37 is an unexpended cartridge or shell, consisting of a case that holds a charge of
38 powder and a bullet or shot, in, or attached in any manner to, the firearm, including,
39 but not limited to, in the firing chamber, magazine, or clip thereof attached to the
40 firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or
41 primed and has a powder charge and ball or shot in the barrel or cylinder.

1 (k) This section does not require that notice be posted regarding the proscribed
2 conduct.

3 (l) This section does not apply to a duly appointed peace officer as defined in
4 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid
5 peace officer of another state or the federal government who is carrying out official
6 duties while in California, any person summoned by any of these officers to assist
7 in making arrests or preserving the peace while he or she is actually engaged in
8 assisting the officer, a member of the military forces of this state or of the United
9 States who is engaged in the performance of his or her duties, or an armored vehicle
10 guard, engaged in the performance of his or her duties, as defined in subdivision (d)
11 of Section 7582.1 of the Business and Professions Code.

12 (m) This section does not apply to a security guard authorized to carry a loaded
13 firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of
14 Division 5 of Title 4 of Part 6.

15 (n) This section does not apply to an existing shooting range at a public or private
16 school or university or college campus.

17 (o) This section does not apply to an honorably retired peace officer authorized to
18 carry a concealed or loaded firearm pursuant to any of the following:

19 (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title
20 4 of Part 6.

21 (2) Section 25650.

22 (3) Sections 25900 to 25910, inclusive.

23 (4) Section 26020.

24 (5) Paragraph (2) of subdivision (c) of Section 26300.

25 (p) This section does not apply to a peace officer appointed pursuant to Section
26 830.6 who is authorized to carry a firearm by the appointing agency.

27 (q)(1) This section does not apply to the activities of a program involving shooting
28 sports or activities, including, but not limited to, trap shooting, skeet shooting,
29 sporting clays, and pistol shooting, that are sanctioned by a school, school district,
30 college, university, or other governing body of the institution, that occur on the
31 grounds of a public or private school or university or college campus.

32 (2) This section does not apply to the activities of a state-certified hunter education
33 program pursuant to Section ~~3051~~ 10405 of the Fish and ~~Game~~ Wildlife Code if all
34 firearms are unloaded and participants do not possess live ammunition in a school
35 building.

36 **Comment.** Paragraph (2) of subdivision (q) of Section 626.9 is amended to reflect the
37 recodification of the former Fish and Game Code.

38 **Penal Code § 638.52 (amended).**

39 SEC. ____. Section 638.52 of the Penal Code is amended to read:

40 638.52. (a) A peace officer may make an application to a magistrate for an order
41 or an extension of an order authorizing or approving the installation and use of a
42 pen register or a trap and trace device. The application shall be in writing under oath

1 or equivalent affirmation, and shall include the identity of the peace officer making
2 the application and the identity of the law enforcement agency conducting the
3 investigation. The applicant shall certify that the information likely to be obtained
4 is relevant to an ongoing criminal investigation and shall include a statement of the
5 offense to which the information likely to be obtained by the pen register or trap and
6 trace device relates.

7 (b) The magistrate shall enter an ex parte order authorizing the installation and
8 use of a pen register or a trap and trace device if he or she finds that the information
9 likely to be obtained by the installation and use of a pen register or a trap and trace
10 device is relevant to an ongoing investigation and that there is probable cause to
11 believe that the pen register or trap and trace device will lead to any of the following:

12 (1) Recovery of stolen or embezzled property.

13 (2) Property or things used as the means of committing a felony.

14 (3) Property or things in the possession of a person with the intent to use them as
15 a means of committing a public offense, or in the possession of another to whom he
16 or she may have delivered them for the purpose of concealing them or preventing
17 them from being discovered.

18 (4) Evidence that tends to show a felony has been committed, or tends to show
19 that a particular person has committed or is committing a felony.

20 (5) Evidence that tends to show that sexual exploitation of a child, in violation of
21 Section 311.3, or possession of matter depicting sexual conduct of a person under
22 18 years of age, in violation of Section 311.11, has occurred or is occurring.

23 (6) The location of a person who is unlawfully restrained or reasonably believed
24 to be a witness in a criminal investigation or for whose arrest there is probable cause.

25 (7) Evidence that tends to show a violation of Section 3700.5 of the Labor Code,
26 or tends to show that a particular person has violated Section 3700.5 of the Labor
27 Code.

28 (8) Evidence that does any of the following:

29 (A) Tends to show that a felony, a misdemeanor violation of the Fish and ~~Game~~
30 Wildlife Code, or a misdemeanor violation of the Public Resources Code, has been
31 committed or is being committed.

32 (B) Tends to show that a particular person has committed or is committing a
33 felony, a misdemeanor violation of the Fish and ~~Game~~ Wildlife Code, or a
34 misdemeanor violation of the Public Resources Code.

35 (C) Will assist in locating an individual who has committed or is committing a
36 felony, a misdemeanor violation of the Fish and ~~Game~~ Wildlife Code, or a
37 misdemeanor violation of the Public Resources Code.

38 (c) Information acquired solely pursuant to the authority for a pen register or a
39 trap and trace device shall not include any information that may disclose the
40 physical location of the subscriber, except to the extent that the location may be
41 determined from the telephone number. Upon the request of the person seeking the
42 pen register or trap and trace device, the magistrate may seal portions of the

1 application pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, and Sections 1040,
2 1041, and 1042 of the Evidence Code.

3 (d) An order issued pursuant to subdivision (b) shall specify all of the following:

4 (1) The identity, if known, of the person to whom is leased or in whose name is
5 listed the telephone line to which the pen register or trap and trace device is to be
6 attached.

7 (2) The identity, if known, of the person who is the subject of the criminal
8 investigation.

9 (3) The number and, if known, physical location of the telephone line to which
10 the pen register or trap and trace device is to be attached and, in the case of a trap
11 and trace device, the geographic limits of the trap and trace order.

12 (4) A statement of the offense to which the information likely to be obtained by
13 the pen register or trap and trace device relates.

14 (5) The order shall direct, if the applicant has requested, the furnishing of
15 information, facilities, and technical assistance necessary to accomplish the
16 installation of the pen register or trap and trace device.

17 (e) An order issued under this section shall authorize the installation and use of a
18 pen register or a trap and trace device for a period not to exceed 60 days.

19 (f) Extensions of the original order may be granted upon a new application for an
20 order under subdivisions (a) and (b) if the officer shows that there is a continued
21 probable cause that the information or items sought under this subdivision are likely
22 to be obtained under the extension. The period of an extension shall not exceed 60
23 days.

24 (g) An order or extension order authorizing or approving the installation and use
25 of a pen register or a trap and trace device shall direct that the order be sealed until
26 the order, including any extensions, expires, and that the person owning or leasing
27 the line to which the pen register or trap and trace device is attached not disclose the
28 existence of the pen register or trap and trace device or the existence of the
29 investigation to the listed subscriber or to any other person.

30 (h) Upon the presentation of an order, entered under subdivisions (b) or (f), by a
31 peace officer authorized to install and use a pen register, a provider of wire or
32 electronic communication service, landlord, custodian, or other person shall
33 immediately provide the peace officer all information, facilities, and technical
34 assistance necessary to accomplish the installation of the pen register unobtrusively
35 and with a minimum of interference with the services provided to the party with
36 respect to whom the installation and use is to take place, if the assistance is directed
37 by the order.

38 (i) Upon the request of a peace officer authorized to receive the results of a trap
39 and trace device, a provider of a wire or electronic communication service, landlord,
40 custodian, or other person shall immediately install the device on the appropriate
41 line and provide the peace officer all information, facilities, and technical assistance,
42 including installation and operation of the device unobtrusively and with a minimum
43 of interference with the services provided to the party with respect to whom the

1 installation and use is to take place, if the installation and assistance is directed by
2 the order.

3 (j) A provider of a wire or electronic communication service, landlord, custodian,
4 or other person who provides facilities or technical assistance pursuant to this
5 section shall be reasonably compensated by the requesting peace officer's law
6 enforcement agency for the reasonable expenses incurred in providing the facilities
7 and assistance.

8 (k) Unless otherwise ordered by the magistrate, the results of the pen register or
9 trap and trace device shall be provided to the peace officer at reasonable intervals
10 during regular business hours for the duration of the order.

11 (l) The magistrate, before issuing the order pursuant to subdivision (b), may
12 examine on oath the person seeking the pen register or the trap and trace device, and
13 any witnesses the person may produce, and shall take his or her affidavit or their
14 affidavits in writing, and cause the affidavit or affidavits to be subscribed by the
15 parties making them.

16 **Comment.** Paragraph (8) of subdivision (b) of Section 638.52 is amended to reflect the
17 recodification of the former Fish and Game Code.

18 **Penal Code § 830.2 (amended).**

19 SEC. ____ . Section 830.2 of the Penal Code is amended to read:

20 830.2. The following persons are peace officers whose authority extends to any
21 place in the state:

22 (a) Any member of the Department of the California Highway Patrol including
23 those members designated under subdivision (a) of Section 2250.1 of the Vehicle
24 Code, provided that the primary duty of the peace officer is the enforcement of any
25 law relating to the use or operation of vehicles upon the highways, or laws pertaining
26 to the provision of police services for the protection of state officers, state properties,
27 and the occupants of state properties, or both, as set forth in the Vehicle Code and
28 Government Code.

29 (b) A member of the University of California Police Department appointed
30 pursuant to Section 92600 of the Education Code, provided that the primary duty of
31 the peace officer shall be the enforcement of the law within the area specified in
32 Section 92600 of the Education Code.

33 (c) A member of the California State University Police Departments appointed
34 pursuant to Section 89560 of the Education Code, provided that the primary duty of
35 the peace officer shall be the enforcement of the law within the area specified in
36 Section 89560 of the Education Code.

37 (d)(1) Any member of the Office of Correctional Safety of the Department of
38 Corrections and Rehabilitation, provided that the primary duties of the peace officer
39 shall be the investigation or apprehension of inmates, wards, parolees, parole
40 violators, or escapees from state institutions, the transportation of those persons, the
41 investigation of any violation of criminal law discovered while performing the usual

1 and authorized duties of employment, and the coordination of those activities with
2 other criminal justice agencies.

3 (2) Any member of the Office of Internal Affairs of the Department of Corrections
4 and Rehabilitation, provided that the primary duties shall be criminal investigations
5 of Department of Corrections and Rehabilitation personnel and the coordination of
6 those activities with other criminal justice agencies. For purposes of this
7 subdivision, the member of the Office of Internal Affairs shall possess certification
8 from the Commission on Peace Officer Standards and Training for investigators, or
9 have completed training pursuant to Section 6126.1 of the Penal Code.

10 (e) Employees of the Department of Fish and ~~Game~~ Wildlife designated by the
11 director, provided that the primary duty of those peace officers shall be the
12 enforcement of the law as set forth in Section ~~856~~ 4100 of the Fish and ~~Game~~
13 Wildlife Code.

14 (f) Employees of the Department of Parks and Recreation designated by the
15 director pursuant to Section 5008 of the Public Resources Code, provided that the
16 primary duty of the peace officer shall be the enforcement of the law as set forth in
17 Section 5008 of the Public Resources Code.

18 (g) The Director of Forestry and Fire Protection and employees or classes of
19 employees of the Department of Forestry and Fire Protection designated by the
20 director pursuant to Section 4156 of the Public Resources Code, provided that the
21 primary duty of the peace officer shall be the enforcement of the law as that duty is
22 set forth in Section 4156 of the Public Resources Code.

23 (h) Persons employed by the Department of Alcoholic Beverage Control for the
24 enforcement of Division 9 (commencing with Section 23000) of the Business and
25 Professions Code and designated by the Director of Alcoholic Beverage Control,
26 provided that the primary duty of any of these peace officers shall be the
27 enforcement of the laws relating to alcoholic beverages, as that duty is set forth in
28 Section 25755 of the Business and Professions Code.

29 (i) Marshals and police appointed by the Board of Directors of the California
30 Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural
31 Code, provided that the primary duty of the peace officers shall be the enforcement
32 of the law as prescribed in that section.

33 **Comment.** Subdivision (e) of Section 830.2 is amended to reflect the recodification of the former
34 Fish and Game Code. That subdivision is also amended to update a reference to the former
35 Department of Fish and Game. See Fish & Wildlife Code § 1500.

36 **Penal Code § 830.6 (amended).**

37 SEC. ____ . Section 830.6 of the Penal Code is amended to read:

38 830.6. (a)(1) Whenever any qualified person is deputized or appointed by the
39 proper authority as a reserve or auxiliary sheriff or city police officer, a reserve
40 deputy sheriff, a reserve deputy marshal, a reserve police officer of a regional park
41 district or of a transit district, a reserve park ranger, a reserve harbor or port police
42 officer of a county, city, or district as specified in Section 663.5 of the Harbors and

1 Navigation Code, a reserve deputy of the Department of Fish and ~~Game~~ Wildlife, a
2 reserve special agent of the Department of Justice, a reserve officer of a community
3 service district which is authorized under subdivision (h) of Section 61600 of the
4 Government Code to maintain a police department or other police protection, a
5 reserve officer of a school district police department under Section 35021.5 of the
6 Education Code, a reserve officer of a community college police department under
7 Section 72330, a reserve officer of a police protection district formed under Part 1
8 (commencing with Section 20000) of Division 14 of the Health and Safety Code, or
9 a reserve housing authority patrol officer employed by a housing authority defined
10 in subdivision (d) of Section 830.31, and is assigned specific police functions by
11 that authority, the person is a peace officer, if the person qualifies as set forth in
12 Section 832.6. The authority of a person designated as a peace officer pursuant to
13 this paragraph extends only for the duration of the person's specific assignment. A
14 reserve park ranger or a transit, harbor, or port district reserve officer may carry
15 firearms only if authorized by, and under those terms and conditions as are specified
16 by, his or her employing agency.

17 (2) Whenever any qualified person is deputized or appointed by the proper
18 authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy
19 sheriff, a reserve deputy marshal, a reserve park ranger, a reserve police officer of a
20 regional park district, transit district, community college district, or school district,
21 a reserve harbor or port police officer of a county, city, or district as specified in
22 Section 663.5 of the Harbors and Navigation Code, a reserve officer of a community
23 service district that is authorized under subdivision (h) of Section 61600 of the
24 Government Code to maintain a police department or other police protection, or a
25 reserve officer of a police protection district formed under Part 1 (commencing with
26 Section 20000) of Division 14 of the Health and Safety Code, and is so designated
27 by local ordinance or, if the local agency is not authorized to act by ordinance, by
28 resolution, either individually or by class, and is assigned to the prevention and
29 detection of crime and the general enforcement of the laws of this state by that
30 authority, the person is a peace officer, if the person qualifies as set forth in
31 paragraph (1) of subdivision (a) of Section 832.6. The authority of a person
32 designated as a peace officer pursuant to this paragraph includes the full powers and
33 duties of a peace officer as provided by Section 830.1. A transit, harbor, or port
34 district reserve police officer, or a city or county reserve peace officer who is not
35 provided with the powers and duties authorized by Section 830.1, has the powers
36 and duties authorized in Section 830.33, or in the case of a reserve park ranger, the
37 powers and duties that are authorized in Section 830.31, or in the case of a reserve
38 housing authority patrol officer, the powers and duties that are authorized in
39 subdivision (d) of Section 830.31, and a school district reserve police officer or a
40 community college district reserve police officer has the powers and duties
41 authorized in Section 830.32.

1 (b) Whenever any person designated by a Native American tribe recognized by
2 the United States Secretary of the Interior is deputized or appointed by the county
3 sheriff as a reserve or auxiliary sheriff or a reserve deputy sheriff, and is assigned
4 to the prevention and detection of crime and the general enforcement of the laws of
5 this state by the county sheriff, the person is a peace officer, if the person qualifies
6 as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a
7 peace officer pursuant to this subdivision includes the full powers and duties of a
8 peace officer as provided by Section 830.1.

9 (c) Whenever any person is summoned to the aid of any uniformed peace officer,
10 the summoned person is vested with the powers of a peace officer that are expressly
11 delegated to him or her by the summoning officer or that are otherwise reasonably
12 necessary to properly assist the officer.

13 **Comment.** Section 830.6 is amended to update a reference to the former Department of Fish and
14 Game. See Fish & Wildlife Code § 1500.

15 **Penal Code § 969e (amended).**

16 SEC. _____. Section 969e of the Penal Code is amended to read:

17 969e. In charging the fact of a previous conviction for a violation of Section ~~5652~~
18 66525 of the Fish and ~~Game~~ Wildlife Code, or of Section 13001 or 13002 of the
19 Health and Safety Code or of Section 374b or 374d of the Penal Code or of Section
20 23111, 23112, or 23113 of the Vehicle Code, it is sufficient to state, “That the
21 defendant, before the commission of the offense charged herein, was in (giving the
22 title of the court in which the conviction was had) convicted of a violation of
23 (specifying the section violated).”

24 **Comment.** Section 969e is amended to reflect the recodification of the former Fish and Game
25 Code.

26 **Penal Code § 1463 (amended).**

27 SEC. _____. Section 1463 of the Penal Code is amended to read:

28 1463. All fines and forfeitures imposed and collected for crimes shall be
29 distributed in accordance with Section 1463.001.

30 The following definitions shall apply to terms used in this chapter:

31 (a) “Arrest” means any law enforcement action, including issuance of a notice to
32 appear or notice of violation, which results in a criminal charge.

33 (b) “City” includes any city, city and county, district, including any enterprise
34 special district, community service district, or community service area engaged in
35 police protection activities as reported to the Controller for inclusion in the 1989–
36 90 edition of the Financial Transactions Report Concerning Special Districts under
37 the heading of Police Protection and Public Safety, authority, or other local agency
38 (other than a county) which employs persons authorized to make arrests or to issue
39 notices to appear or notices of violation which may be filed in court.

40 (c) “City arrest” means an arrest by an employee of a city, or by a California
41 Highway Patrol officer within the limits of a city.

1 (d) “County” means the county in which the arrest took place.

2 (e) “County arrest” means an arrest by a California Highway Patrol officer outside
3 the limits of a city, or any arrest by a county officer or by any other state officer.

4 (f) “Court” means the superior court or a juvenile forum established under Section
5 257 of the Welfare and Institutions Code, in which the case arising from the arrest
6 is filed.

7 (g) “Division of moneys” means an allocation of base fine proceeds between
8 agencies as required by statute, including, but not limited to, Sections 1463.003,
9 1463.9, 1463.23, and 1463.26 of this code, Sections ~~13001, 13002, and 13003~~
10 Article 1 (commencing with Section 3600) of Chapter 3 of Title 1 of Part 6 of
11 Division 2 and Section 3810 of the Fish and ~~Game~~ Wildlife Code, and Section
12 11502 of the Health and Safety Code.

13 (h) “Offense” means any infraction, misdemeanor, or felony, and any act by a
14 juvenile leading to an order to pay a financial sanction by reason of the act being
15 defined as an infraction, misdemeanor, or felony, whether defined in this or any
16 other code, except any parking offense as defined in subdivision (i).

17 (i) “Parking offense” means any offense charged pursuant to Article 3
18 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code,
19 including registration and equipment offenses included on a notice of parking
20 violation.

21 (j) “Penalty allocation” means the deposit of a specified part of moneys to offset
22 designated processing costs, as provided by Section 1463.16 of this code and by
23 Section 68090.8 of the Government Code.

24 (k) “Total parking penalty” means the total sum to be collected for a parking
25 offense, whether as fine, forfeiture of bail, or payment of penalty to the Department
26 of Motor Vehicles (DMV). It may include the following components:

27 (1) The base parking penalty as established pursuant to Section 40203.5 of the
28 Vehicle Code.

29 (2) The DMV fees added upon the placement of a hold pursuant to Section 40220
30 of the Vehicle Code.

31 (3) The surcharges required by Section 76000 of the Government Code.

32 (4) The notice penalty added to the base parking penalty when a notice of
33 delinquent parking violations is given.

34 (l) “Total fine or forfeiture” means the total sum to be collected upon a conviction,
35 or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It
36 may include, but is not limited to, the following components as specified for the
37 particular offense:

38 (1) The “base fine” upon which the state penalty and additional county penalty is
39 calculated.

40 (2) The “county penalty” required by Section 76000 of the Government Code.

41 (3) The “DNA penalty” required by Sections 76104.6 and 76104.7 of the
42 Government Code.

1 (4) The “emergency medical services penalty” authorized by Section 76000.5 of
2 the Government Code.

3 (5) The “service charge” permitted by Section 853.7 of the Penal Code and
4 Section 40508.5 of the Vehicle Code.

5 (6) The “special penalty” dedicated for blood alcohol analysis, alcohol program
6 services, traumatic brain injury research, and similar purposes.

7 (7) The “state penalty” required by Section 1464.

8 **Comment.** Subdivision (g) of Section 1463 is amended to reflect the recodification of the former
9 Fish and Game Code.

10 **Penal Code § 1464.8 (amended).**

11 SEC. ____ . Section 1464.8 of the Penal Code is amended to read:

12 1464.8. Notwithstanding any other provision of law, when an allocation and
13 distribution of any fine, forfeiture, penalty, fee, or assessment collected in any
14 criminal case is made, including, but not limited to, moneys collected pursuant to
15 this chapter, Section ~~13003~~ 3610 of the Fish and ~~Game~~ Wildlife Code, Chapter 12
16 (commencing with Section 76000) of Title 8 of the Government Code, and Sections
17 11372.5 and 11502 of the Health and Safety Code, the allocation and distribution of
18 any payment may be based upon the law in effect during the accounting period when
19 the payment is made.

20 **Comment.** Section 1464.8 is amended to reflect the recodification of the former Fish and Game
21 Code.

22 **Penal Code § 1524 (amended).**

23 SEC. ____ . Section 1524 of the Penal Code is amended to read:

24 1524. (a) A search warrant may be issued upon any of the following grounds:

25 (1) When the property was stolen or embezzled.

26 (2) When the property or things were used as the means of committing a felony.

27 (3) When the property or things are in the possession of any person with the intent
28 to use them as a means of committing a public offense, or in the possession of
29 another to whom he or she may have delivered them for the purpose of concealing
30 them or preventing them from being discovered.

31 (4) When the property or things to be seized consist of an item or constitute
32 evidence that tends to show a felony has been committed, or tends to show that a
33 particular person has committed a felony.

34 (5) When the property or things to be seized consist of evidence that tends to show
35 that sexual exploitation of a child, in violation of Section 311.3, or possession of
36 matter depicting sexual conduct of a person under 18 years of age, in violation of
37 Section 311.11, has occurred or is occurring.

38 (6) When there is a warrant to arrest a person.

39 (7) When a provider of electronic communication service or remote computing
40 service has records or evidence, as specified in Section 1524.3, showing that
41 property was stolen or embezzled constituting a misdemeanor, or that property or

1 things are in the possession of any person with the intent to use them as a means of
2 committing a misdemeanor public offense, or in the possession of another to whom
3 he or she may have delivered them for the purpose of concealing them or preventing
4 their discovery.

5 (8) When the property or things to be seized include an item or evidence that tends
6 to show a violation of Section 3700.5 of the Labor Code, or tends to show that a
7 particular person has violated Section 3700.5 of the Labor Code.

8 (9) When the property or things to be seized include a firearm or other deadly
9 weapon at the scene of, or at the premises occupied or under the control of the person
10 arrested in connection with, a domestic violence incident involving a threat to
11 human life or a physical assault as provided in Section 18250. This section does not
12 affect warrantless seizures otherwise authorized by Section 18250.

13 (10) When the property or things to be seized include a firearm or other deadly
14 weapon that is owned by, or in the possession of, or in the custody or control of, a
15 person described in subdivision (a) of Section 8102 of the Welfare and Institutions
16 Code.

17 (11) When the property or things to be seized include a firearm that is owned by,
18 or in the possession of, or in the custody or control of, a person who is subject to the
19 prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a
20 prohibited firearm is possessed, owned, in the custody of, or controlled by a person
21 against whom a protective order has been issued pursuant to Section 6218 of the
22 Family Code, the person has been lawfully served with that order, and the person
23 has failed to relinquish the firearm as required by law.

24 (12) When the information to be received from the use of a tracking device
25 constitutes evidence that tends to show that either a felony, a misdemeanor violation
26 of the Fish and ~~Game~~ Wildlife Code, or a misdemeanor violation of the Public
27 Resources Code has been committed or is being committed, tends to show that a
28 particular person has committed a felony, a misdemeanor violation of the Fish and
29 ~~Game~~ Wildlife Code, or a misdemeanor violation of the Public Resources Code, or
30 is committing a felony, a misdemeanor violation of the Fish and ~~Game~~ Wildlife
31 Code, or a misdemeanor violation of the Public Resources Code, or will assist in
32 locating an individual who has committed or is committing a felony, a misdemeanor
33 violation of the Fish and ~~Game~~ Wildlife Code, or a misdemeanor violation of the
34 Public Resources Code. A tracking device search warrant issued pursuant to this
35 paragraph shall be executed in a manner meeting the requirements specified in
36 subdivision (b) of Section 1534.

37 (13) When a sample of the blood of a person constitutes evidence that tends to
38 show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the
39 person from whom the sample is being sought has refused an officer's request to
40 submit to, or has failed to complete, a blood test as required by Section 23612 of the
41 Vehicle Code, and the sample will be drawn from the person in a reasonable,
42 medically approved manner. This paragraph is not intended to abrogate a court's

1 mandate to determine the propriety of the issuance of a search warrant on a case-
2 by-case basis.

3 (14) Beginning January 1, 2016, the property or things to be seized are firearms
4 or ammunition or both that are owned by, in the possession of, or in the custody or
5 control of a person who is the subject of a gun violence restraining order that has
6 been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2
7 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the
8 custody of, or controlled by a person against whom a gun violence restraining order
9 has been issued, the person has been lawfully served with that order, and the person
10 has failed to relinquish the firearm as required by law.

11 (15) Beginning January 1, 2018, the property or things to be seized include a
12 firearm that is owned by, or in the possession of, or in the custody or control of, a
13 person who is subject to the prohibitions regarding firearms pursuant to Section
14 29800 or 29805, and the court has made a finding pursuant to subdivision (c) of
15 Section 29810 that the person has failed to relinquish the firearm as required by law.

16 (16) When the property or things to be seized are controlled substances or a
17 device, contrivance, instrument, or paraphernalia used for unlawfully using or
18 administering a controlled substance pursuant to the authority described in Section
19 11472 of the Health and Safety Code.

20 (17)(A) When all of the following apply:

21 (i) A sample of the blood of a person constitutes evidence that tends to show a
22 violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and
23 Navigation Code.

24 (ii) The person from whom the sample is being sought has refused an officer's
25 request to submit to, or has failed to complete, a blood test as required by Section
26 655.1 of the Harbors and Navigation Code.

27 (iii) The sample will be drawn from the person in a reasonable, medically
28 approved manner.

29 (B) This paragraph is not intended to abrogate a court's mandate to determine the
30 propriety of the issuance of a search warrant on a case-by-case basis.

31 (18) When the property or things to be seized consists of evidence that tends to
32 show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647
33 has occurred or is occurring.

34 (b) The property, things, person, or persons described in subdivision (a) may be
35 taken on the warrant from any place, or from any person in whose possession the
36 property or things may be.

37 (c) Notwithstanding subdivision (a) or (b), a search warrant shall not be issued for
38 any documentary evidence in the possession or under the control of any person who
39 is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined
40 in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010
41 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the
42 Evidence Code, and who is not reasonably suspected of engaging or having engaged

1 in criminal activity related to the documentary evidence for which a warrant is
2 requested unless the following procedure has been complied with:

3 (1) At the time of the issuance of the warrant, the court shall appoint a special
4 master in accordance with subdivision (d) to accompany the person who will serve
5 the warrant. Upon service of the warrant, the special master shall inform the party
6 served of the specific items being sought and that the party shall have the
7 opportunity to provide the items requested. If the party, in the judgment of the
8 special master, fails to provide the items requested, the special master shall conduct
9 a search for the items in the areas indicated in the search warrant.

10 (2)(A) If the party who has been served states that an item or items should not be
11 disclosed, they shall be sealed by the special master and taken to court for a hearing.

12 (B) At the hearing, the party searched shall be entitled to raise any issues that may
13 be raised pursuant to Section 1538.5 as well as a claim that the item or items are
14 privileged, as provided by law. The hearing shall be held in the superior court. The
15 court shall provide sufficient time for the parties to obtain counsel and make motions
16 or present evidence. The hearing shall be held within three days of the service of the
17 warrant unless the court makes a finding that the expedited hearing is impracticable.
18 In that case, the matter shall be heard at the earliest possible time.

19 (C) If an item or items are taken to court for a hearing, any limitations of time
20 prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be
21 tolled from the time of the seizure until the final conclusion of the hearing, including
22 any associated writ or appellate proceedings.

23 (3) The warrant shall, whenever practicable, be served during normal business
24 hours. In addition, the warrant shall be served upon a party who appears to have
25 possession or control of the items sought. If, after reasonable efforts, the party
26 serving the warrant is unable to locate the person, the special master shall seal and
27 return to the court, for determination by the court, any item that appears to be
28 privileged as provided by law.

29 (d)(1) As used in this section, a “special master” is an attorney who is a member
30 in good standing of the California State Bar and who has been selected from a list
31 of qualified attorneys that is maintained by the State Bar particularly for the
32 purposes of conducting the searches described in this section. These attorneys shall
33 serve without compensation. A special master shall be considered a public
34 employee, and the governmental entity that caused the search warrant to be issued
35 shall be considered the employer of the special master and the applicable public
36 entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the
37 Government Code, relating to claims and actions against public entities and public
38 employees. In selecting the special master, the court shall make every reasonable
39 effort to ensure that the person selected has no relationship with any of the parties
40 involved in the pending matter. Information obtained by the special master shall be
41 confidential and may not be divulged except in direct response to inquiry by the
42 court.

1 (2) In any case in which the magistrate determines that, after reasonable efforts
2 have been made to obtain a special master, a special master is not available and
3 would not be available within a reasonable period of time, the magistrate may direct
4 the party seeking the order to conduct the search in the manner described in this
5 section in lieu of the special master.

6 (e) Any search conducted pursuant to this section by a special master may be
7 conducted in a manner that permits the party serving the warrant or his or her
8 designee to accompany the special master as he or she conducts his or her search.
9 However, that party or his or her designee may not participate in the search nor shall
10 he or she examine any of the items being searched by the special master except upon
11 agreement of the party upon whom the warrant has been served.

12 (f) As used in this section, “documentary evidence” includes, but is not limited to,
13 writings, documents, blueprints, drawings, photographs, computer printouts,
14 microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video
15 recordings, films, and papers of any type or description.

16 (g) No warrant shall issue for any item or items described in Section 1070 of the
17 Evidence Code.

18 (h) Notwithstanding any other law, no claim of attorney work product as described
19 in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code
20 of Civil Procedure shall be sustained where there is probable cause to believe that
21 the lawyer is engaging or has engaged in criminal activity related to the
22 documentary evidence for which a warrant is requested unless it is established at the
23 hearing with respect to the documentary evidence seized under the warrant that the
24 services of the lawyer were not sought or obtained to enable or aid anyone to commit
25 or plan to commit a crime or a fraud.

26 (i) Nothing in this section is intended to limit an attorney’s ability to request an
27 in-camera hearing pursuant to the holding of the Supreme Court of California in
28 *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

29 (j) In addition to any other circumstance permitting a magistrate to issue a warrant
30 for a person or property in another county, when the property or things to be seized
31 consist of any item or constitute evidence that tends to show a violation of Section
32 530.5, the magistrate may issue a warrant to search a person or property located in
33 another county if the person whose identifying information was taken or used
34 resides in the same county as the issuing court.

35 (k) This section shall not be construed to create a cause of action against any
36 foreign or California corporation, its officers, employees, agents, or other specified
37 persons for providing location information.

38 **Comment.** Paragraph (12) of subdivision (a) of Section 1524 is amended to reflect the
39 recodification of the former Fish and Game Code.

40  **Note.** Section 1524 was amended in 2016 by an initiative statute, Proposition 63. The
41 Commission believes that the proposed technical revision of that section would not be an
42 impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and

1 associated text.

2 **Penal Code § 20015 (amended).**

3 SEC. _____. Section 20015 of the Penal Code is amended to read:

4 20015. Nothing in this division shall prohibit the sale to, purchase by, possession
5 of, or use of any blowgun or blowgun ammunition by zookeepers, animal control
6 officers, Department of Fish and ~~Game~~ Wildlife personnel, humane officers whose
7 names are maintained in the county record of humane officers pursuant to Section
8 14502 of the Corporations Code, or veterinarians in the course and scope of their
9 business in order to administer medicine to animals.

10 **Comment.** Section 20015 is amended to update a reference to the former Department of Fish
11 and Game. See Fish & Wildlife Code § 1500.

12 **Penal Code § 25700 (amended).**

13 SEC. _____. Section 25700 of the Penal Code is amended to read:

14 25700. (a) The unlawful carrying of any handgun in violation of Section 25400 is
15 a nuisance and is subject to Sections 18000 and 18005.

16 (b) This section does not apply to any of the following:

17 (1) Any firearm in the possession of the Department of Fish and ~~Game~~ Wildlife.

18 (2) Any firearm that was used in the violation of any provision of the Fish and
19 ~~Game~~ Wildlife Code or any regulation adopted pursuant thereto.

20 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public
21 Resources Code.

22 **Comment.** Section 25700 is amended to reflect the recodification of the former Fish and Game
23 Code. The section is also amended to update a reference to the former Department of Fish and
24 Game. See Fish & Wildlife Code § 1500.

25 **Penal Code § 26100 (amended).**

26 SEC. _____. Section 26100 of the Penal Code is amended to read:

27 26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of
28 any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle,
29 knowingly to permit any other person to carry into or bring into the vehicle a firearm
30 in violation of Section 25850 of this code or Section ~~2006~~ 9715 of the Fish and
31 ~~Game~~ Wildlife Code.

32 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is
33 occupying the vehicle, who knowingly permits any other person to discharge any
34 firearm from the vehicle is punishable by imprisonment in the county jail for not
35 more than one year or in state prison for 16 months or two or three years.

36 (c) Any person who willfully and maliciously discharges a firearm from a motor
37 vehicle at another person other than an occupant of a motor vehicle is guilty of a
38 felony punishable by imprisonment in state prison for three, five, or seven years.

39 (d) Except as provided in Section ~~3002~~ 9550 of the Fish and ~~Game~~ Wildlife Code,
40 any person who willfully and maliciously discharges a firearm from a motor vehicle

1 is guilty of a public offense punishable by imprisonment in the county jail for not
2 more than one year or in the state prison.

3 **Comment.** Section 26100 is amended to reflect the recodification of the former Fish and Game
4 Code.

5 **Penal Code § 29300 (amended).**

6 SEC. _____. Section 29300 of the Penal Code is amended to read:

7 29300. (a) Except as provided in subdivision (c), a firearm of any nature owned
8 or possessed in violation of Chapter 1 (commencing with Section 29610), Chapter
9 2 (commencing with Section 29800), or Chapter 3 (commencing with Section
10 29900) of Division 9 of this title, or Chapter 3 (commencing with Section 8100) of
11 Division 5 of the Welfare and Institutions Code, or used in the commission of any
12 misdemeanor as provided in this code, any felony, or an attempt to commit any
13 misdemeanor as provided in this code or any felony, is, upon a conviction of the
14 defendant or upon a juvenile court finding that an offense which would be a
15 misdemeanor or felony if committed by an adult was committed or attempted by the
16 juvenile with the use of a firearm, a nuisance, and is subject to Sections 18000 and
17 18005.

18 (b) A finding that the defendant was guilty of the offense but was insane at the
19 time the offense was committed is a conviction for the purposes of this section.

20 (c) A firearm is not a nuisance pursuant to this section if the firearm owner
21 disposes of the firearm pursuant to Section 29810.

22 (d) This section does not apply to any of the following:

23 (1) Any firearm in the possession of the Department of Fish and ~~Game~~ Wildlife.

24 (2) Any firearm that was used in the violation of any provision of the Fish and
25 ~~Game~~ Wildlife Code or any regulation adopted pursuant thereto.

26 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public
27 Resources Code.

28 **Comment.** Subdivision (d) of Section 29300 is amended to reflect the recodification of the
29 former Fish and Game Code. The section is also amended to update a reference to the former
30 Department of Fish and Game. See Fish & Wildlife Code § 1500.

31 **Penal Code § 30945 (amended).**

32 SEC. _____. Section 30945 of the Penal Code is amended to read:

33 30945. Unless a permit allowing additional uses is first obtained under Section
34 31000, a person who has registered an assault weapon or registered a .50 BMG rifle
35 under this article may possess it only under any of the following conditions:

36 (a) At that person's residence, place of business, or other property owned by that
37 person, or on property owned by another with the owner's express permission.

38 (b) While on the premises of a target range of a public or private club or
39 organization organized for the purpose of practicing shooting at targets.

40 (c) While on a target range that holds a regulatory or business license for the
41 purpose of practicing shooting at that target range.

1 (d) While on the premises of a shooting club that is licensed pursuant to the Fish
2 and Game Wildlife Code.

3 (e) While attending any exhibition, display, or educational project that is about
4 firearms and that is sponsored by, conducted under the auspices of, or approved by
5 a law enforcement agency or a nationally or state recognized entity that fosters
6 proficiency in, or promotes education about, firearms.

7 (f) While on publicly owned land, if the possession and use of a firearm described
8 in Section 30510, 30515, 30520, or 30530, is specifically permitted by the managing
9 agency of the land.

10 (g) While transporting the assault weapon or .50 BMG rifle between any of the
11 places mentioned in this section, or to any licensed gun dealer, for servicing or repair
12 pursuant to Section 31050, if the assault weapon is transported as required by
13 Sections 16850 and 25610.

14 **Comment.** Section 30945 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Penal Code § 34000 (amended).**

17 SEC. _____. Section 34000 of the Penal Code is amended to read:

18 34000. (a) Notwithstanding any provision of law or of any local ordinance to the
19 contrary, when any firearm is in the possession of any officer of the state, or of a
20 county, city, or city and county, or of any campus of the University of California or
21 the California State University, and the firearm is an exhibit filed in any criminal
22 action or proceeding which is no longer needed or is unclaimed or abandoned
23 property, which has been in the possession of the officer for at least 180 days, the
24 firearm shall be sold, or destroyed, as provided for in Sections 18000 and 18005.

25 (b) This section does not apply to any firearm in the possession of the Department
26 of Fish and Game Wildlife, or which was used in the violation of any provision in
27 the Fish and Game Wildlife Code, or any regulation under that code.

28 **Comment.** Section 34000 is amended to reflect the recodification of the former Fish and Game
29 Code. The section is also amended to update a reference to the former Department of Fish and
30 Game. See Fish & Wildlife Code § 1500.

31 PUBLIC CONTRACT CODE

32 **Pub. Cont. Code § 10109 (amended).**

33 SEC. _____. Section 10109 of the Public Contract Code is amended to read:

34 10109. Any notice inviting bids on a project ~~which~~ that specifies locations of
35 possible materials, such as a borrow pit or gravel bed, for use in ~~the~~ a proposed
36 project ~~which~~ that would be subject to ~~Section 1602~~ Title 3 (commencing with
37 Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code, shall
38 include any conditions or modifications established pursuant to Section ~~1603~~ 69795,

1 69805, or Article 4 (commencing with Section 70050) of Chapter 2 of Title 3 of
2 Part 4 of Division 17 of the Fish and Wildlife Code.

3 **Comment.** Section 10109 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to make technical corrections.

5 **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be
6 continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-
7 reference revision above would refer to the title that contains all of those sections, rather than
8 referring to the five sections individually. That seems unproblematic, because the entire title relates
9 to the substance of Section 1602.

10 **The Commission requests public comment on whether that simplified reference would**
11 **cause any problems.**

12 (2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in
13 proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference
14 revision above would only refer to the provisions of Section 1603 that appear to be germane to the
15 purpose of the reference.

16 **The Commission requests public comment on whether that simplified reference would**
17 **cause any problems.**

18 **Pub. Cont. Code § 20126 (amended).**

19 SEC. _____. Section 20126 of the Public Contract Code is amended to read:

20 20126. Any notice inviting bids on a project ~~which~~ that specifies locations of
21 possible materials, such as a borrow pit or gravel bed, for use in ~~the~~ a proposed
22 project ~~which~~ that would be subject to ~~Section 1602~~ Title 3 (commencing with
23 Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code, shall
24 include any conditions or modifications established pursuant to ~~Section 1603~~ 69795,
25 69805, or Article 4 (commencing with Section 70050) of Chapter 2 of Title 3 of
26 Part 4 of Division 17 of the Fish and Game Wildlife Code.

27 **Comment.** Section 20126 is amended to reflect the recodification of the former Fish and Game
28 Code. The section is also amended to make technical corrections.

29 **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be
30 continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-
31 reference revision above would refer to the title that contains all of those sections, rather than
32 referring to the five sections individually. That seems unproblematic, because the entire title relates
33 to the substance of Section 1602.

34 **The Commission requests public comment on whether that simplified reference would**
35 **cause any problems.**

36 (2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in
37 proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference
38 revision above would only refer to the provisions of Section 1603 that appear to be germane to the
39 purpose of the reference.

40 **The Commission requests public comment on whether that simplified reference would**
41 **cause any problems.**

42 **Pub. Cont. Code § 20165 (amended).**

43 SEC. _____. Section 20165 of the Public Contract Code is amended to read:

44 20165. Any notice inviting bids, ~~which~~ that specifies locations of possible
45 materials, such as a borrow pit or gravel bed, for use in ~~the~~ a proposed construction

1 project ~~which~~ that would be subject to Section ~~1602~~ Title 3 (commencing with
2 Sections 69700) of Part 4 of Division 17 of the Fish and ~~Game~~ Wildlife Code, shall
3 include any conditions or modifications established pursuant to ~~Section 1603~~
4 Section 69795, 69805, or Article 4 (commencing with Section 70050) of Chapter 2
5 of Title 3 of Part 4 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

6 **Comment.** Section 20165 is amended to reflect the recodification of the former Fish and Game
7 Code. The section is also amended to make technical corrections.

8  **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be
9 continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-
10 reference revision above would refer to the title that contains all of those sections, rather than
11 referring to the five sections individually. That seems unproblematic, because the entire title relates
12 to the substance of Section 1602.

13 **The Commission requests public comment on whether that simplified reference would**
14 **cause any problems.**

15 (2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in
16 proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference
17 revision above would only refer to the provisions of Section 1603 that appear to be germane to the
18 purpose of the reference.

19 **The Commission requests public comment on whether that simplified reference would**
20 **cause any problems.**

21 PUBLIC RESOURCES CODE

22 **Pub. Res. Code § 829 (amended).**

23 SEC. _____. Section 829 of the Public Resources Code is amended to read:

24 829. As used in this chapter, “director” means the Director of the Department of
25 Fish and ~~Game~~ Wildlife.

26 **Comment.** Section 829 is amended to update a reference to the former Department of Fish and
27 Game. See Fish & Wildlife Code § 1500.

28 **Pub. Res. Code § 830 (amended).**

29 SEC. _____. Section 830 of the Public Resources Code is amended to read:

30 830. As used in this chapter, “department” means the Department of Fish and
31 ~~Game~~ Wildlife.

32 **Comment.** Section 830 is amended to update a reference to the former Department of Fish and
33 Game. See Fish & Wildlife Code § 1500.

34 **Pub. Res. Code § 3233 (amended).**

35 SEC. _____. Section 3233 of the Public Resources Code is amended to read:

36 3233. (a) The division may develop field rules which establish volumetric
37 thresholds for emergency reporting by the operator of oil discharges to land
38 associated with onshore drilling, exploration, or production operations, where the
39 oil discharges, because of the circumstances established pursuant to paragraph (1)
40 of subdivision (c), cannot pass into or threaten the waters of the state. The division

1 may not adopt field rules under this section, unless the State Water Resources
2 Control Board and the Department of Fish and ~~Game~~ Wildlife first concur with the
3 volumetric reporting thresholds contained in the proposed field rules. Subchapter 1
4 (commencing with Section 1710) of Chapter 4 of Division 2 of Title 14 of the
5 California Code of Regulations shall apply to the adoption and implementation of
6 field rules authorized by this section.

7 (b) The authority granted to the division pursuant to subdivision (a) shall apply
8 solely to oil fields located in the San Joaquin Valley, as designated by the division.
9 The division shall adopt the field rules not later than January 1, 1998.

10 (c) For purposes of implementing this section, the division, the State Water
11 Resources Control Board, and the Department of Fish and ~~Game~~ Wildlife shall enter
12 into an agreement that defines the process for establishing both of the following:

13 (1) The circumstances, such as engineered containment, under which oil
14 discharges cannot pass into or threaten the waters of this state.

15 (2) The volumetric reporting thresholds that are applicable under the
16 circumstances established pursuant to paragraph (1).

17 (d) In no case shall a reporting threshold established in the field rules, where the
18 oil discharge cannot pass into or threaten the waters of this state, be less than one
19 barrel (42 gallons), unless otherwise established by federal law or regulation. Until
20 field rules are adopted, emergency reporting of oil discharges shall continue as
21 required by existing statute and regulations.

22 (e) An operator who discharges oil in amounts less than the volumetric thresholds
23 adopted by the division pursuant to this section is exempt from all applicable state
24 and local reporting requirements. Discharges of oil in amounts equal to, or greater
25 than, the volumetric thresholds adopted by the division pursuant to this section shall
26 be immediately reported to the Office of Emergency Services which shall inform
27 the division and other local or state agencies as required by Section 8589.7 of the
28 Government Code. Reporting to the Office of Emergency Services shall be deemed
29 to be in compliance with all applicable state and local reporting requirements.

30 (f) Oil discharges below the reporting thresholds established in the field rules shall
31 be exempt from the emergency notification or reporting requirements, and any
32 penalties provided for nonreporting, established under paragraph (1) of subdivision
33 (a) of Section 13260 of the Water Code, subdivisions (a), (c), and (e) of Section
34 13272 of the Water Code, Section 25507 of the Health and Safety Code, Sections
35 8670.25.5 and 51018 of the Government Code, and subdivision (h) of Section 1722
36 of Title 14 of the California Code of Regulations. Oil discharge reporting
37 requirements under Section 51018 of the Government Code shall be applicable if a
38 spill involves a fire or explosion.

39 (g) This section shall not affect existing reporting or notification requirements
40 under federal law.

41 (h) Nothing in this section shall be construed to relieve any party of any
42 responsibility established by statute, regulation, or order, to clean up or remediate
43 any oil discharge, whether reportable or exempt pursuant to this section.

1 (i) Reporting provided pursuant to this section is not intended to prohibit any
2 department or agency from seeking and obtaining any supplemental postreporting
3 information to which the department or agency might otherwise be entitled.

4 (j) For purposes of this section, “oil” means naturally occurring crude oil.

5 **Comment.** Section 3233 is amended to update references to the former Department of Fish and
6 Game. See Fish & Wildlife Code § 1500.

7 **Pub. Res. Code § 3717 (amended).**

8 SEC. _____. Section 3717 of the Public Resources Code is amended to read:

9 3717. Upon request, the supervisor shall notify the Department of Fish and ~~Game~~
10 Wildlife and the California regional water quality control board in the area affected
11 of the location and abandonment of geothermal wells.

12 **Comment.** Section 3717 is amended to update a reference to the former Department of Fish and
13 Game. See Fish & Wildlife Code § 1500.

14 **Pub. Res. Code § 3718 (amended).**

15 SEC. _____. Section 3718 of the Public Resources Code is amended to read:

16 3718. Nothing in this chapter shall be construed as superseding any of the
17 provisions of Division 7 (commencing with Section 13000) of the Water Code or
18 ~~Division 6 (commencing with Section 5650)~~ Article 1 (commencing with Section
19 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 of the Fish and ~~Game~~ Wildlife
20 Code.

21 **Comment.** Section 3718 is amended to reflect the recodification of the former Fish and Game
22 Code.

23  **Note.** Public Resources Code Section 3718 cross-refers to “Division 6 (commencing with
24 Section 5650) of the Fish and Game Code.” This citation is erroneous, and was at the time it was
25 enacted in 1965. Section 5650 is not the section that commences Division 6.

26 The erroneous cross-reference could be construed in three ways:

27 (1) It could be construed broadly as applying to the entirety of Division 6. That division contains
28 the great majority of the Fish and Game Code provisions that govern fish and fishing, including
29 sport fishing, commercial fishing, fish businesses, and special laws that govern specific types of
30 fish and aquatic invertebrates. Many of the provisions govern ocean fish, rather than fresh water
31 fish.

32 (2) It could be construed narrowly as applying to the chapter that commences with Section 5650.
33 That chapter (which is also included in Division 6) governs water pollution generally and specific
34 pollution issues relating to shellfish and mining in the Trinity and Klamath River area.

35 (3) It could be construed very narrowly, as applying only to the first article of the chapter that
36 commences with Section 5650. That would include the general provisions on water pollution, but
37 exclude the provisions on shellfish contamination and mining in the Trinity and Klamath River
38 area.

39 The purpose of Section 3718 is to make clear that the chapter in which it is located does not
40 supersede the specified provisions of the Water Code or Fish and Game Code. The chapter at issue
41 regulates the drilling of geothermal wells for energy production. See Pub. Res. Code §§ 3700-3776.

42 That chapter includes provisions that expressly address the effect of geothermal wells on water
43 quality. See Pub. Res. Code §§ 3714, 3716, 3717.

44 The provisions of the Water Code that are referenced in Section 3718 also govern the regulation
45 of water quality and water pollution.

1 Given that context, it seems most likely that Section 3718 was intended to refer to the water
2 pollution provisions in the Fish and Game Code, rather than the much broader law that addresses
3 fishing (including clearly irrelevant provisions; e.g., provisions that regulate the use of traps and
4 nets in ocean fishing). For that reason, the proposed law would take the third approach, revising
5 Section 3718 to refer only to the water pollution provisions. Provisions that govern shellfish
6 contamination and mining in the Trinity and Klamath River area would not be included in the
7 reference.

8 **The Commission requests public comment on whether that approach would properly**
9 **continue existing law.**

10 **Pub. Res. Code § 3783 (amended).**

11 SEC. ____ . Section 3783 of the Public Resources Code is amended to read:

12 3783. Whenever the supervisor receives notification from the Department of Fish
13 and Game Wildlife pursuant to ~~subdivision (a)~~ of Section ~~4016~~ 67405 of the Fish
14 and Game Wildlife Code that an oil sump is hazardous to wildlife, ~~he~~ the supervisor
15 shall forthwith give written notice of ~~such~~ that hazardous condition to the owner,
16 lessee, operator, or person responsible for the existence of the condition, and set
17 forth the hazardous conditions as specified by the Department of Fish and Game
18 Wildlife. The owner, lessee, operator, or person responsible shall, within 30 days
19 from the date of ~~such~~ that notification, or ~~such~~ a longer period as may be mutually
20 agreed upon by the supervisor, the Department of Fish and Game Wildlife, and the
21 owner, lessee, operator, or person responsible, clean up or abate the condition to the
22 satisfaction of the supervisor and the Department of Fish and Game Wildlife. If the
23 owner, lessee, operator, or person responsible does not clean up or abate the
24 condition to the satisfaction of the supervisor and the Department of Fish and Game
25 Wildlife within the required period of time, the supervisor shall forthwith order the
26 closure of the oil and gas production operation maintaining the oil sump.

27 **Comment.** Section 3783 is amended to reflect the recodification of the former Fish and Game
28 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
29 Code § 1500. The section is also amended to make technical corrections.

30 **Pub. Res. Code § 3784 (amended).**

31 SEC. ____ . Section 3784 of the Public Resources Code is amended to read:

32 3784. Whenever the supervisor receives notification from the Department of Fish
33 and Game Wildlife pursuant to ~~subdivision (b)~~ of Section ~~4016~~ 67410 of the Fish
34 and Game Wildlife Code that an oil sump constitutes an immediate and grave danger
35 to wildlife, ~~he~~ the supervisor shall forthwith give written notice of ~~such~~ that
36 immediately dangerous condition to the owner, lessee, operator, or person
37 responsible for the existence of the condition, and set forth the immediately
38 dangerous condition as specified by the Department of Fish and Game Wildlife. The
39 owner, lessee, operator, or person responsible shall, within 10 days from the date of
40 such notification, or ~~such~~ a longer period as may be ~~mutally~~ mutually agreed upon
41 pursuant to Section 3784.5 by the supervisor, the Department of Fish and Game
42 Wildlife, and the owner, lessee, operator, or person responsible, clean up or abate
43 the condition to the satisfaction of the supervisor and the Department of Fish and

1 ~~Game~~ Wildlife. If the owner, lessee, operator, or person responsible does not clean
2 up or abate the condition to the satisfaction of the supervisor and the Department of
3 Fish and ~~Game~~ Wildlife within the required period of time, the supervisor shall
4 forthwith order the closure of the oil and gas production operation maintaining the
5 oil sump.

6 **Comment.** Section 3784 is amended to reflect the recodification of the former Fish and Game
7 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
8 Code § 1500. The section is also amended to make technical corrections.

9 **Pub. Res. Code § 3784.5 (amended).**

10 SEC. _____. Section 3784.5 of the Public Resources Code is amended to read:

11 3784.5. Extension of the 10-day period specified in Section 3784 may be granted
12 only in cases where the supervisor and the Department of Fish and ~~Game~~ Wildlife
13 have determined that screening or elimination of the oil sump cannot be reasonably
14 accomplished within 10 days.

15 **Comment.** Section 3784.5 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Pub. Res. Code § 3785 (amended).**

18 SEC. _____. Section 3785 of the Public Resources Code is amended to read:

19 3785. The supervisor and the Department of Fish and ~~Game~~ Wildlife shall develop
20 a joint program to coordinate their respective responsibilities under this chapter and
21 ~~Section 1016~~ Title 3 (commencing with Section 67400) of Part 3 of Division 17 of
22 the Fish and ~~Game~~ Wildlife Code to protect the wildlife resources of the state from
23 the hazards of exposed oil sumps.

24 **Comment.** Section 3785 is amended to reflect the recodification of the former Fish and Game
25 Code. The section is also amended to update a reference to the former Department of Fish and
26 Game. See Fish & Wildlife Code § 1500.

27 **Pub. Res. Code § 4417.5 (amended).**

28 SEC. _____. Section 4417.5 of the Public Resources Code is amended to read:

29 4417.5. (a) For the purpose of obtaining information leading to the arrest and
30 conviction of persons who willfully and maliciously set fire to, or who attempt to
31 willfully and maliciously set fire to, any property which is included within a state
32 responsibility area, as defined in Section 4102, including a hazardous fire area
33 designated by the board pursuant to Section 4252 or by the director pursuant to
34 Section 4253, the department shall, during the fire season, make a toll-free 800
35 telephone number available for, and establish, a program to protect the anonymity
36 of persons providing that information and to facilitate the identification of persons
37 who are eligible for the payment of rewards authorized pursuant to Section 1547 of
38 the Penal Code and Section 4417.

1 (b) The department may cooperate, and enter into interagency agreements, with
2 other state agencies in carrying out this section, including, but not limited to, the
3 Cal-TIP program of the Department of Fish and ~~Game~~ Wildlife.

4 **Comment.** Section 4417.5 is amended to update a reference to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 4466 (amended).**

7 SEC. _____. Section 4466 of the Public Resources Code is amended to read:

8 4466. (a) The department shall prepare two model plans for the initial
9 development and implementation of a program for wildland resources management
10 through prescribed burning and other methods, one of which is appropriate for an
11 area of wildlands in northern California, and one, in southern California. All state
12 agencies, including the Departments of Fish and ~~Game~~ Wildlife and Conservation
13 and the State Water Resources Control Board, shall cooperate with the department
14 in the creation of the plans, to the end that administrative and environmental
15 considerations are carefully and effectively considered and included in the program.

16 (b) Upon completion of each plan, the director shall submit the plan to the board
17 for its review and approval as to its conformity with the requirements set forth in
18 Section 4467.

19 (c) The department shall apply for funding from nonstate sources for the purpose
20 of carrying out its planning responsibilities pursuant to this article. The department
21 may not commence such planning until such funding is available in an amount
22 sufficient to meet the costs of one model plan.

23 (d) Neither plan may be implemented or used after January 1, 1983.

24 **Comment.** Section 4466 is amended to update a reference to the former Department of Fish and
25 Game. See Fish & Wildlife Code § 1500.

26 **Pub. Res. Code § 4551.5 (amended).**

27 SEC. _____. Section 4551.5 of the Public Resources Code is amended to read:

28 4551.5. Rules and regulations shall apply to the conduct of timber operations and
29 shall include, but shall not be limited to, measures for fire prevention and control,
30 for soil erosion control, for site preparation that involves disturbance of soil or
31 burning of vegetation following timber harvesting activities, for water quality and
32 watershed control, for flood control, for stocking, for protection against timber
33 operations that unnecessarily destroy young timber growth or timber productivity
34 of the soil, for prevention and control of damage by forest insects, pests, and disease,
35 for the protection of natural and scenic qualities in special treatment areas identified
36 pursuant to subdivision (b) of Section 30417, and for the preparation of timber
37 harvesting plans. In developing these rules, the board shall solicit and consider
38 recommendations from the department, recommendations from the Department of
39 Fish and ~~Game~~ Wildlife relating to the protection of fish and wildlife,
40 recommendations from the State Water Resources Control Board and the California
41 regional water quality control boards relating to water quality, recommendations

1 from the State Air Resources Board and local air pollution control districts relating
2 to air pollution control, and recommendations of the California Coastal Commission
3 relating to the protection of natural and scenic coastal zone resources in special
4 treatment areas.

5 **Comment.** Section 4551.5 is amended to update a reference to the former Department of Fish
6 and Game. See Fish & Wildlife Code § 1500.

7 **Pub. Res. Code § 4582.6 (amended).**

8 SEC. _____. Section 4582.6 of the Public Resources Code is amended to read:

9 4582.6. (a) Upon receipt of the timber harvesting plan, the department shall place
10 it, or a true copy thereof, in a file available for public inspection in the county in
11 which timber operations are proposed under the plan, and, for the purpose of
12 interdisciplinary review, shall transmit a copy to the Department of Fish and ~~Game~~
13 Wildlife, the appropriate California regional water quality control board, the county
14 planning agency, and, if the area is within its jurisdiction, the Tahoe Regional
15 Planning Agency, as the case may be. The department shall invite, consider, and
16 respond in writing to comments received from public agencies to which the plan has
17 been transmitted and shall consult with those agencies at their request.

18 (b) Within the public comment period, any responsible agency, as defined in
19 Section 21069, shall provide the department with specific comments or
20 recommendations, or both, on any significant environmental issues and proposed
21 mitigation measures raised by the timber harvesting plan. The responsible agency
22 shall also identify its statutory authority for any requests for mitigation measures
23 that it may determine to be necessary. If the responsible agency fails to respond by
24 the end of the public comment period, the department may assume that the
25 responsible agency has no comments or recommendations concerning the timber
26 harvesting plan, but the failure of the responsible agency to make comments or
27 recommendations shall not be used as the basis for a determination or presumption
28 that the timber harvesting plan will have no significant effect on the environment.
29 The department shall consider all comments and recommendations received from
30 responsible agencies and from the public during the public comment period. If a
31 responsible agency fails to respond within the public comment period, it may
32 request additional time to respond. The director may grant an extension of the time
33 to respond of up to 14 calendar days if he or she determines, after consultation with
34 the person submitting the timber harvesting plan, that an extension is necessary.

35 (c) To ensure that all public comments and concerns are considered by the
36 department, each responsible agency shall maintain a list of written information it
37 disseminates on the timber harvesting plan under review prior to the close of the
38 public comment period.

39 (d) On and after July 1, 1983, the board of supervisors or planning commission of
40 any county for which rules have been adopted pursuant to Section 4516.5 may
41 request a public hearing on any timber harvesting plan submitted for lands within

1 the county, and the department shall hold a hearing for the purpose of public
2 comment, if requested, prior to taking any action on the timber harvesting plan
3 pursuant to Section 4582.7. The hearing shall be held in the county in which the
4 proposed harvest is located at a time and place convenient to the public. The hearing
5 shall be held in county offices if made available by the county for that purpose. The
6 chairperson of the hearing shall be a representative of the department, shall receive
7 both oral and written testimony from members of the public, local government
8 officials, persons submitting the plans, and others, and shall provide for the hearing
9 to be electronically recorded. The department shall prepare and make available
10 written responses to significant issues raised at the hearing. The requirements of this
11 subdivision shall not be construed as extending the time within which any action is
12 required to be taken pursuant to Section 4582.7.

13 **Comment.** Section 4582.6 is amended to update a reference to the former Department of Fish
14 and Game. See Fish & Wildlife Code § 1500.

15 **Pub. Res. Code § 4582.9 (amended).**

16 SEC. _____. Section 4582.9 of the Public Resources Code is amended to read:

17 4582.9. (a) Notwithstanding any other provision of this chapter, the Director of
18 Fish and ~~Game~~ Wildlife or the State Water Resources Control Board may, not later
19 than 10 days after approval of a plan by the director, appeal the approval to the
20 board. At the time of filing of an appeal with the board, the person shall notify the
21 director and the plan submitter of the appeal, and no further timber operations shall
22 occur under the plan until the final determination of the appeal by the board.

23 (b) The Director of Fish and ~~Game~~ Wildlife or the State Water Resources Control
24 Board may appeal the approval of a plan by the director only if the Department of
25 Fish and ~~Game~~ Wildlife or the State Water Resources Control Board or a California
26 regional water quality control board has (1) participated in an onsite inspection of
27 the plan with the department and (2) participated in a multidisciplinary review of
28 the plan. The board may establish procedures for filing an appeal and may, in order
29 to demonstrate that a substantial issue is raised with respect to the environment or
30 public safety, specify findings which are required to be made in filing an appeal.

31 (c) The board shall grant a hearing if it determines that the appeal under this
32 section raises substantial issues with respect to the environment or to public safety.
33 The board, by regulation, may delegate this determination to its chairperson.

34 (d) The board shall hold a public hearing within 30 days after the filing of an
35 appeal, or a longer period mutually agreed upon by the board, the appellant, and the
36 plan submitter. Witnesses may appear either at the request of a party having standing
37 or at a request of a majority of the board or board committee holding the hearing.
38 Within 10 days after the conclusion of the hearing, the board shall approve or deny
39 the plan. The basis for the board's decision shall be all applicable provisions of
40 California law, including, but not limited to, the California Timberland Productivity
41 Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Division 1 of Title
42 5 of the Government Code) and subdivision (d) of Section 4512. In denying a plan,

1 the board may make findings that set forth conditions under which it believes the
2 plan would have been approved. The board may delegate conduct of the hearing and
3 the decision to a committee of three members to be appointed for that hearing by
4 the chairperson of the board. The committee shall consist of one general public
5 member, one industry member, and the chairperson or the chairperson's designee.
6 The chairperson of the board or the chairperson's designee shall conduct the
7 hearing. The decision of the committee shall have the full force of a decision of the
8 full board. At any time prior to a decision on an appeal conducted by a committee,
9 any member of the committee may file a declaration of importance with the
10 executive officer of the board and that appeal shall be immediately transferred to
11 the full board for decision.

12 **Comment.** Section 4582.9 is amended to update references to the former Department of Fish
13 and Game, and to the Director of that department. See Fish & Wildlife Code § 1500.

14 **Pub. Res. Code § 4590 (amended).**

15 SEC. ____ . Section 4590 of the Public Resources Code is amended to read:

16 4590. (a)(1) A timber harvesting plan approved on or after July 1, 2012, is
17 effective for a period of not more than five years, unless extended pursuant to
18 paragraph (2).

19 (2) A timber harvesting plan, on which timber operations have commenced but
20 not been completed, may be extended by amendment for a two-year period in order
21 to complete the timber operations, if both of the following occur:

22 (A) Good cause is shown.

23 (B) All timber operations are in conformance with the plan, this chapter, and all
24 applicable rules and regulations, upon the filing of the notice of extension as
25 required by this section.

26 (b) The extension shall apply to any area covered by the plan for which a report
27 has not been submitted under Section 4585. The notice of extension shall be
28 provided to the department not sooner than 140 days, but at least 10 days, prior to
29 the expiration date of the plan. The notice shall include the circumstances that
30 prevented a timely completion of the timber operations under the plan and,
31 consistent with Section 4583, an agreement to comply with this chapter and the rules
32 and regulations of the board as these exist on the date the extension notice is filed.

33 (c) Stocking work may continue for more than the effective period of the plan
34 under subdivision (a), but shall be completed within five years after the conclusion
35 of other work.

36 (d) A timber harvesting plan that is approved on or after January 1, 2010, to
37 August 31, 2012, inclusive, may be extended by amendment for a two-year period
38 in order to complete the timber operations, up to a maximum of two 2-year
39 extensions, if the plan complies with subparagraphs (A) and (B) of paragraph (2) of
40 subdivision (a) and the notice of extension, pursuant to subdivision (b), includes

1 written certification by a registered professional forester that neither of the
2 conditions in subdivision (e) has occurred.

3 (e) The department shall not approve an extension pursuant to subdivision (a) or
4 (d) if either of the following has occurred:

5 ~~(1) Listed species, as defined in Article 1 (commencing with Section 2050) of~~
6 ~~Chapter 1.5 of Division 3~~ A species listed as endangered or threatened pursuant to
7 Section 62200 of the Fish and Game Wildlife Code or the federal Endangered
8 Species Act (16 U.S.C. Sec. 1531 et seq.), have been discovered in the logging area
9 of the plan since approval of the timber harvesting plan.

10 (2) Significant physical changes to the harvest area or adjacent areas have
11 occurred since the timber harvesting plan's cumulative impacts were originally
12 assessed.

13 (f) An extension of a timber harvesting plan on which either of the conditions in
14 subdivision (e) has occurred may be obtained only pursuant to Section 1039 of Title
15 14 of the California Code of Regulations.

16 **Comment.** Paragraph (1) of subdivision (e) of Section 4590 is amended to reflect the
17 recodification of the former Fish and Game Code.

18 **Note.** Public Resources Code Section 4590(e)(1) refers to a “[l]isted species, as defined in
19 Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game
20 Code.” The referenced article, which begins the California Endangered Species Act, does not
21 contain a definition of the term “listed species.” However, it seems clear from context and common
22 usage that the term means a species that is on the list of endangered or threatened species
23 maintained by the Fish and Game Commission. The reference has been revised accordingly.

24 **The Commission requests public comment on whether that revision would cause any**
25 **problems.**

26 **Pub. Res. Code § 4593.6 (amended).**

27 SEC. _____. Section 4593.6 of the Public Resources Code is amended to read:
28 4593.6. Upon receipt of the nonindustrial timber management plan, the
29 department shall place it, or a true copy thereof, in a file available for public
30 inspection in the county in which timber operations are proposed under the plan,
31 and, for the purpose of interdisciplinary review, shall transmit a copy to the
32 Department of Fish and ~~Game~~ Wildlife, the appropriate California regional water
33 quality control board, the county planning agency, and all other agencies having
34 jurisdiction by law over natural resources affected by the plan. The department shall
35 invite, consider, and respond in writing to comments received from public agencies
36 to which the plan has been transmitted and shall consult with those agencies at their
37 request.

38 **Comment.** Section 4593.6 is amended to update a reference to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

40 **Pub. Res. Code § 4597 (amended).**

41 SEC. _____. Section 4597 of the Public Resources Code is amended to read:

42 4597. (a) The Legislature finds and declares all of the following:

1 (1) The nonindustrial timber management plan established pursuant to Article 7.5
2 (commencing with Section 4593) has been successful in meeting the intent of this
3 chapter by encouraging prudent and responsible forest management and
4 discouraging accelerated timberland conversion by private nonindustrial forest
5 landowners.

6 (2) There have been more than 850 nonindustrial timber management plans
7 approved by the department covering a combined area of more than 360,000 acres.

8 (3) Building upon the model provided by the nonindustrial timber management
9 plan, it is the policy of the state to encourage long-term planning, increased
10 productivity of timberland, and the conservation of open space on a greater number
11 of nonindustrial working forest ownerships and acreages.

12 (4) It is the policy of the state to encourage prudent and responsible forest resource
13 management of nonindustrial timberlands by approving working forest management
14 plans in advance and authorizing working forest timber harvest notices to be filed
15 ministerially.

16 (5) To ensure long-term benefits such as added carbon sequestration, local and
17 regional employment and economic activity, sustainable production of timber and
18 other forest products, aesthetics, and the maintenance of ecosystem processes and
19 services, the working forest management plan shall comply with rigorous timber
20 inventory standards that are subject to periodic review and verification.

21 (b) This article shall be implemented in a manner that complies with the
22 applicable provisions of this chapter and other laws, including, but not limited to,
23 the Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section
24 51100) of Division 1 of Title 5 of the Government Code), the California
25 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
26 Public Resources Code), the Porter Cologne Water Quality Control Act (Division 7
27 (commencing with Section 13000) of the Water Code), and the California
28 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050)~~ Part 1
29 (commencing with Section 62000) of Division 17 of the Fish and ~~Game~~ Wildlife
30 Code). Working forest landowners, as defined in Section 4597.1, shall comply with
31 all applicable regulatory requirements of the State Water Resources Control Board
32 and the appropriate regional water quality control board.

33 **Comment.** Subdivision (b) of Section 4597 is amended to reflect the recodification of the former
34 Fish and Game Code.

35 **Pub. Res. Code § 4597.18 (amended).**

36 SEC. _____. Section 4597.18 of the Public Resources Code is amended to read:
37 4597.18. A participating landowner, in conjunction with the preparation of an
38 application for a working forest management plan filed with the department, may
39 also seek approval of a safe harbor agreement from the Department of Fish and
40 Wildlife, pursuant to ~~Article 3.7 (commencing with Section 2089.2) of Chapter 1.5~~
41 ~~of Division 3~~ Title 5 (commencing with Section 63900) of Part 1 of Division 17 of

1 the Fish and ~~Game~~ Wildlife Code. All review costs associated with the safe harbor
2 agreement approval process incurred by the Department of Fish and Wildlife
3 pursuant to this section shall be paid from the fund created in Section 4629.3.

4 **Comment.** Section 4597.18 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Pub. Res. Code § 4604 (amended).**

7 SEC. ____ . Section 4604 of the Public Resources Code is amended to read:

8 4604. (a) The department shall provide an initial inspection of the area in which
9 timber operations are to be conducted within 10 days from the date of filing of the
10 timber harvesting plan or nonindustrial timber management plan, or a longer period
11 as may be mutually agreed upon by the department and the person submitting the
12 plan, except that the inspection need not be made pursuant to the filing of a timber
13 harvesting plan if the department determines that the inspection would not add
14 substantive information that is necessary to enforce this chapter. The department
15 shall provide for inspections, as needed, as follows:

16 (1) During the period of commencement of timber operations.

17 (2) When timber operations are well under way.

18 (3) Following completion of timber operations.

19 (4) At any other times as determined to be necessary to enforce this chapter.

20 (b)(1) The Department of Fish and ~~Game~~ Wildlife, the California regional water
21 quality control boards, or the State Water Resources Control Board, if accompanied
22 by Department of Forestry and Fire Protection personnel and after 24-hour advance
23 notification is given to the landowner, may enter and inspect land during normal
24 business hours at any time after commencement of timber harvest plan activities on
25 the land and before the director issues a report of satisfactory completion of stocking
26 pursuant to Section 4588 or at any time before the end of the first winter period
27 following the filing of a work completion report pursuant to Section 4585,
28 whichever is later. Any member of the inspection party may utilize whatever
29 measurement and evaluation devices, including, but not limited to, photographic
30 equipment and temperature measurement devices, that are determined to be
31 necessary, when participating in an inspection of an area pursuant to subdivision (a)
32 or after commencement of timber harvesting plan activities pursuant to this
33 subdivision.

34 (2) Photographs taken during inspections shall be clearly labeled as to time, date,
35 and location and shall be the property of the department and part of the inspection
36 record. The inspection record shall be subject to all provisions of the California
37 Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of
38 Title 1 of the Government Code).

39 (3) This subdivision is not a limitation upon the authority of any agency to inspect
40 pursuant to any other provision of law.

1 (c) This section shall become operative on January 1, 1991, or on the effective
2 date of the rules and regulations adopted by the State Board of Forestry and Fire
3 Protection pursuant to Senate Bill 1566, whichever date occurs first.

4 **Comment.** Section 4604 is amended to update a reference to the former Department of Fish and
5 Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 4629.2 (amended).**

7 SEC. ____ . Section 4629.2 of the Public Resources Code is amended to read:

8 4629.2. In enacting this article, it is the intent of the Legislature to accomplish all
9 of the following:

10 (a) Promote and encourage sustainable forest practices consistent with provisions
11 of this chapter in a manner consistent with other laws, including, but not limited to,
12 the Timberland Productivity Act of 1982 (Article 1 (commencing with Section
13 51100) of Chapter 6.7 of Part 1 of Division 1 of Title 5 of the Government Code),
14 the California Environmental Quality Act (Division 13 (commencing with Section
15 21000)), the Porter-Cologne Water Quality Act (Chapter 1 (commencing with
16 Section 13000) of Division 7 of the Water Code), and the California Endangered
17 Species Act (~~Article 3 (commencing with Section 2080) of Chapter 1.5 of Division~~
18 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and Game
19 Wildlife Code).

20 (b) Ensure continued sustainable funding for the state's forest practice program to
21 protect the state's forest resources, and replace the current piecemeal funding
22 structure with a single funding source.

23 (c) Support in-state production of timber within the state's environmental
24 standards, and promote and encourage retention of forests and forested landscapes.

25 (d) Create a funding source for the restoration of the state's forested lands and
26 promote restoration of fisheries and wildlife habitat and improvement in water
27 quality.

28 (e) Promote restoration and management of forested landscapes consistent with
29 the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing
30 with Section 38500) of the Health and Safety Code).

31 (f) Promote transparency in regulatory costs and programs through the creation of
32 performance measures and accountability for the state's forest practice regulatory
33 program and simplify the collection and use of critical data to ensure consistency
34 with other pertinent laws and regulations.

35 (g) Identify and implement efficiencies in the regulation of timber harvesting
36 between state agencies.

37 (h) Modify current regulatory programs to incorporate, and provide incentives for
38 best practices, and develop standards or strategies, where appropriate, to protect
39 natural resources, including the development of plans that address road management
40 and riparian function on an ownershipwide, watershedwide, or districtwide scale.

41 **Comment.** Section 4629.2 is amended to reflect the recodification of the former Fish and Game
42 Code.

1 **Note.** In the section above, the “California Endangered Species Act” is cross-referenced, but
2 identified as Article 3 (commencing with Section 2080) of Chapter 1.5 of Division 3 of the Fish
3 and Game Code. If the intention of the Legislature was to refer to the entire California Endangered
4 Species Act – as suggested by the reference to the act by name – the narrower reference to Article
5 3 of that Act was erroneous.

6 The cross-reference in Section 4629.2 has been revised to refer to the entirety of the California
7 Endangered Species Act.

8 **The Commission requests public comment on whether that approach would cause any**
9 **problems.**

10 **Pub. Res. Code § 4629.6 (amended).**

11 SEC. _____. Section 4629.6 of the Public Resources Code is amended to read:

12 4629.6. Moneys deposited in the fund shall, upon appropriation by the
13 Legislature, only be expended for the following purposes:

14 (a) To reimburse the State Board of Equalization for its administrative costs
15 associated with the administration, collection, audit, and issuance of refunds related
16 to the lumber products and engineered wood assessment established pursuant to
17 Section 4629.5.

18 (b) To pay refunds issued pursuant to Part 30 (commencing with Section 55001)
19 of Division 2 of the Revenue and Taxation Code.

20 (c) To support the activities and costs of the department, the Department of
21 Conservation, the Department of Fish and Wildlife, the State Water Resources
22 Control Board, and regional water quality control boards associated with the review
23 of projects or permits necessary to conduct timber operations. On or after July 1,
24 2013, except for fees applicable for fire prevention or protection within state
25 responsibility area classified lands or timber yield assessments, no currently
26 authorized or required fees shall be charged by the agencies listed in this subdivision
27 for activities or costs associated with the review of a project, inspection and
28 oversight of projects, and permits necessary to conduct timber operations of those
29 departments and boards.

30 (d) For transfer to the department’s Forest Improvement Program for forest
31 resources improvement grants and projects administered by the department pursuant
32 to Chapter 1 (commencing with Section 4790) and Chapter 2 (commencing with
33 Section 4799.06) of Part 2.5.

34 (e) To fund existing restoration grant programs, with priority given to the
35 Fisheries Restoration Grant Program administered by the Department of Fish and
36 Wildlife and grant programs administered by state conservancies.

37 (f)(1) As a loan to the Department of Fish and Wildlife for activities to address
38 environmental damage occurring on forest lands resulting from marijuana
39 cultivation. Not more than five hundred thousand dollars (\$500,000) may be loaned
40 from the fund in a fiscal year pursuant to this paragraph. This paragraph shall
41 become inoperative on July 1, 2017.

42 (2) Any funds deposited into the fund pursuant to ~~subdivision (d) or (f) of Section~~
43 ~~12025 or subdivision (b), (c), (e), or (f) of Section 12025.1~~ Section 6384, 6386,

1 6392, 6394, 6558 or 6560 of the Fish and ~~Game~~ Wildlife Code shall be credited
2 toward loan repayment.

3 (3) Moneys from the General Fund shall not be used to repay a loan authorized
4 pursuant to this subdivision.

5 (g) To the department for fuel treatment grants and projects pursuant to authorities
6 under the Wildland Fire Protection and Resources Management Act of 1978 (Article
7 1 (commencing with Section 4461) of Chapter 7).

8 (h) To the department to provide grants to local agencies responsible for fire
9 protection, qualified nonprofits, recognized tribes, local and state governments, and
10 resources conservation districts, undertaken on a state responsibility area (SRA) or
11 on wildlands not in an SRA that pose a threat to the SRA, to reduce the costs of
12 wildland fire suppression, reduce greenhouse gas emissions, promote adaptation of
13 forested landscapes to changing climate, improve forest health, and protect homes
14 and communities.

15 (i) To the Natural Resources Agency to provide a reasonable per diem for
16 attendance at a meeting of the advisory body for the state's forest practice program
17 by a member of the body who is not an employee of a government agency.

18 **Comment.** Paragraph (2) of subdivision (f) of Section 4629.6 is amended to reflect the
19 recodification of the former Fish and Game Code.

20  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
21 sections that are cross-referenced in the section above have been continued in several different
22 sections of the proposed Fish and Wildlife Code.

23 **The Commission requests public comment on the proposed conforming revision of those**
24 **provisions in the section above.**

25 **Pub. Res. Code § 4662 (amended).**

26 SEC. _____. Section 4662 of the Public Resources Code is amended to read:
27 4662. The department is responsible for the establishment and development of the
28 Soquel Demonstration State Forest and for ongoing maintenance and operations.
29 The director shall appoint an advisory committee to assist the department in
30 planning future management of the forest. The advisory committee shall include
31 representatives of the Santa Cruz County Board of Supervisors, the Department of
32 Parks and Recreation, the State Board of Forestry and Fire Protection, the Forest of
33 Nisene Marks Advisory Committee, and the Department of Fish and ~~Game~~ Wildlife.

34 **Comment.** Section 4662 is amended to update a reference to the former Department of Fish and
35 Game. See Fish & Wildlife Code § 1500.

36 **Pub. Res. Code § 4799.10 (amended).**

37 SEC. _____. Section 4799.10 of the Public Resources Code is amended to read:
38 4799.10. (a)(1) The department shall implement a program in urban forestry to
39 encourage better tree management and planting in urban areas to increase integrated,
40 multiple benefit projects by assisting urban areas with innovative solutions to
41 problems, including reductions in the emissions of greenhouse gases, mitigation of

1 public health impacts of poor air and water quality, mitigation of urban heat island
2 effect, improved capture of stormwater and dry weather runoff, addressing water
3 shortages, lack of green space, lack of urban parks that are accessible to pedestrians,
4 vandalism, and insufficient tree maintenance, and to otherwise accomplish the
5 purposes of this chapter.

6 (2) The department shall encourage demonstration projects that maximize the
7 benefits of urban forests in conjunction with state and local agency programs to
8 improve carbon sequestration, water conservation, energy conservation, stormwater
9 capture and reuse, urban forest maintenance, urban parks and river parkways, school
10 construction and improvements, school greening or sun-safe schoolyards, air
11 quality, water quality, flood management, urban revitalization, solid waste
12 prevention, and other projects.

13 (3) The department shall establish local or regional targets for urban tree canopy,
14 with emphasis on disadvantaged communities that tend to be most vulnerable to
15 urban heat island effect. These targets shall include urban forest diversity, tree
16 species' adaptability to anticipated climate change impacts, and other relevant
17 factors.

18 (4) The department shall assume the primary responsibility in carrying out the
19 intent of this chapter in cooperation with statewide and regional urban forestry
20 organizations or associations and arboricultural organizations or associations, other
21 private and public entities or persons, and appropriate local, state, and federal
22 agencies, including, but not limited to, the Department of Water Resources, the
23 California Environmental Protection Agency, the Department of Fish and ~~Game~~
24 Wildlife, the Department of Food and Agriculture, regional water quality control
25 boards, regional and local air districts, the University of California Cooperative
26 Extension, the Department of Parks and Recreation, the Department of
27 Transportation, resource conservation districts, and the United States Forest
28 Service.

29 (b)(1) The department shall be the agent of the state and shall have full power to
30 cooperate with those agencies of the federal government that have powers and duties
31 concerning urban forestry and shall perform all things necessary to secure the
32 benefits of federal urban forestry programs.

33 (2) To facilitate implementation of this chapter, the director may enter into
34 agreements and contracts with a public or private organization including a local
35 agency that has urban forestry-related jurisdictional responsibilities and an
36 established and operating urban forestry program. The director shall consult with
37 those agencies when carrying out this chapter in their respective areas.

38 (c) The director shall take all feasible steps to prevent or retard the introduction,
39 establishment, and spread of known or potentially damaging or devastating pests
40 and diseases. Any agreement shall ensure that the department will not need
41 additional funds to participate in the program.

42 (d) The department and the Department of Food and Agriculture shall cooperate
43 in setting quarantine boundary lines and in enforcing the provisions relating to

1 quarantine and pest abatement contained in Division 4 (commencing with Section
2 5001) of the Food and Agricultural Code when a quarantine is established to prevent
3 the spread of introduced pests and diseases affecting the state’s urban forests.

4 (e) Whenever it is feasible to do so, the department may utilize inmates and wards
5 assigned to conservation camps or the California Conservation Corps or certified
6 Community Conservation Corps in implementing this chapter.

7 (f) The department may utilize available recipients of CalWORKs or the General
8 Assistance Program, who are participating in state or county work experience
9 programs for carrying out the purposes of this chapter. The participation of
10 registrants for the welfare-to-work program under the CalWORKs program, under
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9
12 of the Welfare and Institutions Code, shall be consistent with their participant
13 contract requirements. A person being utilized by the department pursuant to this
14 subdivision shall not be placed in the same crew as persons utilized pursuant to
15 subdivision (e).

16 (g) The department shall develop or update regulations as necessary to implement
17 the requirements of this section.

18 **Comment.** Section 4799.10 is amended to update a reference to the former Department of Fish
19 and Game. See Fish & Wildlife Code § 1500.

20 **Pub. Res. Code § 4800 (amended).**

21 SEC. _____. Section 4800 of the Public Resources Code is amended to read:
22 4800. It is the intent of the Legislature, in enacting this chapter, to do all of the
23 following:

24 (a) To provide coordination on wildlife and timberland issues within the
25 Resources Agency.

26 (b) To improve and coordinate the state data bases for use in analyzing the
27 cumulative impacts of timber harvesting pursuant to the California Environmental
28 Quality Act (Division 13 (commencing with Section 21000)).

29 (c) To improve the technical basis upon which the Department of Fish and ~~Game~~
30 Wildlife predicates recommendations for mitigating site-specific and cumulative
31 effects on wildlife from timber harvesting activities.

32 (d) To provide recommendations to the board concerning creation of a list of
33 species of special concern for which additional forest practices rules may be needed.

34 (e) To provide recommendations to the Fish and Game Commission concerning
35 additions to its list of species that are threatened or endangered.

36 (f) To provide authority to the state to work cooperatively with the United States
37 Forest Service, including the ability to provide and receive funding for wildlife
38 studies.

39 **Comment.** Section 4800 is amended to update a reference to the former Department of Fish and
40 Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 5003.1 (amended).**

2 SEC. _____. Section 5003.1 of the Public Resources Code is amended to read:

3 5003.1. (a) The Legislature finds and declares that it is in the public interest to
4 permit hunting, fishing, swimming, trails, camping, campsites, and rental vacation
5 cabins in certain state recreation areas, or portions thereof, when it is found by the
6 State Park and Recreation Commission that multiple use of state recreation areas
7 would not threaten the safety and welfare of other state recreation area users.
8 Hunting shall not be permitted in any unit now in the state park system and officially
9 opened to the public on or before June 1, 1961, or in any unit hereafter acquired and
10 designated by the commission as a state park, state marine reserve, state marine
11 park, state reserve, state marine conservation area, or state marine cultural
12 preservation area, and may only be permitted in new recreational areas and state
13 marine recreational management areas that are developed for that use.

14 (b) Whenever hunting or fishing is permitted in a state recreation area or state
15 marine recreational management area, and whenever fishing is permitted in a state
16 park, state marine park, state marine cultural preservation area, or state marine
17 conservation area, the Department of Fish and ~~Game~~ Wildlife shall enforce hunting
18 and fishing laws and regulations as it does elsewhere in the state.

19 **Comment.** Section 5003.1 is amended to update a reference to the former Department of Fish
20 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
21 designations.

22 **Pub. Res. Code § 5003.35 (amended).**

23 SEC. _____. Section 5003.35 of the Public Resources Code is amended to read:

24 5003.35. Notwithstanding Section 5003.1, waterfowl hunting shall be allowed at
25 the Lake Earl and Lake Talawa project in accordance with the existing interagency
26 agreement with the Department of Fish and ~~Game~~ Wildlife and with regulations of
27 the Fish and Game Commission governing waterfowl hunting at the project. The
28 agreement shall be extended until such time as the project is classified as a unit of
29 the state park system.

30 **Comment.** Section 5003.35 is amended to update a reference to the former Department of Fish
31 and Game. See Fish & Wildlife Code § 1500.

32 **Pub. Res. Code § 5006.41 (amended).**

33 SEC. _____. Section 5006.41 of the Public Resources Code is amended to read:

34 5006.41. (a) The department may enter into agreements with the Department of
35 Water Resources and the Department of Fish and ~~Game~~ Wildlife to plan, develop,
36 and administer real and personal property located in the vicinity of Oroville. The
37 department shall carry out a program in that unit of development, maintenance,
38 administration, and conservation of trails and areas for the recreational use of off-
39 highway vehicles. Areas for the recreational use of off-highway vehicles shall be
40 administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

1 **(b)** Any fees, rentals, or other returns collected by the department in its
2 administration of the unit shall be paid into the State Treasury to the credit of the
3 Off-Highway Vehicle Fund.

4 **Comment.** Section 5006.41 is amended to update a reference to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
6 designations.

7 **Pub. Res. Code § 5006.6 (amended).**

8 SEC. _____. Section 5006.6 of the Public Resources Code is amended to read:

9 5006.6. **(a)** The department, with the approval of the Administrator of the
10 Resources Agency and the Department of Finance, is authorized to cooperate and
11 participate with the federal government pursuant to Public Law 89-161 in the
12 development of recreation facilities, or with the approval of the Department of Fish
13 and ~~Game~~ Wildlife, fish and wildlife enhancement facilities, or both, at Auburn
14 Dam and Reservoir, Folsom Dam and Reservoir, Nimbus Dam and Lake Natomas,
15 and County Line Dam and Reservoir, and stream areas in the immediate vicinity of
16 these facilities.

17 **(b)** The department, with the approval of the Administrator of the Resources
18 Agency and the Department of Finance, is authorized to administer unit land and
19 water areas for recreation or fish and wildlife enhancement, or both, and to contract
20 with the federal government for the operation, maintenance, and replacement of unit
21 facilities, to assume all costs of such operation, maintenance, and replacement, and
22 to accept transfer of unit lands or facilities by lease or exchange upon such terms
23 and conditions as will best promote the development and operation of such lands or
24 facilities in the public interest for recreation or fish and wildlife enhancement
25 purposes, or both. Any such contract entered into by the department which affects
26 the operation, maintenance or replacement of fish and wildlife enhancement features
27 is subject to approval by the Department of Fish and ~~Game~~ Wildlife.

28 **(c)** The State of California, acting by and through the department, with the
29 approval of the Administrator of the Resources Agency and the Department of
30 Finance, is authorized to enter into a contract or contracts with the federal
31 government to pay or repay one-half of the separable capital costs involved in the
32 development of the recreation or fish and wildlife enhancement features, or both, at
33 the Auburn Dam and Reservoir, Folsom Dam and Reservoir, Nimbus Dam and Lake
34 Natomas, and County Line Dam and Reservoir, and stream areas in the immediate
35 vicinity of these facilities, pursuant to the provisions of Public Law 89-161. The
36 agreement for the payment or repayment of the separable capital costs shall be
37 limited to those recreation or fish and wildlife enhancement facilities, or both,
38 specified in the contract. Such payments or repayments may be made by any or all
39 of the following methods: by legislative appropriation; by provision of lands,
40 interests therein, or facilities for the unit; or by a contract or contracts for repayment,
41 with interest, within 50 years of first use of unit recreation or fish and wildlife
42 enhancement facilities specified in the contract or contracts. The source of

1 repayment may be limited to entrance and user fees or charges collected at the unit
2 by the department if such fees or charges dedicated to repayment are established on
3 a basis calculated to achieve repayment and are made subject to review and
4 renegotiation at intervals of not more than five years. If the source of repayment is
5 so limited, revenues derived from such fees or charges shall be deposited in a special
6 account in the Special Deposit Fund in the State Treasury and used for the purpose
7 of such repayment. If not so limited, the source of repayment shall be such
8 appropriations of funds as may from time to time be made for such purpose by the
9 Legislature.

10 (d) The department shall cooperate with any local public body authorized to
11 contract with the federal government pursuant to Public Law 89-161, including, but
12 not limited to, the Counties of El Dorado, Placer, and Sacramento, in planning of
13 any proposed participation with the federal government. The state may contract with
14 any or all of such counties or other local public bodies for the operation,
15 maintenance, and replacement of unit facilities, or any portion thereof, if requested
16 by any or all such counties or other local public bodies.

17 **Comment.** Section 5006.6 is amended to update references to the former Department of Fish
18 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
19 designations.

20 **Pub. Res. Code § 5019.80 (amended).**

21 SEC. _____. Section 5019.80 of the Public Resources Code is amended to read:

22 5019.80. (a) The Marine Managed Areas Improvement Act (Chapter 7
23 (commencing with Section 36600) of Division 27) establishes a uniform
24 classification system for state marine managed areas and is incorporated herein by
25 reference. Any proposals for marine managed areas made after January 1, 2002,
26 shall follow the guidelines set forth in that act. Pursuant to Section 36750, existing
27 marine or estuarine areas within units of the state park system that have not been
28 reclassified in accordance with the Marine Life Protection Act (~~Chapter 10.5~~
29 ~~(commencing with Section 2850) of Division 3 Part 2 (commencing with Section~~
30 60400) of Division 16 of the Fish and Game Wildlife Code) on January 1, 2002,
31 shall be reclassified by the State Interagency Coordinating Committee into one of
32 the following classifications:

- 33 (1) State marine reserve.
- 34 (2) State marine park.
- 35 (3) State marine conservation area.
- 36 (4) State marine cultural preservation area.
- 37 (5) State marine recreational management area.

38 (b) The process for establishing, deleting, or modifying state marine reserves,
39 state marine parks, state marine conservation areas, state marine cultural
40 preservation areas, and state marine recreational management areas shall be
41 established pursuant to that act. The restrictions and allowable uses applicable to
42 those areas are as set forth in that act.

1 **Comment.** Section 5019.80 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Pub. Res. Code § 5075.8 (amended).**

4 SEC. _____. Section 5075.8 of the Public Resources Code is amended to read:
5 5075.8. (a) The department may convene a planning task force in order to
6 facilitate the development of a comprehensive plan for the San Joaquin River
7 Parkway.

8 The task force shall include, but not be limited to, a representative of the following
9 entities:

- 10 (1) State Lands Commission.
- 11 (2) Department of Parks and Recreation.
- 12 (3) Department of Fish and ~~Game~~ Wildlife.
- 13 (4) State Reclamation Board.
- 14 (5) County of Fresno.
- 15 (6) County of Madera.
- 16 (7) City of Fresno.
- 17 (8) Fresno County and City Chamber of Commerce.
- 18 (9) Fresno Sand and Gravel Producers.
- 19 (10) San Joaquin River Property Owners Association.
- 20 (11) Upper San Joaquin River Association.
- 21 (12) San Joaquin River Parkway and Conservation Trust.
- 22 (13) San Joaquin River Committee.
- 23 (b) The plan shall be submitted to the Legislature not later than June 1, 1991.

24 **Comment.** Section 5075.8 is amended to update a reference to the former Department of Fish
25 and Game. See Fish & Wildlife Code § 1500.

26 **Pub. Res. Code § 5080.39 (amended).**

27 SEC. _____. Section 5080.39 of the Public Resources Code is amended to read:
28 5080.39. The department and other appropriate state and local agencies, and
29 federal agencies to the extent permitted by federal law, with jurisdiction over inland
30 waters are encouraged to cooperate with private groups and associations in order to
31 do fish habitat and restoration work to implement the Adopt a Lake Program
32 pursuant to Section ~~2003.5~~ 57775 of the Fish and ~~Game~~ Wildlife Code.

33 **Comment.** Section 5080.39 is amended to reflect the recodification of the former Fish and Game
34 Code.

35 **Pub. Res. Code § 5093.542 (amended).**

36 SEC. _____. Section 5093.542 of the Public Resources Code is amended to read:
37 5093.542. The Legislature finds and declares that the McCloud River possesses
38 extraordinary resources in that it supports one of the finest wild trout fisheries in the
39 state. Portions of the river have been appropriately designated by the Fish and Game
40 Commission, pursuant to ~~Chapter 7.2 (commencing with Section 1725)~~ of Division

1 2 Chapter 1 (commencing with Section 11700) of Title 2 of Part 4 of Division 6 of
2 the Fish and Game ~~Wildlife~~ Code, as wild trout waters, with restrictions on the
3 taking, or method of taking, of fish. The Legislature has determined, based upon a
4 review of comprehensive technical data evaluating resources and potential
5 beneficial uses, that potential beneficial uses must be balanced, in order to achieve
6 protection of the unique fishery resources of the McCloud River, as follows:

7 (a) The continued management of river resources in their existing natural
8 condition represents the best way to protect the unique fishery of the McCloud
9 River. The Legislature further finds and declares that maintaining the McCloud
10 River in its free-flowing condition to protect its fishery is the highest and most
11 beneficial use of the waters of the McCloud River within the segments designated
12 in subdivision (b), and is a reasonable use of water within the meaning of Section 2
13 of Article X of the California Constitution.

14 (b) No dam, reservoir, diversion, or other water impoundment facility shall be
15 constructed on the McCloud River from Algoma to the confluence with Huckleberry
16 Creek, and 0.25 mile downstream from the McCloud Dam to the McCloud River
17 Bridge; nor shall any such facility be constructed on Squaw Valley Creek from the
18 confluence with Cabin Creek to the confluence with the McCloud River.

19 (c) Except for participation by the Department of Water Resources in studies
20 involving the technical and economic feasibility of enlargement of Shasta Dam, no
21 department or agency of the state shall assist or cooperate with, whether by loan,
22 grant, license, or otherwise, any agency of the federal, state, or local government in
23 the planning or construction of any dam, reservoir, diversion, or other water
24 impoundment facility that could have an adverse effect on the free-flowing
25 condition of the McCloud River, or on its wild trout fishery.

26 (d) All state agencies exercising powers under any other provision of law with
27 respect to the protection and restoration of fishery resources shall continue to
28 exercise those powers in a manner to protect and enhance the fishery of those
29 segments designated in subdivision (b). In carrying out this subdivision, any
30 exercise of powers shall be consistent with Section 5093.58.

31 (e) Nothing in this section shall prejudice, alter, affect in any way, or interfere
32 with the construction, maintenance, repair, or operation by the Pacific Gas and
33 Electric Company of the existing McCloud-Pit development (FERC 2106) under its
34 license, or prevent Pacific Gas and Electric from constructing a hydroelectric
35 generating facility by retrofitting the existing McCloud Dam if the operation of the
36 facility does not alter the existing flow regime below the dam.

37 **Comment.** Section 5093.542 is amended to reflect the recodification of the former Fish and
38 Game Code.

39 **Pub. Res. Code § 5094.1 (amended).**

40 SEC. ____ . Section 5094.1 of the Public Resources Code is amended to read:

41 5094.1. (a) The Secretary of the Resources Agency, with the approval of the
42 Director of Finance and upon specific authorization by the Legislature, may indicate

1 in writing the state’s intent to agree to administer any federal multiple-purpose water
2 project land and water areas for recreation or fish and wildlife enhancement, or both
3 of these purposes, as provided in Public Law 89-72. The secretary, as to each
4 proposed state participation, shall submit any proposed indication of intent, together
5 with supporting material, to the Legislature.

6 (b) The secretary, before requesting legislative authorization, shall determine that
7 the proposed state participation in the project is in compliance with all
8 comprehensive water, recreation, and fish and wildlife plans of the state.

9 (c) Notwithstanding the provisions of this section, the Department of Fish and
10 ~~Game~~ Wildlife may review and coordinate the development of fish and wildlife
11 enhancement features at federal water projects with fish and wildlife plans of the
12 state, irrespective of whether the state agrees to administer the project.

13 **Comment.** Section 5094.1 is amended to update a reference to the former Department of Fish
14 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
15 designations.

16 **Pub. Res. Code § 5094.2 (amended).**

17 SEC. _____. Section 5094.2 of the Public Resources Code is amended to read:

18 5094.2. With respect to each project as to which a letter of intent has been given,
19 the Resources Agency through the Department of Parks and Recreation and the
20 Department of Fish and ~~Game~~ Wildlife, in cooperation with affected local public
21 agencies, shall conduct an investigation and study of the project with respect to the
22 areas of interest of each and prepare plans of the proposed state participation therein.
23 The plans shall be submitted, upon request, to each affected local public agency for
24 its review and comments thereon. The comments shall be transmitted to the agency
25 by the affected local public agency within such period as determined by the
26 administrator, which period shall be not less than 30 days nor more than 60 days
27 from the date of submission to the local public agency.

28 **Comment.** Section 5094.2 is amended to update a reference to the former Department of Fish
29 and Game. See Fish & Wildlife Code § 1500.

30 **Pub. Res. Code § 5094.3 (amended).**

31 SEC. _____. Section 5094.3 of the Public Resources Code is amended to read:

32 5094.3. Upon specific authorization of state participation by the Legislature:

33 (a) The Department of Parks and Recreation and the Department of Fish and
34 ~~Game~~ Wildlife may cooperate and participate with the federal government pursuant
35 to Public Law 89-72 in the development of recreation and fish and wildlife
36 enhancement at federal water projects. Where both the recreation and fish and
37 wildlife enhancement functions are involved in a project the department having the
38 principal interest as designated by the Administrator of the Resources Agency shall
39 be the contracting agency with the federal government. In such case the contract
40 shall be subject to approval of the other department.

1 (b) The departments may (1) administer unit land and water areas for recreation
2 or fish and wildlife enhancement, or both, (2) contract with the federal government
3 for the operation, maintenance, and replacement of unit facilities, (3) assume all
4 costs of such operation, maintenance, and replacement, and (4) accept transfer of
5 unit lands or facilities by lease or exchange upon such terms and conditions as will
6 best promote the development and operation of such lands or facilities in the public
7 interest for recreation or fish and wildlife enhancement purposes, or both.

8 (c) The departments may enter into a contract or contracts with the federal
9 government to pay or repay one-half of the separable capital costs involved in the
10 development of the recreation or fish and wildlife enhancement features, or both, at
11 the project pursuant to the provisions of Public Law 89-72, consistent with the
12 reports provided for in Section 5094.2. The agreement for the payment or repayment
13 of the separable capital costs shall be limited to those recreation or fish and wildlife
14 enhancement facilities, or both, specified in the contract. Such payments or
15 repayments may be made by any or all of the following methods: by legislative
16 appropriation; by provision of lands, interests therein, or facilities for the project; or
17 by a contract or contracts for repayment, with interest, within 50 years of first use
18 of project recreation or fish and wildlife enhancement facilities specified in the
19 contract or contracts. The source of repayment may be limited to entrance and user
20 fees or charges collected at the project by the contracting department if such fees or
21 charges dedicated to repayment are established on a basis calculated to achieve
22 repayment and are made subject to review and renegotiation at intervals of not more
23 than five years. If the source of repayment is so limited, revenues derived from such
24 fees or charges shall be deposited in a special account in the Special Deposit Fund
25 in the State Treasury and used for the purpose of such repayment. If not so limited,
26 the source of repayment shall be such appropriations of funds as may from time to
27 time be made for such purpose by the Legislature.

28 **Comment.** Section 5094.3 is amended to update a reference to the former Department of Fish
29 and Game. See Fish & Wildlife Code § 1500.

30 **Pub. Res. Code § 5096.129 (amended).**

31 SEC. ____ . Section 5096.129 of the Public Resources Code is amended to read:

32 5096.129. (a) Any project involving state funds only, pursuant to subdivisions (b),
33 (c), and (e) of Section 5096.124, shall originate by resolution of the Legislature or
34 of the State Park and Recreation Commission directing a study of the proposed
35 project or by action of the Secretary of the Resources Agency, either on his own
36 initiative, or, with respect to projects to be funded pursuant to subdivision (e) of
37 Section 5096.124, at the request of the Director of Water Resources, directing a
38 study of the proposed project.

39 (b) The costs of these project studies shall be borne by the State, Urban, and
40 Coastal Park Fund.

41 (c) Allocations for the purposes of subdivision (d) of Section 5096.124 that are
42 authorized by the Legislature and approved by the Governor shall be made from the

1 State, Urban, and Coastal Park Fund and shall be expended in accordance with the
2 provisions of the Wildlife Conservation Law of 1947 (~~Chapter 4 (commencing with~~
3 ~~Section 1300), Division 2, Title 1 (commencing with Section 54700) of Part 2 of~~
4 Division 15 of the Fish and Game Wildlife Code).

5 **Comment.** Section 5096.129 is amended to reflect the recodification of the former Fish and
6 Game Code. The section is also amended to add subdivision designations.

7 **Pub. Res. Code § 5096.310 (amended).**

8 SEC. _____. Section 5096.310 of the Public Resources Code is amended to read:

9 5096.310. The proceeds of bonds issued and sold pursuant to this chapter shall be
10 deposited in the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal
11 Protection (Villaraigosa-Keeley Act) Bond Fund, which is hereby created. Unless
12 otherwise specified and except as provided in subdivision (m), the money in the
13 fund shall be available for appropriation by the Legislature, in the manner set forth
14 in this chapter, only for parks and resources improvement, in accordance with the
15 following schedule:

16 (a) The sum of five hundred two million seven hundred fifty thousand dollars
17 (\$502,750,000) to the department for the following purposes:

18 (1) To rehabilitate, restore, and improve units of the state park system that will
19 ensure that state park system lands and facilities will remain open and accessible for
20 public use.

21 (2) To develop, improve, rehabilitate, restore, enhance, and protect facilities and
22 trails at existing units of the state park system that will provide for optimal
23 recreational and educational use, activities, improved access and safety, and the
24 acquisition from a willing seller of inholdings and adjacent lands. Adjacent lands
25 are lands contiguous to, or in the immediate vicinity of, existing state park system
26 lands and that directly benefit an existing state park system unit.

27 (3) For stewardship of the public investment in the preservation of the critical
28 natural heritage and scenic features, and cultural heritage stewardship projects that
29 will preserve vanishing remnants of California's landscape, and protect and promote
30 a greater understanding of California's past, and the planning necessary to
31 implement those efforts.

32 (4) For facilities and improvements to enhance volunteer participation in the state
33 park system.

34 (5) To develop, improve, and expand interpretive facilities at units of the state
35 park system, including educational exhibits and visitor orientation centers.

36 (6) To rehabilitate and repair aging facilities at winter recreation facilities
37 pursuant to the Sno-Park program, as provided for in Chapter 1.27 (commencing
38 with Section 5091.01), that provide for improved public safety.

39 (7) For projects that improve air quality related to the state park system, including,
40 but not limited to, the purchase of low-emission or advanced technology vehicles

1 and equipment and clean fuel distribution facilities that will avoid or reduce air
2 emissions at state park facilities.

3 (b) The sum of eighteen million dollars (\$18,000,000) to the department to
4 undertake stewardship projects, including cultural resources stewardship and
5 natural resources stewardship projects, that will restore and protect the natural
6 treasures of the state park system, preserve vanishing remnants of California's
7 landscape, and protect and promote a greater understanding of California's past.

8 (c) The sum of four million dollars (\$4,000,000) to the department for facilities
9 and improvements to enhance volunteer participation in the state park system.

10 (d) The sum of twenty million dollars (\$20,000,000) to the department for grants
11 to local agencies administering units of the state park system under an operating
12 agreement with the department, for the development, improvement, rehabilitation,
13 restoration, enhancement, protection, and interpretation of lands and facilities of,
14 and improved access to, those locally operated units.

15 (e) The sum of ten million dollars (\$10,000,000) to the department for purposes
16 consistent with Section 5079.10, for competitive grants, in accordance with Section
17 5096.335.

18 (f) The sum of three hundred eighty-eight million dollars (\$388,000,000) to the
19 department for grants, in accordance with Sections 5096.332, 5096.333, and
20 5096.336, on the basis of population, for the acquisition, development,
21 improvement, rehabilitation, restoration, enhancement, and interpretation of local
22 park and recreational lands and facilities, including renovation of recreational
23 facilities conveyed to local agencies resulting from the downsizing or
24 decommissioning of federal military installations.

25 (g) The sum of two hundred million dollars (\$200,000,000) to the department for
26 grants to cities, counties, and districts for the acquisition, development,
27 rehabilitation, and restoration of park and recreation areas and facilities pursuant to
28 the Roberti-Z'berg-Harris Urban Open-Space and Recreational Program Act
29 (Chapter 3.2 (commencing with Section 5620)).

30 (h) The sum of ten million dollars (\$10,000,000) to the department for grants, in
31 accordance with Section 5096.337, for the improvement or acquisition and
32 restoration of riparian habitat, riverine aquatic habitat, and other lands in close
33 proximity to rivers and streams for river and stream trail projects undertaken in
34 accordance with Section 78682.2 of the Water Code, and for purposes of Section
35 7048 of the Water Code.

36 (i) The sum of ten million dollars (\$10,000,000) to the department for grants, in
37 accordance with Section 5096.337, for the development, improvement,
38 rehabilitation, restoration, enhancement, and interpretation of nonmotorized trails
39 for the purpose of increasing public access to, and enjoyment of, public areas for
40 increased recreational opportunities. Not less than one million five hundred
41 thousand dollars (\$1,500,000) of this amount shall be allocated toward the
42 completion of a project that links existing bicycle and pedestrian trail systems to
43 major urban public transportation systems, to promote increased recreational

1 opportunities and nonmotorized commuter usage in the City of Whittier. Of this
2 amount, no less than two hundred seventy-five thousand dollars (\$275,000) shall be
3 allocated to the East Bay Regional Park District toward the completion of the Iron
4 Horse Trail. Of this amount, not less than one million dollars (\$1,000,000) shall be
5 allocated to a regional park district for the completion of a bike trail in the City of
6 Concord.

7 (j) The sum of one hundred million dollars (\$100,000,000) to the department for
8 grants to public agencies and nonprofit organizations for park, youth center, and
9 environmental enhancement projects that benefit youth in areas that lack safe
10 neighborhood parks, open space, and natural areas, and that have significant
11 poverty.

12 (k) The sum of two million five hundred thousand dollars (\$2,500,000) to the
13 California Conservation Corps to complete capital outlay and resource conservation
14 projects and administrative costs allocable to the bond funded projects.

15 (l) The sum of eighty-six million five hundred thousand dollars (\$86,500,000) to
16 the department for the following purposes:

17 (1) The sum of seventy-one million five hundred thousand dollars (\$71,500,000)
18 for grants, in accordance with Sections 5096.339 and 5096.340, for urban
19 recreational and cultural centers, including, but not limited to, zoos, museums,
20 aquariums, and facilities for wildlife, environmental, or natural science aquatic
21 education or projects that combine curation of archaeological, paleontological, and
22 historic resources with education and basic and applied research, and that emphasize
23 specimens of California's extinct prehistoric plants and animals.

24 (2) The sum of fifteen million dollars (\$15,000,000) for grants for regional youth
25 soccer and baseball facilities operated by nonprofit organizations. Priority shall be
26 given to those grant projects that utilize existing school facilities or recreation
27 facilities and serve disadvantaged youth.

28 (m) Notwithstanding Section 13340 of the Government Code, the sum of two
29 hundred sixty-five million five hundred thousand dollars (\$265,500,000) is, except
30 as provided in Section 5096.350, hereby continuously appropriated to the Wildlife
31 Conservation Board, without regard to fiscal years, in accordance with Section
32 5096.350.

33 (n) The sum of fifty million dollars (\$50,000,000) to the California Tahoe
34 Conservancy, in accordance with Section 5096.351.

35 (o) The sum of two hundred twenty million four hundred thousand dollars
36 (\$220,400,000) to the State Coastal Conservancy, in accordance with Section
37 5096.352.

38 (p) The sum of thirty-five million dollars (\$35,000,000) to the Santa Monica
39 Mountains Conservancy, in accordance with Section 5096.353.

40 (q) The sum of five million dollars (\$5,000,000) to the Coachella Valley
41 Mountains Conservancy, in accordance with Section 5096.354.

1 (r) The sum of fifteen million dollars (\$15,000,000) to the San Joaquin River
2 Conservancy, in accordance with Section 5096.355.

3 (s) The sum of twelve million five hundred thousand dollars (\$12,500,000) to the
4 California Conservation Corps for grants for the certified local community
5 conservation corps program to complete capital outlay and resource conservation
6 projects.

7 (t) The sum of twenty-five million dollars (\$25,000,000) to the Department of
8 Conservation in accordance with Section 5096.356.

9 (u) The sum of ten million dollars (\$10,000,000) to the Department of Forestry
10 and Fire Protection for urban forestry programs in accordance with Section 4799.12.
11 The grants made pursuant to this subdivision shall be for costs associated with the
12 purchase and planting of trees, and up to three years of care which ensures the long-
13 term viability of those trees.

14 (v) Notwithstanding Section ~~711~~ 3465 of the Fish and ~~Game~~ Wildlife Code, the
15 sum of twelve million dollars (\$12,000,000) to the Department of Fish and ~~Game~~
16 Wildlife for the following purposes:

17 (1) The sum of five million dollars (\$5,000,000) for expenditure in accordance
18 with subdivision (a) of Section 5096.357.

19 (2) The sum of five million dollars (\$5,000,000) for expenditure in accordance
20 with subdivision (b) of Section 5096.357.

21 (3) The sum of two million dollars (\$2,000,000) to remove nonnative vegetation
22 harmful to ecological reserves in San Diego County.

23 (w) The sum of thirty million dollars (\$30,000,000) shall be available for purposes
24 of Chapter 4.5 (commencing with Section 31160) of Division 21. Two hundred fifty
25 thousand dollars (\$250,000) shall be allocated to Mount Diablo State Park.

26 (x) The sum of seven million dollars (\$7,000,000) to the California Integrated
27 Waste Management Board for grants to local agencies to assist them in meeting state
28 and federal accessibility standards relating to public playgrounds if the local agency
29 guarantees that 50 percent of the grant funds will be used for the improvement or
30 replacement of playground equipment or facilities through the use of recycled
31 materials and that matching funds in an amount equal to not less than 50 percent of
32 the total amount of those grant funds will be provided through either public or
33 private funds or in-kind contributions. The board may reduce this matching fund
34 requirement to not less than 25 percent if it determines that the 50-percent
35 requirement would impose an extreme financial hardship on the local agency
36 applying for the grant. The board may expend the funds allocated pursuant to this
37 subdivision, upon appropriation by the Legislature, for the purposes specified
38 herein.

39 (y) The sum of fifteen million dollars (\$15,000,000) to a city for rehabilitation,
40 restoration, or enhancement to a city park that is over 1,000 acres that serves an
41 urban area of over 750,000 population in northern California and that provides
42 recreational, cultural, and scientific resources.

1 (z)(1) The sum of six million two hundred fifty thousand dollars (\$6,250,000) to
2 the secretary to administer grants to the Sierra Nevada-Cascade Program, in
3 accordance with Section 5096.347.

4 (2) The sum of thirty-three million five hundred thousand dollars (\$33,500,000)
5 to the secretary to administer a river parkway and restoration program to assist local
6 agencies and other districts to plan, create, and conserve river parkways. The
7 secretary shall make funds available in accordance with Sections 7048 and 78682.2
8 of the Water Code, and any other applicable authority, for the following purposes:

9 (A) Twenty-five million dollars (\$25,000,000) for the acquisition or restoration
10 of public lands within the Los Angeles River Watershed, the San Gabriel River
11 Watershed, and the San Gabriel Mountains and to provide open space,
12 nonmotorized trails, bike paths, and other low-impact recreational uses and wildlife
13 and habitat restoration and protection. Ten million dollars (\$10,000,000) shall be
14 allocated for the Los Angeles River Watershed, and fifteen million dollars
15 (\$15,000,000) shall be allocated for the San Gabriel River Watershed and the San
16 Gabriel Mountains and lower Los Angeles River.

17 (B) Two million five hundred thousand dollars (\$2,500,000) for river parkway
18 projects along the Kern River between the mouth of the Kern Canyon and I-5.

19 (C) One million dollars (\$1,000,000) for land acquisition in the Santa Clarita
20 Watershed.

21 (D) Three million dollars (\$3,000,000) for watershed, riparian, and wetlands
22 restoration along the Sacramento River in Yolo, Glenn, and Colusa Counties.

23 (E) Two million dollars (\$2,000,000) for the construction of a visitor center at a
24 state recreation area encompassing a body of water along the American River.

25 (3) The sum of two million dollars (\$2,000,000) to the secretary for resource
26 conservation and urban water recycling that addresses multicounty regional
27 recreational needs, provides habitat restoration, and enjoys joint sponsorship by
28 multiple local agencies and nonprofit organizations in the County of Sonoma.

29 (4) The sum of one million one hundred thousand dollars (\$1,100,000) to the
30 secretary, one hundred thousand dollars (\$100,000) of which shall be made
31 available to fund a community center in San Benito County, one hundred thousand
32 dollars (\$100,000) of which shall be made available to fund a veterans park in San
33 Benito County, five hundred thousand dollars (\$500,000) of which shall be made
34 available to fund a community center in the City of Galt, and four hundred thousand
35 dollars (\$400,000) of which shall be made available to fund a community center in
36 the City of Gilroy.

37 (5) The sum of two million dollars (\$2,000,000) to the secretary for Camp Arroyo
38 in Alameda County.

39 (6) The sum of one million dollars (\$1,000,000) to the secretary to construct a
40 rehabilitation center for injured endangered and indigenous wild animals at the
41 Wildhaven Center in the San Bernardino Mountains.

1 **Comment.** Subdivision (v) of Section 5096.310 is amended to reflect the recodification of the
2 former Fish and Game Code. That subdivision is also amended to update a reference to the former
3 Department of Fish and Game. See Fish & Wildlife Code § 1500.

4 **Pub. Res. Code § 5096.323 (amended).**

5 SEC. _____. Section 5096.323 of the Public Resources Code is amended to read:

6 5096.323. Fifty million dollars (\$50,000,000) of the funds allocated pursuant to
7 subdivision (a) of Section 5096.310 shall be expended for the acquisition of land
8 from willing sellers that are a high priority for both the state parks system and for
9 habitat purposes, with priority given to projects that protect habitat for rare,
10 threatened, or endangered species pursuant to a natural community conservation
11 plan adopted pursuant to ~~Chapter 10 (commencing with Section 2800) of Division~~
12 ~~10~~ Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish
13 and ~~Game~~ Wildlife Code, if the acquisition of the land is conducted in conjunction
14 with a natural community conservation plan approved by the Department of Fish
15 and ~~Game~~ Wildlife prior to January 1, 1999, or if the acquisition is approved by
16 statute. Notwithstanding paragraph (2) of subdivision (a) of Section 5096.310, those
17 land acquisitions may be for either new or existing units of the state park system.

18 **Comment.** Section 5096.323 is amended to reflect the recodification of the former Fish and
19 Game Code. The section is also amended to update a reference to the former Department of Fish
20 and Game. See Fish & Wildlife Code § 1500.

21 **Pub. Res. Code § 5096.350 (amended).**

22 SEC. _____. Section 5096.350 of the Public Resources Code is amended to read:

23 5096.350. (a) Funds appropriated pursuant to subdivision (m) of Section 5096.310
24 shall be available for expenditure by the Wildlife Conservation Board for the
25 acquisition, development, rehabilitation, restoration, and protection of real property
26 benefiting fish and wildlife, for the acquisition, restoration, or protection of habitat
27 that promotes recovery of threatened, endangered, or fully protected species,
28 maintains the genetic integrity of wildlife populations, and serves as corridors
29 linking otherwise separate habitat to prevent habitat fragmentation, and for grants
30 and related state administrative costs pursuant to the Wildlife Conservation Law of
31 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2~~ Title 1
32 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and ~~Game~~
33 Wildlife Code), for the following purposes:

34 (1) Ten million dollars (\$10,000,000) for the acquisition or restoration of wetland
35 habitat, as follows:

36 (A) Five million dollars (\$5,000,000) for the acquisition, preservation, restoration,
37 and establishment, or any combination thereof, of habitat for waterfowl or other
38 wetlands-associated wildlife, as provided for in the Central Valley Habitat Joint
39 Venture Component of the North American Waterfowl Management Plan and the
40 Inland Wetlands Conservation Program, notwithstanding Section ~~711~~ 3465 of the
41 Fish and ~~Game~~ Wildlife Code. Preference shall be given to projects involving the

1 acquisition of perpetual conservation easements; habitat development projects on
2 lands which will be managed primarily as waterfowl habitat in perpetuity; waterfowl
3 habitat development projects on agricultural lands; the reduction of fishery impacts
4 resulting from supply diversions that have a direct benefit to wetlands and waterfowl
5 habitat; or programs to establish permanent buffer areas, including, but not limited
6 to, agricultural lands that are necessary to preserve the acreage and habitat values of
7 existing wetlands.

8 (B) Five million dollars (\$5,000,000) for the acquisition, development,
9 restoration, and protection of wetlands and adjacent lands, or any combination
10 thereof, located outside the Sacramento-San Joaquin Valley.

11 (2) Ten million dollars (\$10,000,000) for the development, acquisition from a
12 willing seller, or restoration of riparian habitat and watershed conservation
13 programs.

14 (3) Forty-five million dollars (\$45,000,000), upon appropriation by the
15 Legislature, for the restoration, or acquisition from a willing seller, of habitat for
16 threatened and endangered species or for the purpose of promoting the recovery of
17 those species. Five million dollars (\$5,000,000) of that amount shall be for the
18 acquisition of property along the central coast containing coastal terrace prairie,
19 federally listed spineflower, state listed San Francisco popcorn flower, and
20 candidates for federal listing including ohlone tiger beetle and opler's longhorned
21 moth. No funds may be expended pursuant to this paragraph for the acquisition of
22 real property or other actions taken pursuant to ~~Chapter 10 (commencing with~~
23 ~~Section 2800)~~ Title 2 (commencing with Section 64500) of Part 2 of Division 17 of
24 the Fish and Game Wildlife Code.

25 (4) Thirteen million dollars (\$13,000,000) for the acquisition from a willing seller,
26 or restoration of forest lands, including, but not limited to, ancient redwoods and
27 oak woodlands. Not more than five million dollars (\$5,000,000) of this amount shall
28 be expended on the federal Legacy Forest Program (16 U.S.C. Sec. 2103) to meet
29 federal matching requirements and not less than five million dollars (\$5,000,000) of
30 this amount shall be allocated for the preservation of oak woodlands. Not more than
31 five million dollars (\$5,000,000) of this amount shall be expended on the federal
32 Legacy Forest Program (16 U.S.C. Sec. 2103) to meet federal matching
33 requirements and not less than five million dollars (\$5,000,000) of this amount shall
34 be allocated for the preservation of oak woodlands.

35 (5) Eighty-two million five hundred thousand dollars (\$82,500,000), upon
36 appropriation by the Legislature, to match funds contributed by federal or local
37 agencies or nonprofit organizations for the acquisition, restoration, or protection of
38 habitat or habitat corridors that promote the recovery of threatened, endangered, or
39 fully protected species. Projects funded pursuant to this paragraph may include
40 restoration projects authorized pursuant to Public Law 105-372, the Salton Sea
41 Reclamation Act of 1998. The board shall require matching contributions of funds,
42 real property, or other resources from other public agencies, private parties, or

1 nonprofit organizations, at a level designed to obtain the maximum conservation
2 benefits to wildlife and wildlife habitat. No funds may be expended pursuant to this
3 paragraph for the acquisition of real property or other actions taken pursuant to
4 ~~Chapter 10 (commencing with Section 2800)~~ Title 2 (commencing with Section
5 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

6 (6) One hundred million dollars (\$100,000,000), upon appropriation by the
7 Legislature, for the purpose of funding the acquisition of real property subject to a
8 natural community conservation plan adopted pursuant to ~~Chapter 10 (commencing~~
9 ~~with Section 2800)~~ Title 2 (commencing with Section 64500) of Part 2 of Division
10 17 of the Fish and ~~Game~~ Wildlife Code, if the acquisition of the real property is
11 conducted in conjunction with a natural community conservation plan approved by
12 the Department of Fish and ~~Game~~ Wildlife prior to January 1, 1999, or if the
13 acquisition is approved by statute.

14 (7) Five million dollars (\$5,000,000) for environmental restoration projects for
15 the following purposes approved pursuant to the Salton Sea Restoration Project
16 authorized by Public Law 105-372, the Salton Sea Reclamation Act of 1998, and
17 identified in the Final Environmental Impact Statement of the Salton Sea
18 Restoration Project:

19 (A) Reduce and stabilize the overall salinity of the Salton Sea.

20 (B) Stabilize the surface elevation of the Salton Sea.

21 (C) Reclaim, in the long term, healthy fish and wildlife resources and their
22 habitats.

23 (D) Enhance the potential for recreational uses of the Salton Sea.

24 (b) Not more than 5 percent of the funds authorized for expenditure by this section
25 may be used for public access and wildlife-oriented public use projects.

26 **Comment.** Section 5096.350 is amended to reflect the recodification of the former Fish and
27 Game Code. The section is also amended to update a reference to the former Department of Fish
28 and Game. See Fish & Wildlife Code § 1500.

29 **Pub. Res. Code § 5096.352 (amended).**

30 SEC. _____. Section 5096.352 of the Public Resources Code is amended to read:

31 5096.352. Funds allocated pursuant to subdivision (o) of Section 5096.310 shall
32 be available for expenditure by the State Coastal Conservancy pursuant to Division
33 21 (commencing with Section 31000) for the acquisition from a willing seller,
34 preservation, restoration, and enhancement of real property or an interest in real
35 property in coastal areas and watersheds within its jurisdiction and the development
36 of public use facilities in those areas in accordance with the following schedule:

37 (a) Twenty-five million dollars (\$25,000,000) for projects funded pursuant to the
38 San Francisco Bay Area Conservancy Program established pursuant to Chapter 4.5
39 (commencing with Section 31160) of Division 21.

40 (b)(1) Twenty-five million dollars (\$25,000,000) shall be made available to the
41 Santa Monica Bay Restoration Project to fund grants to public entities and nonprofit
42 organizations to implement storm water and urban runoff pollution prevention

1 programs, habitat restoration, and other priority actions specified in the Santa
2 Monica Restoration Plan. The Santa Monica Bay Watershed Council shall
3 determine project eligibility and establish grant priority.

4 (2) The Santa Monica Bay Watershed Council or the State Coastal Conservancy
5 may require the grant recipient to provide a portion of matching funds for any
6 funding received. The council or the state conservancy may use the funds as
7 matching funds for federal or other grant funding.

8 (c) Sixty-four million two hundred thousand dollars (\$64,200,000) of the funds
9 available may be expended by the State Coastal Conservancy directly or as grants
10 to government entities and nonprofit organizations for the purposes of Division 21
11 (commencing with Section 31000), and for the following and related purposes,
12 including, but not limited to, the acquisition, enhancement, restoration, protection,
13 and development of coastal resources, beaches, waterfronts, and public accessways
14 in accordance with the following schedule:

15 (1) An amount not to exceed three million dollars (\$3,000,000) may be expended
16 on regional approaches to reduce beach erosion. Up to thirteen million dollars
17 (\$13,000,000) shall be made available for the restoration and protection of the
18 Upper Newport Bay Ecological Reserve.

19 (2) At least fifteen million dollars (\$15,000,000) shall be expended in coastal
20 areas north of the Gualala River.

21 (3) At least twenty-five million dollars (\$25,000,000) shall be expended within
22 Santa Cruz, Monterey, San Luis Obispo, or Santa Barbara Counties. One million
23 dollars (\$1,000,000) shall be allocated to the City of Monterey to fund public access
24 and open space along the waterfront for the Window on the Bay.

25 (4) At least five million dollars (\$5,000,000) shall be expended on completion of
26 the Coastal Trail.

27 (5) Two million dollars (\$2,000,000) shall be dedicated to projects for the
28 Guadalupe River Trail and the San Francisco Bay Ridge Trail.

29 (d) Twenty-two million dollars (\$22,000,000) may be expended by the State
30 Coastal Conservancy directly or as grants to government entities and nonprofit
31 organizations consistent with Division 21 (commencing with Section 31000), and
32 for administrative costs in connection therewith, for the acquisition, development,
33 rehabilitation, restoration, enhancement, and protection of real property, or other
34 actions that benefit fish and wildlife. At least ten million dollars (\$10,000,000) of
35 those funds shall be expended in coastal areas north of the Gualala River. Eight
36 hundred thousand dollars (\$800,000) shall be spent to restore the arroyo chub,
37 partially armored stickleback, and southern steelhead fisheries to their native creeks
38 of San Mateo Creek, and its tributary Devil Canyon Creek, and San Onofre Creek
39 located in San Diego County.

40 (e) Twenty-five million dollars (\$25,000,000) shall be available, upon
41 appropriation by the Legislature, to the State Coastal Conservancy and the
42 Department of Fish and Game Wildlife for direct expenditure and for grants to

1 public agencies and nonprofit organizations to protect, restore, acquire, and enhance
2 habitat for salmon. These funds may be used to match federal funding available for
3 those purposes.

4 (f) Twenty-five million dollars (\$25,000,000) of the funds shall be allocated to
5 acquire, protect, and restore wetlands projects that are a minimum of 400 acres in
6 size in any county with a population greater than 5,000,000.

7 (g) Twelve million five hundred thousand dollars (\$12,500,000) shall be allocated
8 to acquire land needed to connect important coastal watershed and scenic areas in
9 the Laguna Coast Wilderness Park.

10 **Comment.** Section 5096.352 is amended to update a reference to the former Department of Fish
11 and Game. See Fish & Wildlife Code § 1500.

12 **Pub. Res. Code § 5096.357 (amended).**

13 SEC. _____. Section 5096.357 of the Public Resources Code is amended to read:

14 5096.357. (a) Funds allocated pursuant to paragraph (1) of subdivision (v) of
15 Section 5096.310 shall be available to the Department of Fish and ~~Game~~ Wildlife
16 for the development, enhancement, restoration, and preservation of land pursuant to
17 ~~Sections 1580 and 10503 of, and subdivision (b) of Section 1525 of, Section 58505,~~
18 subdivision (a) of Section 58715, subdivision (b) of Section 60600, and Sections
19 60750, 60760, 60765, and 60790 of the Fish and ~~Game~~ Wildlife Code. The
20 provision of these funds shall be in accordance with an expenditure plan developed
21 by the Department of Fish and ~~Game~~ Wildlife and approved by the Department of
22 Finance.

23 (b) Funds allocated pursuant to paragraph (2) of subdivision (v) of Section
24 5096.310 shall be made available to the Department of Fish and ~~Game~~ Wildlife for
25 the exclusive purpose of acquiring habitat preservation and enhancement
26 agreements on private wetlands pursuant to the California Waterfowl Habitat
27 Program—Phase II and administrative costs incurred in connection therewith.
28 Expenditure of those funds shall be consistent with the purposes identified in
29 Section ~~3702~~ 30540, 30550, or 30555 of the Fish and ~~Game~~ Wildlife Code.

30 **Comment.** Section 5096.357 is amended to reflect the recodification of the former Fish and
31 Game Code. The section is also amended to update references to the former Department of Fish
32 and Game. See Fish & Wildlife Code § 1500.

33  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
34 sections that are cross-referenced in the section above have been continued in several different
35 sections of the proposed Fish and Wildlife Code.

36 **The Commission requests public comment on the proposed conforming revision of those**
37 **provisions in the section above.**

38 **Pub. Res. Code § 5096.372 (amended).**

39 SEC. _____. Section 5096.372 of the Public Resources Code is amended to read:

40 5096.372. (a) The Legislature hereby finds and declares that, inasmuch as the
41 proceeds from the sale of bonds authorized by this chapter are not “proceeds of

1 taxes” as that term is used in Article XIII B of the California Constitution, the
2 disbursement of these proceeds is not subject to the limitations imposed by that
3 article.

4 (b) Funds provided pursuant to this chapter, and any appropriation or transfer of
5 those funds, shall not be deemed to be a transfer of funds for the purposes of ~~Chapter~~
6 ~~9 (commencing with Section 2780) of Division 3~~ Title 5 (commencing with Section
7 55800) of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code.

8 **Comment.** Section 5096.372 is amended to reflect the recodification of the former Fish and
9 Game Code.

10 **Pub. Res. Code § 5096.512 (amended).**

11 SEC. ____ . Section 5096.512 of the Public Resources Code is amended to read:

12 5096.512. (a) In addition to the review by the Department of General Services
13 pursuant to Section ~~1348.2~~ 54830 of the Fish and ~~Game~~ Wildlife Code, the appraisal
14 prepared for a major acquisition of land shall be reviewed by a qualified independent
15 appraiser retained by the acquisition agency for this purpose, and who meets the
16 following conditions:

17 (1) The review appraiser did not conduct the appraisal pursuant to Section
18 5096.510 and has no financial interest in the major acquisition.

19 (2) The review appraiser is licensed pursuant to Part 3 (commencing with Section
20 11300) of Division 4 of the Business and Professions Code.

21 (b) The review appraiser shall review the appraisal and prepare an appraisal
22 review report, in a narrative format, that does all of the following:

23 (1) Summarizes the appraisal.

24 (2) States the basis on which the value of the land was established.

25 (3) Describes the standards used to prepare the appraisal.

26 (4) Determines whether or not the appraisal meets the standards established under
27 the Uniform Standards of Professional Appraisal Practice.

28 (c) The appraisal review report need not include any proprietary information
29 provided by or on behalf of the seller or that is otherwise exempt from public
30 disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing
31 with Section 6250) of Division 7 of Title 1 of the Government Code).

32 (d)(1) If a major acquisition of conservation lands will be approved by more than
33 one acquisition agency and each acquisition agency complies with paragraph (2),
34 not more than one independent appraisal is required pursuant to Section 5096.510,
35 and not more than one appraisal review report is required pursuant to this section.

36 (2) Paragraph (1) is applicable if each acquisition agency does all of the following:

37 (A) Utilizes the independent appraisal and appraisal review report, as required by
38 this chapter.

39 (B) Makes an independent determination of whether to approve the major
40 acquisition of conservation lands.

1 (C) Complies with all of the public disclosure and independent review
2 requirements of this chapter.

3 (e) An acquisition agency shall not utilize property acreage as a categorical
4 threshold to impose an independent review of an appraisal pursuant to this section.
5 However, this prohibition does not prohibit an agency from otherwise considering
6 possible impacts from the acquisition of a large acreage property.

7 **Comment.** Section 5096.512 is amended to reflect the recodification of the former Fish and
8 Game Code.

9 **Pub. Res. Code § 5096.516 (amended).**

10 SEC. _____. Section 5096.516 of the Public Resources Code is amended to read:

11 5096.516. (a) Except as provided in subdivision (c), conservation lands may not
12 be sold to another owner, or have possession and control transferred to another
13 agency, unless all of the following occur:

14 (1) The selling or transferring agency prepares and makes available to the public
15 a detailed report that identifies why the conservation lands no longer serve a needed
16 conservation purpose.

17 (2) The selling or transferring agency holds a duly noticed public hearing to accept
18 public comment on the proposed sale or transfer of conservation lands.

19 (3) After compliance with paragraphs (1) and (2), the selling or transferring
20 agency finds, based on substantial evidence, that the property no longer serves a
21 needed conservation purpose.

22 (4) The sale or transfer of the land is authorized or approved as part of the annual
23 Budget Act or pursuant to specific legislation authorizing the sale or transfer.

24 (b) Proceeds from the sale or transfer of conservation lands shall be used solely
25 for one or more of the following purposes:

26 (1) The acquisition of conservation lands to achieve the same or equivalent
27 objectives as the original acquisition of the property that was sold or transferred.

28 (2) To further the purposes of Division 21 (commencing with Section 31000).

29 (3) The acquisition of wildlife habitat to further the purposes of the Wildlife
30 Conservation Law of 1947 (~~Chapter 4 (commencing with Section 1300) of Division~~
31 ~~2 Title 1 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and~~
32 ~~Game Wildlife Code).~~

33 (4) The acquisition of wildlife habitat to further the purposes ~~Article 2~~
34 ~~(commencing with Section 1410) of Chapter 4.3 of Division 2 Chapter 2~~
35 ~~(commencing with Section 57550) of Title 11 of Part 2 of Division 15 of the Fish and~~
36 ~~Game Wildlife Code.~~

37 (c) This section does not apply to any of the following:

38 (1) The sale or transfer of conservation lands solely for the purpose of boundary
39 adjustments or consolidation of property ownership.

40 (2) The sale or transfer of lands subject to a conservation easement to keep lands
41 in agricultural production.

1 (3) The sale or transfer to other public agencies or nonprofit organizations to
2 improve conservation management, public access, historic preservation, or to
3 protect or enhance the biological value of conservation lands.

4 (4) The sale or transfer of conservation lands by the State Coastal Conservancy
5 when the sale or transfer of interests in land is provided for, consistent with Division
6 21 (commencing with Section 31000), at the time of acquisition of real property.

7 (5) The exchange of conservation lands for land of greater biological value as
8 wildlife habitat.

9 (6) The sale or transfer of conservation lands that have a fair market value of less
10 than one million dollars (\$1,000,000).

11 (d) The requirements imposed by this section are in addition to any other
12 requirements imposed by law or regulation.

13 **Comment.** Subdivision (b) of Section 5096.516 is amended to reflect the recodification of the
14 former Fish and Game Code.

15 **Pub. Res. Code § 5096.650 (amended).**

16 SEC. _____. Section 5096.650 of the Public Resources Code is amended to read:
17 5096.650. The one billion two hundred seventy-five million dollars
18 (\$1,275,000,000) allocated pursuant to subdivision (c) of Section 5096.610 shall be
19 available for the acquisition and development of land, air, and water resources in
20 accordance with the following schedule:

21 (a) Notwithstanding Section 13340 of the Government Code, the sum of three
22 hundred million dollars (\$300,000,000) is continuously appropriated to the Wildlife
23 Conservation Board for the acquisition, development, rehabilitation, restoration,
24 and protection of habitat that promotes the recovery of threatened and endangered
25 species, that provides corridors linking separate habitat areas to prevent habitat
26 fragmentation, and that protects significant natural landscapes and ecosystems such
27 as old growth redwoods and oak woodlands and other significant habitat areas; and
28 for grants and related state administrative costs pursuant to the Wildlife
29 Conservation Law of 1947 (~~Chapter 4 (commencing with Section 1300) of Division~~
30 2 Title 1 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and
31 Game Wildlife Code). Funds scheduled in this subdivision may be used to prepare
32 management plans for properties acquired in fee by the Wildlife Conservation
33 Board.

34 (b) The sum of four hundred forty-five million dollars (\$445,000,000) to the
35 conservancies in accordance with the particular provisions of the statute creating
36 each conservancy for the acquisition, development, rehabilitation, restoration, and
37 protection of land and water resources; for grants and state administrative costs; and
38 in accordance with the following schedule:

(1)	To the State Coastal Conservancy	\$200,000,000
(2)	To the California Tahoe Conservancy	\$ 40,000,000
(3)	To the Santa Monica Mountains Conservancy	\$ 40,000,000
(4)	To the Coachella Valley Mountains Conservancy	\$ 20,000,000
(5)	To the San Joaquin River Conservancy	\$ 25,000,000
(6)	To the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	\$ 40,000,000
(7)	To the Baldwin Hills Conservancy	\$ 40,000,000
(8)	To the San Francisco Bay Area Conservancy Program	\$ 40,000,000

1 (c) The sum of three hundred seventy-five million dollars (\$375,000,000) shall be
 2 available for grants to public agencies and nonprofit organizations for acquisition,
 3 development, restoration, and associated planning, permitting, and administrative
 4 costs for the protection and restoration of water resources in accordance with the
 5 following schedule:

6 (1) The sum of seventy-five million dollars (\$75,000,000) to the secretary for the
 7 acquisition and development of river parkways and for protecting urban streams.
 8 The secretary shall make funds available in accordance with Sections 7048 and
 9 78682.2 of the Water Code, and pursuant to any other applicable statutory
 10 authorization. Not less than five million dollars (\$5,000,000) shall be available for
 11 grants for the urban streams program, pursuant to Section 7048 of the Water Code.

12 (2) The sum of three hundred million dollars (\$300,000,000) shall be available for
 13 the purposes of clean beaches, watershed protection, and water quality projects to
 14 protect beaches, coastal waters, rivers, lakes, and streams from contaminants,
 15 pollution, and other environmental threats.

16 (d)(1) The sum of fifty million dollars (\$50,000,000) to the State Air Resources
 17 Board for grants to air districts pursuant to Chapter 9 (commencing with Section
 18 44275) of Part 5 of Division 26 of the Health and Safety Code for projects that
 19 reduce air pollution that affects air quality in state and local park and recreation
 20 areas. Eligible projects shall meet the requirements of Section 16727 of the
 21 Government Code and shall be consistent with Section 43023.5 of the Health and
 22 Safety Code, if Assembly Bill 1390 of the 2001–02 Regular Session of the
 23 Legislature is enacted on or before January 1, 2003. Each air district shall be eligible

1 for grants of not less than two hundred thousand dollars (\$200,000). Not more than
2 5 percent of the funds allocated to an air district may be used to cover the costs
3 associated with implementing the grant program.

4 (2) Allocations of funds pursuant to this subdivision to the Lower-Emission
5 School Bus Program shall be prioritized to retrofit or replace the most polluting
6 schoolbuses in small air districts first and then to medium air districts as defined by
7 the State Air Resources Board. Each allocation for this purpose shall provide enough
8 funding for at least one project to be implemented pursuant to the Lower-Emission
9 School Bus Program adopted by the State Air Resources Board. If a local air district
10 has unspent funds within six months of the expenditure deadline, the air district shall
11 work with the State Air Resources Board to transfer funds to an alternative air
12 district with existing demand.

13 (e) The sum of twenty million dollars (\$20,000,000) to the California
14 Conservation Corps for the acquisition, development, restoration, and rehabilitation
15 of land and water resources, and for grants and state administrative costs in
16 accordance with the following schedule:

17 (1) The sum of five million dollars (\$5,000,000) shall be available for resource
18 conservation activities.

19 (2) The sum of fifteen million dollars (\$15,000,000) shall be available for grants
20 to local conservation corps for acquisition and development of facilities to support
21 local conservation corps programs.

22 (f) The sum of seventy-five million dollars (\$75,000,000) shall be available for
23 grants for the preservation of agricultural lands and grazing lands, including oak
24 woodlands and grasslands.

25 (g) The sum of ten million dollars (\$10,000,000) to the Department of Forestry
26 and Fire Protection for grants for urban forestry programs pursuant to the California
27 Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part
28 2.5 of Division 1).

29 **Comment.** Subdivision (a) of Section 5096.650 is amended to reflect the recodification of the
30 former Fish and Game Code.

31 **Pub. Res. Code § 5096.679 (amended).**

32 SEC. _____. Section 5096.679 of the Public Resources Code is amended to read:

33 5096.679. (a) The Legislature hereby finds and declares that, inasmuch as the
34 proceeds from the sale of bonds authorized by this chapter are not “proceeds of
35 taxes” as that term is used in Article XIII B of the California Constitution, the
36 disbursement of these proceeds is not subject to the limitations imposed by that
37 article.

38 (b) Funds provided pursuant to this chapter, and any appropriation or transfer of
39 those funds, shall not be deemed to be a transfer of funds for the purposes of ~~Chapter~~
40 ~~9 (commencing with Section 2780) of Division 3~~ Title 5 (commencing with Section
41 55800) of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code.

1 **Comment.** Section 5096.679 is amended to reflect the recodification of the former Fish and
2 Game Code.

3 **Pub. Res. Code § 5096.821 (amended).**

4 SEC. _____. Section 5096.821 of the Public Resources Code is amended to read:
5 5096.821. Three billion dollars (\$3,000,000,000) shall be available, upon
6 appropriation to the department, for the following purposes:

7 (a) The evaluation, repair, rehabilitation, reconstruction, or replacement of levees,
8 weirs, bypasses, and facilities of the State Plan of Flood Control by all of the
9 following actions:

10 (1) Repairing erosion sites and removing sediment from channels or bypasses.

11 (2) Evaluating and repairing levees and any other facilities of the State Plan of
12 Flood Control.

13 (3) Implementing mitigation measures for a project undertaken pursuant to this
14 subdivision. The department may fund participation in a natural community
15 conservation plan pursuant to ~~Chapter 10 (commencing with Section 2800) of~~
16 ~~Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the~~
17 Fish and ~~Game~~ Wildlife Code to facilitate projects authorized by this subdivision.

18 (b) Improving or adding facilities to the State Plan of Flood Control to increase
19 levels of flood prevention for urban areas, including all related costs for mitigation
20 and infrastructure relocation. Funds made available by this subdivision may be
21 expended for state financial participation in federal and state authorized flood
22 control projects, feasibility studies and design of federal flood damage reduction
23 and related projects, and reservoir reoperation and groundwater flood storage
24 projects. Not more than two hundred million dollars (\$200,000,000) may be
25 expended on a single project, excluding authorized flood control improvements to
26 Folsom Dam.

27 (c)(1) To reduce the risk of levee failure in the delta.

28 (2) The funds made available for the purpose specified in paragraph (1) shall be
29 expended for both of the following purposes:

30 (A) Local assistance under the delta levee maintenance subventions program
31 under Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as
32 that part may be amended.

33 (B) Special flood protection projects under Chapter 2 (commencing with Section
34 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

35 **Comment.** Section 5096.821 is amended to reflect the recodification of the former Fish and
36 Game Code.

37 **Pub. Res. Code § 5099.12 (amended).**

38 SEC. _____. Section 5099.12 of the Public Resources Code is amended to read:
39 5099.12. (a) Of the annual apportionment of funds received by the director
40 pursuant to this chapter, 60 percent shall be allocated for local governmental agency
41 projects and 40 percent for state agency projects. The state agency share shall be

1 disbursed to the following state agencies in the following percentages: 60 percent
2 to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation
3 Board or the Department of Fish and ~~Game~~ Wildlife; and 5 percent to the
4 Department of Water Resources. The State Coastal Conservancy established
5 pursuant to Section 31100 is eligible to compete for grants of funds for projects of
6 an outdoor recreational nature from the 6-percent contingency fund established by
7 this section.

8 (b) If either the state or local governmental agencies are unable to utilize their
9 allocation of funds, the director shall allocate the uncommitted funds to those state
10 or local governmental agencies that are in position to take advantage of the funds
11 during the year in which they are allocated. The 60-percent allocation for local
12 governmental agency projects and the 40-percent allocation to state agency projects
13 shall not be computed until the costs of maintaining and keeping up to date the plan
14 required pursuant to Section 5099.2 and an additional 6 percent for deposit to a
15 contingency fund have been deducted.

16 **Comment.** Section 5099.12 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
18 designations.

19 **Pub. Res. Code § 5675 (amended).**

20 SEC. _____. Section 5675 of the Public Resources Code is amended to read:

21 5675. The program established by this chapter shall be administered jointly by the
22 Department of Parks and Recreation and the Department of Fish and ~~Game~~ Wildlife
23 and shall be funded by moneys appropriated from the Resources Account in the
24 Energy and Resources Fund to the Department of Parks and Recreation for local
25 assistance grants for urban fishing projects pursuant to category (b) of Item 379-
26 101-190 of the Budget Act of 1981 and pursuant to provisions of any budget acts
27 enacted subsequent thereto that appropriate funds for the program.

28 **Comment.** Section 5675 is amended to update a reference to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30 **Pub. Res. Code § 5676 (amended).**

31 SEC. _____. Section 5676 of the Public Resources Code is amended to read:

32 5676. The Department of Parks and Recreation shall have principal responsibility
33 for the review and approval of proposals for rehabilitating urban lakes in accordance
34 with the eligibility requirements, evaluative criteria, and procedures specified in this
35 chapter and for the administration of grants made pursuant to this chapter. The
36 Department of Fish and ~~Game~~ Wildlife shall be responsible for determining the
37 rehabilitative potential of lakes proposed for funding and shall serve primarily in a
38 technical and advisory capacity. The final decision to provide funding for each
39 project shall be based on the cooperative deliberation and mutual determination of
40 both departments.

1 **Comment.** Section 5676 is amended to update a reference to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Pub. Res. Code § 5684 (amended).**

4 SEC. _____. Section 5684 of the Public Resources Code is amended to read:
5 5684. This chapter is not intended, nor shall it be construed, to authorize either
6 the Department of Parks and Recreation or the Department of Fish and ~~Game~~
7 Wildlife to establish any additional personnel positions or create any new
8 administrative section in connection with the program established by this chapter.

9 **Comment.** Section 5684 is amended to update a reference to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Pub. Res. Code § 5812 (amended).**

12 SEC. _____. Section 5812 of the Public Resources Code is amended to read:
13 5812. As used in this chapter, unless the context clearly requires a different
14 meaning, the following terms mean:

- 15 (a) "Agency" means the Resources Agency.
16 (b) "Departments" means the Department of Parks and Recreation, the
17 Department of Fish and ~~Game~~ Wildlife, and the California Coastal Conservancy.

18 **Comment.** Section 5812 is amended to update a reference to the former Department of Fish and
19 Game. See Fish & Wildlife Code § 1500.

20 **Pub. Res. Code § 5814 (amended).**

21 SEC. _____. Section 5814 of the Public Resources Code is amended to read:
22 5814. (a) The agency shall update all of the state's existing wetlands inventory
23 resources in order to prepare a study to accomplish the following goals:

- 24 (1) To identify the restoration and enhancement opportunities in the state for
25 wetlands in public ownership.
26 (2) To identify means of protecting and enhancing existing wetlands in public
27 ownership and to identify additional recreational benefits and opportunities that are
28 compatible with the primary goal of maximizing the habitat value of wetlands.
29 (3) To identify opportunities for voluntary public-private partnerships for
30 wetlands restoration, enhancement, and management on private lands.
31 (4) To identify those wetlands of particular significance in the state that are not
32 currently in public ownership for which there is believed to be a willing seller.
33 (5) To identify additional recreational benefits that can be provided on existing,
34 restored, or newly created wetlands in public ownership or for which there is a
35 cooperative agreement for public use by a private landowner and a local, state, or
36 federal agency.
37 (6) To provide a basis for the inclusion of wetlands data and information in the
38 California Continuing Resources Investment Strategy Project (CCRISP), which was
39 funded in the Budget Act of 2000.

1 (7) To identify, utilizing existing resources, wetlands on lands owned by federal
2 agencies in California and those wetlands that are protected by existing wetlands
3 management and conservation mandates imposed by federal law.

4 (8) To identify, in conjunction with the Office of Planning and Research, those
5 instances where lead agencies have adopted mitigation measures pursuant to
6 Division 13 (commencing with Section 21000), or natural community conservation
7 plans prepared pursuant to ~~Chapter 10 (commencing with Section 2800)~~ Title 2
8 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and ~~Game~~
9 Wildlife Code, that utilize or reference wetland resources located on lands owned
10 by the United States Department of Defense.

11 (b) The agency shall consult and cooperate with counties cities, other appropriate
12 state and federal agencies with an interest in wetlands resources, and willing
13 landowners in conducting the study. The study shall be submitted to the Legislature
14 not later than January 1, 2003, and shall set forth, for consideration by the
15 Legislature, a plan for the acquisition, protection, preservation, restoration, and
16 enhancement of wetlands, including funding requirements and the priority status of
17 specific proposed wetlands projects.

18 **Comment.** Paragraph (8) of subdivision (a) of Section 5814 is amended to reflect the
19 recodification of the former Fish and Game Code.

20 **Pub. Res. Code § 5817 (amended).**

21 SEC. _____. Section 5817 of the Public Resources Code is amended to read:

22 5817. Any of the departments may enter into operating agreements with cities,
23 counties, and districts for the management and control of wetlands, or interests in
24 wetlands, acquired pursuant to this chapter. However, any agreement shall ensure
25 the protection and preservation of the wetlands and ensure the right of use and
26 enjoyment of the wetlands by the people of the state. Further, any agreement entered
27 into by the Department of Fish and ~~Game~~ Wildlife pursuant to this section shall
28 provide that public use of lands and waters subject to the agreement shall be in
29 accordance with regulations adopted by the Fish and Game Commission.

30 **Comment.** Section 5817 is amended to update a reference to the former Department of Fish and
31 Game. See Fish & Wildlife Code § 1500.

32 **Pub. Res. Code § 5818.1 (amended).**

33 SEC. _____. Section 5818.1 of the Public Resources Code is amended to read:

34 5818.1. The Coastal Wetlands Fund is hereby established in the State Treasury
35 and shall be an interest-bearing fund administered by the Department of Fish and
36 ~~Game~~ Wildlife.

37 **Comment.** Section 5818.1 is amended to update a reference to the former Department of Fish
38 and Game. See Fish & Wildlife Code § 1500.

39 **Pub. Res. Code § 5818.2 (amended).**

40 SEC. _____. Section 5818.2 of the Public Resources Code is amended to read:

1 5818.2. (a)(1) The funds in the Coastal Wetlands Fund may be expended by the
2 Department of Fish and ~~Game~~ Wildlife and the State Coastal Conservancy, upon
3 appropriation by the Legislature, for the maintenance of coastal wetlands property
4 owned by the state, a conservancy of the state, a local government agency, or a
5 nonprofit organization.

6 (2) The funds in the Coastal Wetlands Fund may be expended by the state
7 pursuant to this section in the form of grants.

8 (3) An applicant may apply to the State Coastal Conservancy for a grant pursuant
9 to the grant application procedures in Division 21 (commencing with Section
10 31000) to perform maintenance of coastal wetlands property owned by the state, a
11 conservancy of the state, a local government agency, or a nonprofit organization.

12 (b) The Department of Fish and ~~Game~~ Wildlife and the State Coastal Conservancy
13 may accept contributions to the Coastal Wetlands Fund. The sources of
14 contributions that may be accepted include, but are not limited to, private
15 individuals and organizations, nonprofit organizations, and federal, state, and local
16 agencies including special districts. The contributions accepted may include moneys
17 identified pursuant to the California Environmental Quality Act (Division 13
18 (commencing with Section 21000)) or the National Environmental Policy Act of
19 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development
20 projects. The Department of Fish and ~~Game~~ Wildlife and the State Coastal
21 Conservancy shall deposit a contribution accepted pursuant to this subdivision in
22 the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

23 **Comment.** Section 5818.2 is amended to update references to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500.

25 **Pub. Res. Code § 5845.2 (amended).**

26 SEC. _____. Section 5845.2 of the Public Resources Code is amended to read:

27 5845.2. For purposes of this chapter, the following definitions apply:

28 (a) “Adjacent to” means downstream of the Nimbus Dam and next to or in the
29 immediate vicinity of the American River Parkway.

30 (b) “Advisory committee” means the advisory committee established pursuant to
31 Section 5845.4.

32 (c) “American River Parkway” means those portions of the area described in the
33 American River Parkway Plan between the Nimbus Dam and the confluence of the
34 American River with the Sacramento River.

35 (d) “American River Parkway Plan” has the same meaning as in subdivision (a)
36 of Section 5841.

37 (e) “Board” means the Wildlife Conservation Board established pursuant to
38 Section ~~1320~~ 54750 of the Fish and ~~Game~~ Wildlife Code.

39 (f) “Fund” means the Lower American River Conservancy Fund established
40 pursuant to Section 5845.9.

41 (g) “Nonprofit organization” means a private, nonprofit organization, with
42 nonprofit status acknowledged by the United States Internal Revenue Service, that

1 qualifies under Section 501(c)(3) of the Internal Revenue Code, as amended, and
2 that has among its principal charitable purposes the preservation, restoration, or
3 interpretation of land for scientific, historic, educational, recreational, scenic, or
4 open-space purposes, the protection of the natural environment or biological
5 resources, or both, or the preservation or enhancement of wildlife, or both.

6 (h) “Parkway Manager” means the Sacramento County Board of Supervisors or
7 its designee.

8 (i) “Program” means the Lower American River Conservancy Program
9 established pursuant to Section 5845.3.

10 **Comment.** Section 5845.2 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Pub. Res. Code § 5907 (amended).**

13 SEC. ____ . Section 5907 of the Public Resources Code is amended to read:

14 5907. All money deposited in the fund shall be available for expenditure, in
15 accordance with Section 5921, for the purposes set forth below, in amounts not to
16 exceed the following:

17 (a) One hundred sixty-six million dollars (\$166,000,000) to the Department of
18 Parks and Recreation for grants to counties, cities, cities and counties, districts, and
19 nonprofit organizations for acquisition, development, rehabilitation, or restoration
20 of real property for parks, beaches, wildlife habitat, natural lands, recreation, or
21 preservation of historical resources, including an amount not to exceed two million
22 four hundred ninety thousand dollars (\$2,490,000) for state administrative costs, in
23 accordance with the following schedule:

24 (1) One hundred twenty million dollars (\$120,000,000) for grants to counties,
25 cities, and districts on a per capita basis for the acquisition, development,
26 rehabilitation, or restoration of real property for parks, beaches, wildlife habitat,
27 natural lands, and recreation, except that each county is entitled to not less than one
28 hundred thousand dollars (\$100,000).

29 (2) Twenty million dollars (\$20,000,000) for expenditure by the Department of
30 Parks and Recreation for the purpose of the Roberti-Z’berg-Harris Urban Open
31 Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620)
32 of Division 5 of the Public Resources Code).

33 (3) Ten million dollars (\$10,000,000) for competitive grants for park, beach, and
34 recreational purposes to public agencies which provide significant park and
35 recreational opportunities to the general public and are not eligible for grants
36 pursuant to paragraph (1).

37 (4) Eleven million dollars (\$11,000,000) for competitive grants to public agencies
38 and nonprofit organizations for acquisition, development, rehabilitation, or
39 restoration of historical or archeological resources and for historical and
40 archeological resources preservation projects and costs of planning and

1 interpretation. Not less than one million dollars (\$1,000,000) shall be used for
2 archeological resources preservation purposes.

3 (5) Five million dollars (\$5,000,000) for competitive grants to public agencies and
4 nonprofit organizations for acquisition and development of land and rights-of-way
5 for bicycle, horse, hiking, and handicapped access trails.

6 (b) Three hundred thirty-eight million seven hundred thousand dollars
7 (\$338,700,000) to the Department of Parks and Recreation for acquisition of
8 parklands, wildlife habitat, coastal, and natural lands in California, and for grants to
9 local agencies and nonprofit organizations, including an amount not to exceed five
10 million eighty thousand five hundred dollars (\$5,080,500) for state administrative
11 costs, in accordance with the following schedule:

12 (1) Ninety-eight million six hundred thousand dollars (\$98,600,000) to the
13 Department of Parks and Recreation for acquisition of real property in accordance
14 with the following schedule:

15 (A) Twelve million dollars (\$12,000,000) for acquisition of land for the California
16 Redwood State Parks, including, but not limited to, Big Basin Redwoods, Butano,
17 Calaveras Big Trees, Forest of Nisene Marks, Hendy Woods, Humboldt Lagoons,
18 Humboldt Redwoods, Jedediah Smith Redwoods, Portola, Prairie Creek Redwoods,
19 Richardson Grove, and Sinkyone Wilderness State Parks; Benbow Lake State
20 Recreation Area, Fort Ross State Historical Park, and Paul M. Dimmick State
21 Wayside Campground; provided that each dollar up to at least ten million dollars
22 (\$10,000,000) from the funds to be spent pursuant to this subparagraph shall be
23 matched with an equal amount in money or property from private gifts, city or
24 county appropriations, or alternative sources other than the State of California.

25 (B) Five million dollars (\$5,000,000) for acquisition of land within and adjacent
26 to Anza-Borrego Desert State Park.

27 (C) Nineteen million dollars (\$19,000,000) for acquisition of land in the Palm
28 Canyon and Andreas Canyon region near Palm Springs for a park for the
29 preservation of Indian heritage and of native palms.

30 (D) Seven million dollars (\$7,000,000) for acquisition of lands in accordance with
31 the general plan for the Chino Hills State Park, including the lands north of Highway
32 142.

33 (E) Ten million dollars (\$10,000,000) for acquisition of land for additions to the
34 Santa Susana Mountain Project to preserve historic and scenic sites, for hiking and
35 equestrian trails, or for wildlife habitat and migration routes; provided that all
36 acquisitions shall be located within the Rim of the Valley Corridor as defined in
37 Section 33105.5 within the Simi Hills or Santa Susana Mountains in Los Angeles
38 and Ventura Counties.

39 (F) Two million dollars (\$2,000,000) for acquisitions within and adjacent to Big
40 Basin Redwoods State Park and Castle Rock State Park in the Santa Cruz
41 Mountains.

1 (G) Three million dollars (\$3,000,000) for acquisition of lands in Santa Clara
2 County within and adjacent to Henry Coe State Park and for lands in Stanislaus
3 County within the park.

4 (H) One million dollars (\$1,000,000) for acquisition of natural lands for expansion
5 of Pescadero Marsh Natural Preserve at Pescadero State Beach.

6 (I) Twenty-five million dollars (\$25,000,000) for acquisition of land for an East
7 Bay Shoreline State Park in the Counties of Alameda or Contra Costa, or both,
8 generally in accordance with the East Bay Shoreline feasibility study.

9 (J) Four million dollars (\$4,000,000) for acquisition of natural lands within and
10 adjacent to Mt. Diablo State Park.

11 (K) Four million dollars (\$4,000,000) for implementation of the Frank's Tract
12 State Recreation Area General Plan with first priority given to the western portion,
13 providing secondary wave protection benefits to adjacent islands.

14 (L) One million six hundred thousand dollars (\$1,600,000) for acquisition of
15 wetlands in and adjacent to the Delta Meadows Project.

16 (M) Two million dollars (\$2,000,000) for acquisition of natural lands within and
17 adjacent to Robert Louis Stevenson State Park.

18 (N) One million dollars (\$1,000,000) for expansion of Anderson Marsh State
19 Historic Park.

20 (O) Two million dollars (\$2,000,000) for expansion of the South Yuba Project
21 along the South Fork of the Yuba River to protect scenic vistas and riparian habitat
22 and to provide for recreational trails.

23 (2) Fifty-four million seven hundred thousand dollars (\$54,700,000) for
24 acquisition, development, rehabilitation, or restoration of real property in the state
25 park system in accordance with the following schedule:

26 (A) Four million seven hundred thousand dollars (\$4,700,000) for acquisitions of
27 real property inside the boundaries of existing projects or units or as additions to
28 existing projects or units.

29 (B) Fourteen million dollars (\$14,000,000) for development, rehabilitation, or
30 restoration of coastal resources, other than coastal resources in or on San Francisco
31 Bay, in accordance with the following schedule:

32 (i) Eight million dollars (\$8,000,000) within San Diego County through Santa
33 Barbara County.

34 (ii) Four million dollars (\$4,000,000) within San Luis Obispo County through the
35 City and County of San Francisco.

36 (iii) Two million dollars (\$2,000,000) within Marin County through Del Norte
37 County.

38 (C) Three million dollars (\$3,000,000) for development, rehabilitation, or
39 restoration of resources in or on San Francisco Bay.

40 (D) Eight million dollars (\$8,000,000) for development, rehabilitation, or
41 restoration of inland resources.

1 (E) Two million dollars (\$2,000,000) for development, rehabilitation, or
2 restoration at lakes, reservoirs, and waterways, including the State Water Facilities,
3 as defined in paragraphs (1) to (4), inclusive, of subdivision (d) of Section 12934 of
4 the Water Code.

5 (F) One million dollars (\$1,000,000) for the repair of storm damage and
6 construction to prevent future storm damage.

7 (G) Three million dollars (\$3,000,000) for planning, development, rehabilitation,
8 restoration, or interpretive facilities in support of volunteer community action
9 projects for the state park system.

10 (H) Ten million dollars (\$10,000,000) for the increased stewardship of the public
11 investment in the protection of the most critical natural and scenic features of the
12 existing state park system.

13 (I) Five million dollars (\$5,000,000) for rehabilitation and restoration of historical
14 resources of the state park system.

15 (J) Three million dollars (\$3,000,000) for development and rehabilitation of trails
16 within the state park system or connecting units of the state park system.

17 (K) One million dollars (\$1,000,000) for acquisition and development of
18 trailheads for the Sno-Park program pursuant to Chapter 1.27 (commencing with
19 Section 5091.01) of Division 5, including access to the Tahoe Rim Trail.

20 (3) One hundred eighty-five million four hundred thousand dollars
21 (\$185,400,000) to the Department of Parks and Recreation for grants to local
22 agencies in accordance with the following schedule:

23 (A) Thirty million dollars (\$30,000,000) for a grant to San Diego County in
24 accordance with the following schedule:

25 (i) Ten million dollars (\$10,000,000) for acquisition of natural lands in the San
26 Dieguito River Valley.

27 (ii) Ten million dollars (\$10,000,000) for acquisition of natural lands in the
28 Tijuana River Valley.

29 (iii) Ten million dollars (\$10,000,000) for acquisition of San Diego County
30 resource conservation areas and urban canyons in accordance with the resource
31 element of the County General Plan.

32 (B) Ten million dollars (\$10,000,000) for a grant to the City of Laguna Beach for
33 acquisition of, and for grants by the city to nonprofit organizations for acquisition
34 of, natural lands within and contiguous to the Laguna Greenbelt as described in the
35 Orange County General Plan.

36 (C) Four million dollars (\$4,000,000) for a grant to the City of Irvine for
37 acquisition of natural lands in the open space spine designated in the City of Irvine
38 General Plan.

39 (D) Eleven million dollars (\$11,000,000) for a grant to the City of Riverside in
40 accordance with the following schedule:

41 (i) One million dollars (\$1,000,000) for acquisition of natural lands in Sycamore
42 Canyon Wilderness Park in accordance with the City of Riverside Specific Plan.

1 (ii) Ten million dollars (\$10,000,000) for acquisition of land in and near the
2 California Citrus State Historic Park located in the Arlington Heights area of
3 Riverside.

4 (E) Two million four hundred thousand dollars (\$2,400,000) for a grant to the
5 County of Riverside in accordance with the following schedule:

6 (i) Four hundred thousand dollars (\$400,000) for acquisition of land to expand
7 Hurkey Creek Park.

8 (ii) One million dollars (\$1,000,000) for acquisition of land for trails in the Santa
9 Ana River Corridor.

10 (iii) One million dollars (\$1,000,000) for acquisition of land for trails suitable for
11 equestrian and hiking uses in Riverside County, including the Temescal Canyon
12 Trail.

13 (F) Twenty million dollars (\$20,000,000) for a grant to the County of San
14 Bernardino for acquisition of land primarily through the use of conservation
15 easements within the Chino Agricultural Preserve.

16 (G) Twenty-five million dollars (\$25,000,000) for a grant to Los Angeles County
17 in accordance with the following schedule:

18 (i) Ten million dollars (\$10,000,000) for acquisition or development of
19 noncommercial visitor use and access facilities, and/or renovation of existing
20 facilities at county, state, or city beaches operated by Los Angeles County.

21 (ii) Ten million dollars (\$10,000,000) for acquisition of land for the Baldwin Hills
22 State Recreation Area in accordance with the general plan for Baldwin Hills State
23 Recreation Area.

24 (iii) Five million dollars (\$5,000,000) for acquisition of natural lands to establish
25 the Brea Heights Regional County Park.

26 (H) Seven million dollars (\$7,000,000) for a grant to the County of Santa Barbara
27 for acquisition of natural lands, wildlife habitat, wetlands, and agricultural land
28 preservation, in incorporated and unincorporated areas, in accordance with the
29 following schedule, except that expenditures for nonagricultural lands shall be
30 limited to acquisition of lands in the Coastal Zone and shall be of sufficient size to
31 be a major natural or low intensity community recreational resource:

32 (i) Four million eight hundred thousand dollars (\$4,800,000) for nonagricultural
33 lands located south of the ridge line of the Santa Ynez Mountain Range.

34 (ii) One million two hundred thousand dollars (\$1,200,000) for nonagricultural
35 lands north of the ridge line of the Santa Ynez Mountain Range.

36 (iii) One million dollars (\$1,000,000) for the preservation of agricultural land in
37 Santa Barbara County as identified for agricultural use in the Santa Barbara County
38 Comprehensive Plan. These funds shall be used primarily for the acquisition of
39 conservation easements.

40 (I) Four million dollars (\$4,000,000) for a grant to the County of Monterey for
41 acquisition of conservation easements in Monterey County on agricultural lands in
42 the Salinas and Pajaro Valleys.

1 (J) Two million dollars (\$2,000,000) for a grant to the Monterey Peninsula
2 Regional Park District to expand the Garland Ranch Regional Park and for
3 acquisition of natural lands and wildlife and riparian habitat in the Bixby Creek
4 watershed.

5 (K) One million dollars (\$1,000,000) for a grant to the County of Santa Cruz for
6 acquisition of conservation easements in Santa Cruz County on commercially viable
7 agricultural lands in the Pajaro Valley and the coastal terrace north of the City of
8 Santa Cruz, consistent with Section 2.3.1 of the Santa Cruz County General Plan.

9 (L) Fifteen million dollars (\$15,000,000) for acquisition of those greenbelt lands
10 known as the Pogonip property located in the City of Santa Cruz and the County of
11 Santa Cruz, as defined in the 1979 City of Santa Cruz Greenbelt Ordinance. This
12 acquisition shall be accomplished through grants to the following entities listed in
13 order of priority: (1) the City of Santa Cruz and (2) a park and open-space district
14 or a park and recreation district formed by the local electorate.

15 (M) Ten million dollars (\$10,000,000) for a grant to the Midpeninsula Regional
16 Open Space District for acquisition in accordance with the following schedule:

17 (i) One million dollars (\$1,000,000) for acquisition of land between property
18 managed by the district and Castle Rock State Park and Portola State Park.

19 (ii) Nine million dollars (\$9,000,000) for expansion of Rancho San Antonio,
20 Sierra Azul, El Sereno, El Corte de Madera Creek, and Windy Hill Open Space
21 Preserves and for acquisition of Teague Hill Open Space Preserve.

22 (N) Thirteen million dollars (\$13,000,000) for a grant to the East Bay Regional
23 Park District in accordance with the following schedule:

24 (i) Ten million dollars (\$10,000,000) for expenditure in accordance with the East
25 Bay Regional Park District Master Plan, for expansion of Morgan Territory
26 Regional Park and Briones Regional Park, acquisitions of natural lands along the
27 Carquinez Straits and on Pleasanton Ridge, and shoreline access and trail
28 acquisitions adjacent to the San Francisco Bay.

29 (ii) One million five hundred thousand dollars (\$1,500,000) for acquisition of
30 lands in the southern portion of Walpert Ridge in Hayward in central Alameda
31 County.

32 (iii) One million five hundred thousand dollars (\$1,500,000) for expansion of the
33 Carquinez Shoreline Park in Port Costa.

34 (O) Five million dollars (\$5,000,000) for a grant to the Marin County Open Space
35 District for acquisition of natural lands on Loma Alta Mountain, Big Rock Ridge,
36 and other wetlands, wildlife habitat, and natural lands in accordance with the
37 Environmental Quality and Open Space Elements of the Marin Countywide Plan.

38 (P) Fifteen million dollars (\$15,000,000) for a grant to the County of Marin for
39 preservation of, and for grants by the county to nonprofit organizations for
40 preservation of agricultural lands in the Marin County coastal zone and inland rural
41 corridor, in accordance with the Marin County Agricultural Land Preservation
42 Program. Funds provided in this subparagraph shall be used primarily to acquire
43 agricultural conservation easements.

1 (Q) One million six hundred thousand dollars (\$1,600,000) for a grant to the City
2 of Mill Valley for acquisition of natural lands on the Northridge and spurs of Mount
3 Tamalpais, in accordance with the Open Space Elements in the Marin Countywide
4 Plan or the Mill Valley General Plan, or both.

5 (R) One million dollars (\$1,000,000) for a grant to the City of Vacaville for
6 acquisition of natural lands along the ridgelines of the Vaca Mountains, Blue Ridge
7 Mountains, and English Hills, including Old Rocky, for a ridgeline park in
8 accordance with the Vacaville City General Plan.

9 (S) Two million dollars (\$2,000,000) for a grant to the City of Davis for
10 acquisition of, or for grants from the city to nonprofit organizations for acquisition
11 of, wildlife and riparian habitat, wetlands, and potential wetlands within the 1987
12 Davis General Plan Study Area.

13 (T) Six million dollars (\$6,000,000) for a grant to the County of Sacramento, to
14 be shared by the county with the City of Sacramento on a per capita basis, for
15 acquisition of parklands, wetlands, wildlife habitat, and related greenbelt areas in
16 the county along Morrison Creek, Dry Creek, Snodgrass Slough, Cosumnes River,
17 Laguna Creek, Sacramento River, and American River, consistent with the County
18 Park System Master Plan.

19 (U) Four hundred thousand dollars (\$400,000) for a grant to Lake County for
20 acquisition of a county park that provides wildlife habitat, riparian areas, and
21 recreational benefits near Middletown.

22 (c) Eighty-one million three hundred thousand dollars (\$81,300,000) to the
23 Wildlife Conservation Board for programs involving the acquisition of land
24 pursuant to the Wildlife Conservation Law of 1947, subject to Section ~~2625~~ 55550
25 of the Fish and ~~Game~~ Wildlife Code and consistent with the purposes of this
26 division, and for grants to local agencies, including an amount not to exceed one
27 million two hundred nineteen thousand five hundred dollars (\$1,219,500) for state
28 administrative costs, in accordance with the following schedule:

29 (1) Thirty-eight million dollars (\$38,000,000) for projects involving the
30 acquisition, preservation, protection, restoration, enhancement, or development of
31 wetlands for wildfowl and other wildlife habitat, in accordance with the following
32 schedule:

33 (A) Thirteen million dollars (\$13,000,000) for acquisition or restoration of
34 wetlands within or adjacent to (1) the areas subject to the jurisdiction of the San
35 Francisco Bay Conservation and Development Commission or (2) the boundaries
36 of historic San Francisco Bay wetlands as designated in the 1985 United States Fish
37 and Wildlife Service National Wetland Inventory Maps for the San Francisco Bay
38 Area or in subsequent updates with not less than eight million dollars (\$8,000,000)
39 for acquisition or restoration of wetlands south of the San Mateo Bridge.

40 (B) Twenty-five million dollars (\$25,000,000) for wetlands outside the coastal
41 zone as defined in Section 30103 and other than within the area defined in
42 subparagraph (A).

1 (2) Two million dollars (\$2,000,000) for acquisition of monarch butterfly habitat.

2 (3) Ten million dollars (\$10,000,000) for acquisition of riparian habitat that drains
3 into the Pacific Ocean within the Counties of San Diego, Orange, Los Angeles, and
4 Ventura.

5 (4) Four million dollars (\$4,000,000) for acquisition of land containing Tecate
6 Cypress forest and associated rare species in Coal Canyon in Orange County.

7 (5) Five million dollars (\$5,000,000) for acquisition of wildlife habitat and natural
8 lands along the San Joaquin River between Friant Dam and Highway 99 in the
9 Counties of Fresno and Madera.

10 (6) Three hundred thousand dollars (\$300,000) for acquisition of valley oak
11 riparian forest and wetlands along the Mokelumne River near Galt in San Joaquin
12 County.

13 (7) Two million dollars (\$2,000,000) for acquisition of wetlands, riparian habitat,
14 vernal pools, and immediately adjacent natural uplands in the vicinity of the
15 Stanislaus, Tuolumne, Merced, and San Joaquin Rivers and their tributaries in
16 Stanislaus, San Joaquin, and Merced Counties for open-space, habitat protection, or
17 riparian restoration.

18 (8) Four million dollars (\$4,000,000) for acquisition of riparian habitat along the
19 Sacramento River from Shasta Dam to Collinsville.

20 (9) One million dollars (\$1,000,000) for acquisition of riparian habitat along the
21 Feather River from Oroville to the mouth of the river.

22 (10) Four million dollars (\$4,000,000) for acquisition of inland, San Pablo Bay,
23 and coastal wetlands in Sonoma County, including the Laguna de Santa Rosa.

24 (11) Two million dollars (\$2,000,000) for acquisition within the Napa Marsh and
25 associated wetlands.

26 (12) One million dollars (\$1,000,000) for acquisition of wildlife habitat in
27 northern Napa County as identified by the Department of Fish and ~~Game~~ Wildlife.

28 (13) Four million dollars (\$4,000,000) for acquisition of sensitive riparian areas,
29 meadows, critical wildlife habitat, and recreation lands in the Hope Valley area just
30 south of Lake Tahoe in Alpine County. Portions of these lands which could provide
31 compatible recreational opportunities may be managed by the Department of Parks
32 and Recreation under an interagency agreement with the Department of Fish and
33 ~~Game~~ Wildlife.

34 (14) Four million dollars (\$4,000,000) for acquisition of old growth redwoods,
35 mixed forest, and wildlife habitat near the town of Whitethorn in the Mattole River
36 watershed in Humboldt and Mendocino Counties.

37 (d) Fifty-eight million dollars (\$58,000,000) to the State Coastal Conservancy
38 pursuant to Division 21 (commencing with Section 31000), consistent with the
39 purposes of this division, for acquisition, enhancement, or restoration of natural
40 lands and development of public accessways in coastal areas and the San Francisco
41 Bay region; and for preservation of agriculture in coastal areas, and for grants to
42 local agencies and nonprofit organizations, and for related state administrative costs,
43 in accordance with the following schedule:

1 (1) Thirty-four million dollars (\$34,000,000) to the State Coastal Conservancy for
2 acquisition, enhancement, or restoration of natural lands, and development of public
3 accessways in coastal areas and the San Francisco Bay region; and for preservation
4 of agriculture in coastal areas, pursuant to Division 21 (commencing with Section
5 31000). These funds include the five million eight hundred fifty thousand dollars
6 (\$5,850,000) advanced by the Coastal Conservancy to the Santa Monica Mountains
7 Conservancy for the Circle X acquisition in the Santa Monica Mountains. Up to one
8 million five hundred thousand dollars (\$1,500,000) of the total funds available
9 pursuant to this paragraph shall be spent on expansion of the Bolsa Chica Linear
10 Park in Orange County or for disbursement to the City of Huntington Beach or other
11 appropriate agencies for this purpose, or for restoration, enhancement, or expansion
12 of the Bolsa Chica wetlands that is not otherwise required for mitigation, or both.
13 Up to four million dollars (\$4,000,000) of the total funds available pursuant to this
14 paragraph shall be spent for the purposes of paragraph (2) if the funds allocated in
15 paragraph (2) prove to be insufficient to achieve the purposes of that paragraph.

16 (2) Ten million dollars (\$10,000,000) for acquisition of natural lands to preserve
17 coastal resources in the coastal dunes and wetlands from Mussel Point to Grover
18 City west of Highway 1 in San Luis Obispo and Santa Barbara Counties. Up to
19 seven hundred fifty thousand dollars (\$750,000) may be spent for dunes restoration
20 and public access consistent with coastal resources preservation.

21 (3) One million five hundred thousand dollars (\$1,500,000) for acquisition of
22 coastal natural lands and wetlands in Monterey County between Monterey Wharf
23 #2 and the Salinas River.

24 (4) Eight million dollars (\$8,000,000) for acquisition of, and for grants to public
25 agencies or nonprofit organizations for acquisition of, coastal lands within San
26 Mateo County that meet three or more of the following criteria, with preference
27 given to lands meeting the largest number of criteria: (1) ocean frontage, (2) state
28 or county scenic corridor, (3) designated in the County General Plan as agriculture,
29 (4) sensitive habitat areas or wetlands, (5) close proximity to urban areas, or (6)
30 adjacent to other permanently dedicated public or private natural lands. These funds
31 shall not be used for urban waterfronts or for lot consolidation projects as defined
32 in Chapters 5 (commencing with Section 31200) and 7 (commencing with Section
33 31300) of Division 21.

34 (5) Four million dollars (\$4,000,000) for acquisitions in Sonoma County of
35 coastal natural lands and coastal wetlands south of Stewart Point, and for acquisition
36 of San Pablo Bay wetlands and natural lands.

37 (6) Five hundred thousand dollars (\$500,000) for acquisition of, and for grants to
38 nonprofit organizations for acquisition of, land containing old growth Douglas fir
39 on Mill Creek, a tributary of the Mattole River in Humboldt County, and for public
40 access to the lands acquired.

1 (e) Eighty-two million dollars (\$82,000,000) to the following agencies, and for
2 grants to local agencies and nonprofit organizations, including state administrative
3 costs, for the following purposes:

4 (1) Seventeen million dollars (\$17,000,000) to the Department of Fish and ~~Game~~
5 Wildlife, including an amount not to exceed two hundred fifty-five thousand dollars
6 (\$255,000) for state administrative costs, in accordance with the following schedule:

7 (A) Ten million dollars (\$10,000,000) for restoration and enhancement of salmon
8 streams in accordance with the recommendations of the Commercial Salmon Stamp
9 Advisory Committee and the Advisory Committee on Salmon and Steelhead Trout.

10 (B) Six million dollars (\$6,000,000) for restoration and enhancement of wild trout
11 and native steelhead habitat; for capital outlay to design, develop, and construct an
12 experimental wild trout and native steelhead propagation facility; for acquisition of
13 land important for the perpetuation of wild trout and native steelhead; and to provide
14 public access to wild trout and native steelhead waters.

15 (C) One million dollars (\$1,000,000) for marine patrol boats and other equipment
16 for enforcement of fish and game regulations to protect fish, marine birds, and
17 marine mammals from Point Conception to Fort Bragg.

18 (2) Five million dollars (\$5,000,000) to the Department of Forestry for urban
19 forestry programs, and for related state administrative costs not to exceed two
20 hundred fifty thousand dollars (\$250,000), in accordance with Section 4799.12.

21 (3) Five million dollars (\$5,000,000) to the Department of Water Resources for
22 grants to counties, cities, cities and counties, districts, and nonprofit organizations
23 for the acquisition or restoration of natural lands which contain urban streams,
24 creeks, and riparian areas, and for related state administrative costs not to exceed
25 two hundred fifty thousand dollars (\$250,000), in accordance with Section 7048 of
26 the Water Code.

27 (4) Thirty million dollars (\$30,000,000) to the Santa Monica Mountains
28 Conservancy for land acquisition and for grants to nonprofit organizations for land
29 acquisition in the Santa Monica Mountains, and for related state administrative
30 costs, pursuant to Division 23 (commencing with Section 33000) and consistent
31 with the purposes of this division. Five million dollars (\$5,000,000) of this amount
32 shall be for grants to nonprofit organizations pursuant to Section 33204.2.

33 (5) Twenty-five million dollars (\$25,000,000) to the County of Monterey to be
34 transferred directly to the 1988 Bond Act Account of the Big Sur Preservation Fund
35 of Monterey County to support implementation of “critical viewshed” policies of
36 the county’s Big Sur Coast Land Use Plan which was certified by the California
37 Coastal Commission on April 9, 1986, as a component of the Big Sur Local Coastal
38 Program.

39 The intent of this paragraph is to ensure that the exceptional vistas seen from
40 Scenic Highway One along the Big Sur Coast in Monterey County will be preserved
41 in a manner that ensures the continuation of existing state and local jurisdiction over
42 the Big Sur area.

1 **Comment.** Subdivision (c) of Section 5907 is amended to reflect the recodification of the former
2 Fish and Game Code. The section is also amended to update references to the former Department
3 of Fish and Game. See Fish & Wildlife Code § 1500.

4  **Note.** Section 5907 was added to the Public Resources Code in 1988 by an initiative statute,
5 Proposition 70. The Commission believes that the proposed technical revision of that section would
6 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
7 and associated text.

8 **Pub. Res. Code § 5927 (amended).**

9 SEC. _____. Section 5927 of the Public Resources Code is amended to read:

10 5927. The qualification for or allocation of a grant or grants to a local agency
11 under one subdivision, paragraph, or subparagraph of Section 5907 shall not
12 preclude eligibility for an additional allocation of grant funds to the same local
13 agency pursuant to another subdivision, paragraph, or subparagraph of Section 5907
14 or pursuant to Section ~~2720~~ 55725 of the Fish and ~~Game~~ Wildlife Code.

15 **Comment.** Section 5927 is amended to reflect the recodification of the former Fish and Game
16 Code.

17  **Note.** Section 5927 was added to the Public Resources Code in 1988 by an initiative statute,
18 Proposition 70. The Commission believes that the proposed technical revision of that section would
19 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
20 and associated text.

21 **Pub. Res. Code § 5930 (amended).**

22 SEC. _____. Section 5930 of the Public Resources Code is amended to read:

23 5930. Bonds in the total amount of seven hundred sixty-eight million six hundred
24 seventy thousand dollars (\$768,670,000), or so much thereof as is necessary, may
25 be issued and sold to be used for carrying out the purposes expressed in this division
26 and in ~~Chapter 7.5 (commencing with Section 2700) of Division 3~~ Title 4
27 (commencing with Section 55700) of Part 2 of Division 15 of the Fish and ~~Game~~
28 Wildlife Code and to be used to reimburse the General Obligation Bond Expense
29 Revolving Fund pursuant to Section 16724.5 of the Government Code. A sum, not
30 to exceed seven hundred twenty-six million dollars (\$726,000,000) of the bond
31 proceeds, shall be deposited in the California Wildlife, Coastal, and Park Land
32 Conservation Fund of 1988 for the purposes of this division, and a sum, not to
33 exceed fifty million dollars (\$50,000,000) of bond proceeds, shall be deposited in
34 the Wildlife and Natural Areas Conservation Fund for the purposes of the Wildlife
35 and Natural Areas Conservation Program (~~Chapter 7.5 (commencing with Section~~
36 ~~2700) of Division 3~~ Title 4 (commencing with Section 55700) of Part 2 of Division
37 15 of the Fish and ~~Game~~ Wildlife Code). The bonds shall, when sold, be and
38 constitute a valid and binding obligation of the State of California, and the full faith
39 and credit of the State of California is hereby pledged for the punctual payment of
40 both principal and interest as they become due and payable.

1 **Comment.** Section 5930 is amended to reflect the recodification of the former Fish and Game
2 Code.

3  **Note.** Section 5930 was added to the Public Resources Code in 1988 by an initiative statute,
4 Proposition 70. The Commission believes that the proposed technical revision of that section would
5 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
6 and associated text.

7 **Pub. Res. Code § 5932 (amended).**

8 SEC. _____. Section 5932 of the Public Resources Code is amended to read:

9 5932. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to
10 the State General Obligation Bond Law, of the bonds authorized by this division,
11 the California Wildlife, Coastal, and Park Land Conservation Program of 1988
12 Finance Committee is hereby created. For purposes of this division, the California
13 Wildlife, Coastal, and Park Land Conservation Program of 1988 Finance
14 Committee is “the committee” as that term is used in the State General Obligation
15 Bond Law. The committee shall consist of the Controller, the Director of Finance,
16 and the Treasurer, or their designated representatives. The Treasurer shall serve as
17 chairperson of the committee. A majority of the committee may act for the
18 committee.

19 (b) For purposes of this division and ~~Chapter 7.5 (commencing with Section 2700)~~
20 ~~of Division 3 Title 4 (commencing with Section 55700) of Part 2 of Division 15~~
21 ~~of the Fish and Game Wildlife Code~~ and the State General Obligation Bond Law, the
22 Wildlife Conservation Board, the Department of Parks and Recreation, the
23 Department of Water Resources, the Department of Forestry, the Department of
24 Fish and ~~Game Wildlife~~, the Santa Monica Mountains Conservancy, or the State
25 Coastal Conservancy, depending on which agency has jurisdiction, is hereby
26 designated as “the board.”

27 **Comment.** Section 5932 is amended to reflect the recodification of the former Fish and Game
28 Code. The section is also amended to update a reference to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30  **Note.** Section 5932 was added to the Public Resources Code in 1988 by an initiative statute,
31 Proposition 70. The Commission believes that the proposed technical revision of that section would
32 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
33 and associated text.

34 **Pub. Res. Code § 5933 (amended).**

35 SEC. _____. Section 5933 of the Public Resources Code is amended to read:

36 5933. The committee shall determine whether or not it is necessary or desirable
37 to issue bonds authorized pursuant to this division in order to carry out the actions
38 specified in Section 5907 of this code and Section ~~2720~~ 55725 of the Fish and ~~Game~~
39 Wildlife Code, and, if so, the amount of bonds to be issued and sold. Successive
40 issues of bonds may be authorized and sold to carry out those actions progressively,
41 and it is not necessary that all of the bonds authorized to be issued be sold at any
42 one time.

1 **Comment.** Section 5933 is amended to reflect the recodification of the former Fish and Game
2 Code.

3  **Note.** Section 5933 was added to the Public Resources Code in 1988 by an initiative statute,
4 Proposition 70. The Commission believes that the proposed technical revision of that section would
5 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
6 and associated text.

7 **Pub. Res. Code § 5936 (amended).**

8 SEC. _____. Section 5936 of the Public Resources Code is amended to read:

9 5936. For the purposes of carrying out this division and ~~Chapter 7.5 (commencing~~
10 ~~with Section 2700) of Division 3 Title 4 (commencing with Section 55700) of Part~~
11 2 of Division 15 of the Fish and Game Wildlife Code, the Director of Finance may
12 authorize the withdrawal from the General Fund of an amount or amounts not to
13 exceed the amount of the unsold bonds which have been authorized to be sold for
14 the purpose of carrying out those provisions. Any amounts withdrawn shall be
15 deposited in the California Wildlife, Coastal, and Park Land Conservation Fund of
16 1988 or the Wildlife and Natural Areas Conservation Fund, as appropriate. Any
17 money made available under this section shall be returned to the General Fund, plus
18 the interest that the amounts would have earned in the Pooled Money Investment
19 Account, from money received from the sale of bonds which would otherwise be
20 deposited in that fund.

21 **Comment.** Section 5936 is amended to reflect the recodification of the former Fish and Game
22 Code.

23  **Note.** Section 5936 was added to the Public Resources Code in 1988 by an initiative statute,
24 Proposition 70. The Commission believes that the proposed technical revision of that section would
25 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
26 and associated text.

27 **Pub. Res. Code § 6217.1 (amended).**

28 SEC. _____. Section 6217.1 of the Public Resources Code is amended to read:

29 6217.1. (a) This section and the process described in this section governs the
30 expenditure of any funds received by the State of California from the federal
31 government for the purposes of salmon and steelhead trout conservation and
32 restoration, the expenditure of funds authorized for the Coastal Watershed Salmon
33 Habitat Program pursuant to Article 7 (commencing with Section 79104.200) of
34 Chapter 6 of Division 26 of the Water Code, and the expenditure of funds
35 appropriated to the Department of Fish and ~~Game Wildlife~~ for salmon and steelhead
36 trout conservation and restoration from the California Clean Water, Clean Air, Safe
37 Neighborhood Parks, and Coastal Protection Fund pursuant to Article 5
38 (commencing with Section 5096.650) of Chapter 1.696 of Division 5 of the Public
39 Resources Code.

40 (b) For purposes of this section, “project” means an activity that improves fish
41 habitat in coastal waters utilized by salmon and anadromous trout species.

1 (c)(1) The Department of Fish and ~~Game~~ Wildlife shall grant funds from the
2 Salmon and Steelhead Trout Restoration Account in the Resources Trust Fund, as
3 follows:

4 (A) At least 87.5 percent of the funds shall be allocated as project grants through
5 the existing grant program operated by the fisheries management program of the
6 Department of Fish and ~~Game~~ Wildlife.

7 (B) Not more than 12.5 percent of the funds may also be used for project contract
8 administration activities and biological support staff.

9 (2)(A) A project shall require the consent of a willing landowner, and emphasize
10 the development of coordinated watershed improvement activities.

11 (B) Projects that restore habitat for salmon and anadromous trout species that are
12 eligible for protection as listed or candidate species under state or federal
13 endangered species acts shall be given top funding priority.

14 (C) Projects shall be cost-effective and treat causes and not symptoms of fish
15 habitat degradation. Projects may implement instream, riparian, water quality, water
16 quantity, and watershed prescriptions and shall be designed to restore the structure
17 and function of fish habitat.

18 (3) Any grant funds allocated to a project that exceed the actual cost of completing
19 the project shall be returned to the Salmon and Steelhead Trout Restoration
20 Account.

21 (d)(1) A citizen's advisory committee shall be appointed by the Director of Fish
22 and ~~Game~~ Wildlife to give advice on the grant program.

23 (2) The advisory committee shall consist of seven representatives recommended
24 by the California Advisory Committee on Salmon and Steelhead Trout, one
25 representative from the agriculture industry, one representative from the timber
26 industry, one representative of public water agency interests, one academic or
27 research scientist with expertise in anadromous fisheries restoration, and three
28 county supervisors from coastal counties in which anadromous trout exist. The
29 county supervisor members shall be recommended by the California State
30 Association of Counties.

31 (3) The advisory committee shall provide oversight of, and recommend priorities
32 for, grant funding under this section. In making funding decisions, the Department
33 of Fish and ~~Game~~ Wildlife shall consider the project selection priorities established
34 by the advisory committee.

35 (4) Members of any advisory committee established for these purposes shall be
36 reimbursed for travel and incidental expenses related to the performance of their
37 duties under this section. Reimbursement for the advisory committee created
38 pursuant to this section shall be made from the funds designated in subparagraph
39 (B) of paragraph (1) of subdivision (c). Reimbursement for other Department of
40 Fish and ~~Game~~ Wildlife salmon and steelhead trout advisory committees shall be
41 funded by appropriate sources.

42 (5) If a member of the advisory committee, or a member of his or her immediate
43 family, is employed by a grant applicant, the employer of a grant applicant, or a

1 consultant or independent contractor employed by a grant applicant, the advisory
2 committee member shall make that disclosure to the other members of the
3 committee, and shall not participate in reviewing or making recommendations on
4 the grant application of that applicant.

5 (e) Except as provided in subdivision (f), the money in the Salmon and Steelhead
6 Trout Restoration Account shall be allocated as follows:

7 (1) Not less than 65 percent of the money shall be used for salmon habitat
8 protection and restoration projects. Of that amount, at least 75 percent shall be used
9 for watershed (upslope) and riparian area protection and restoration activities. These
10 activities may include, but are not limited to, grants to acquire and install fish
11 screens to protect juvenile and adult salmon and steelhead trout from entrapment in
12 water diversions, and grants to remove substandard culverts, stream crossings, and
13 bridges that constitute barriers to spawning of salmon and steelhead trout and
14 passage of fish. These funds may also be used for the acquisition, from willing
15 sellers, of conservation easements for riparian buffer strips along coastal rivers and
16 streams to protect salmon and steelhead trout habitat or for projects that protect and
17 improve water quality and quantity.

18 (2) Up to 35 percent of the money shall be allocated for any of the uses listed in
19 this paragraph.

20 (A) Watershed evaluation, assessment, and planning necessary to develop a site-
21 specific and clearly prioritized plan to implement watershed improvements.

22 (B) Multiyear grants for watershed planning and project monitoring and
23 evaluations.

24 (C) Watershed organization support and assistance.

25 (D) Project maintenance and monitoring after the project implementations are
26 complete.

27 (E) Public school watershed and fishery conservation education projects.

28 (F) Private sector technical training and education project grants, including
29 teaching private landowners about practical means of improving land and water
30 management practices that, if implemented, will contribute to the protection and
31 restoration of salmon stream habitat; scholarship funding for workshops and
32 conferences that teach restoration techniques; operation of nonprofit restoration
33 technical schools; and production of restoration training and education workshops
34 and conferences.

35 (G) Fish and wildlife habitat improvements, as defined by Section 4793, and
36 authorized under the California Forestry Incentive Program (CFIP).

37 (H) The salmon restoration project of the California Conservation Corps.

38 (I) The state's share of the federal Watershed Stewards Program.

39 (J) Monitoring projects that utilize protocols approved by the Department of Fish
40 and ~~Game~~ Wildlife and the National Marine Fisheries Service (NMFS) to provide
41 baseline or trend data, or both, for anadromous fish populations or the physical and
42 biological factors known to be limiting recovery.

1 (K) Artificial propagation programs designed to restore depleted stocks of
2 salmonids that comply with the directives of the joint Department of Fish and ~~Game~~
3 Wildlife and NMFS Hatchery Operations Review Committee.

4 (f) The advisory committee, in any fiscal year, may make a recommendation to
5 the Department of Fish and ~~Game~~ Wildlife to allocate money from the Salmon and
6 Steelhead Trout Restoration Account for the purposes stated in subdivision (e), but
7 in different percentage requirements than the 65/35 split stated in paragraphs (1) and
8 (2) of that subdivision. Following that recommendation, the Director of Fish and
9 ~~Game~~ Wildlife may suspend the percentage requirements stated in paragraphs (1)
10 and (2) of subdivision (e) for that fiscal year only.

11 **Comment.** Section 6217.1 is amended to update references to the former Department of Fish
12 and Game, and the Director of that department. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 6217.3 (amended).**

14 SEC. ____ . Section 6217.3 of the Public Resources Code is amended to read:

15 6217.3. (a) The Legislature finds and declares all of the following:

16 (1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River
17 and Coastal Protection Bond Act of 2006, an initiative approved by the voters at the
18 November 7, 2006, statewide general election, makes available the sum of one
19 hundred eighty million dollars (\$180,000,000) in bond funds for bay-delta and
20 coastal fishery restoration projects.

21 (2) Of the funds made available, up to forty-five million dollars (\$45,000,000) is
22 available for coastal salmon and steelhead fishery restoration projects that support
23 the development and implementation of species recovery plans and strategies for
24 salmonid species listed as threatened or endangered under state or federal law.

25 (b) From the forty-five million dollars (\$45,000,000) available for coastal salmon
26 and steelhead fishery restoration projects pursuant to subdivision (a) of Section
27 75050, five million two hundred ninety-three thousand dollars (\$5,293,000) is
28 appropriated to the Department of Fish and ~~Game~~ Wildlife for the purposes of
29 coastal salmon and steelhead fishery restoration projects, including the Coastal
30 Salmonid Monitoring Plan. The Department of Fish and ~~Game~~ Wildlife shall not
31 allocate more than two million five hundred twenty thousand dollars (\$2,520,000)
32 of these funds for the Coastal Salmonid Monitoring Plan.

33 (c)(1) Except for the funds annually appropriated for the Coastal Salmonid
34 Monitoring Plan, and as provided in paragraph (3), the process governing the
35 expenditure of funds described in Section 6217.1 shall be applied to the expenditure
36 of funds available for coastal salmon and steelhead fishery restoration projects
37 pursuant to subdivision (a) of Section 75050 that are allocated by the Department
38 of Fish and ~~Game~~ Wildlife pursuant to subdivision (b).

39 (2) The funds annually allocated to the Coastal Salmonid Monitoring Plan are
40 exempt from the requirements of Section 6217.1.

1 (3) If there is a conflict between a provision of this section and a provision of
2 Division 43 (commencing with Section 75001), the provision of Division 43 shall
3 govern.

4 **Comment.** Section 6217.3 is amended to update references to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 6378 (amended).**

7 SEC. _____. Section 6378 of the Public Resources Code is amended to read:

8 6378. The commission shall determine the ownership of all salmon and steelhead
9 spawning areas as designated by Section ~~1505~~ 60900 of the Fish and ~~Game~~ Wildlife
10 Code. All areas found to be state property shall be permanently protected by the
11 state, and no sale, lease or disposal of material shall be made as to such areas, except
12 that rights-of-way and easements may be granted to, and leases entered into with,
13 public utilities for the installation, operation, and maintenance of public utility
14 facilities unless the Director of Fish and ~~Game~~ Wildlife shall determine that such
15 facilities would prove deleterious to fishlife.

16 **Comment.** Section 6378 is amended to reflect the recodification of the former Fish and Game
17 Code. The section is also amended to update a reference to the Director of the former Department
18 of Fish and Game. See Fish & Wildlife Code § 1500.

19 **Pub. Res. Code § 6873.5 (amended).**

20 SEC. _____. Section 6873.5 of the Public Resources Code is amended to read:

21 6873.5. (a) In carrying out the requirements of subdivision (b) of Section 6873
22 and the California Environmental Quality Act, the commission shall, prior to the
23 adoption of a form of lease for leasing offshore tide and submerged lands between
24 the mean high tide line and the three-mile jurisdictional limit, consult with the
25 Department of Fish and ~~Game~~ Wildlife, the National Marine Fisheries Service, and
26 representatives of the oil industry, representatives of fishermen operating within the
27 area being considered for leasing. The commission shall hold at least one hearing
28 on the draft environmental document prepared for the proposed lease in a
29 jurisdiction of a local government within the coastal zone, as defined by Section
30 30103, near the area being considered for leasing. The commission shall give at least
31 30 days' written notice regarding the public hearing to each city or county within or
32 adjacent to the proposed lease area and shall publish the notice in the manner
33 prescribed in Section 6834. The authority to hold hearings provided in this section
34 may be delegated by the commission to its officers or employees.

35 (b) The commission shall consider the potential impacts of the proposed lease on
36 the fisheries and marine habitat within the area being considered for leasing. The
37 commission shall include in its consideration:

38 (1) The environmental document prepared for the proposed lease.

39 (2) Recommendations of the Department of Fish and ~~Game~~ Wildlife, the National
40 Marine Fisheries Service, the oil industry, and fishermen.

1 (3) The cooperative efforts of the oil industry and fishermen to develop plans to
2 mitigate potential impacts.

3 (c) Fishery areas that should be considered for protection include established
4 fishing grounds or critical spawning or nursery grounds as indicated by records of
5 the Department of Fish and ~~Game~~ Wildlife.

6 (d) The commission may impose terms, conditions, or operational requirements it
7 deems necessary to protect fisheries, including, but not limited to, the exclusion of
8 specified areas from development activities.

9 (e) This section shall not be construed as a limitation on slant or directional
10 drilling under the excluded area from any location outside an excluded fishery area.

11 **Comment.** Section 6873.5 is amended to update references to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 6890 (amended).**

14 SEC. _____. Section 6890 of the Public Resources Code is amended to read:

15 6890. (a) Prospecting permits and leases for the extraction and removal of
16 minerals, other than oil and gas or other hydrocarbon substances, from lands,
17 including tide and submerged lands belonging to the state, may be issued as
18 provided in this article and in this chapter insofar as not in conflict with this article.
19 The commission shall not issue any permit or lease under this section until it has
20 been submitted to the Attorney General and has been approved by the Attorney
21 General as to compliance with the applicable law and rules and regulations of the
22 commission. No lease or permit shall be issued which results in any net adverse
23 impact to wetlands or riparian habitat.

24 (b) Where lands, other than tide and submerged lands, belonging to the state have
25 been dedicated to a public use, the commission may issue permits and leases for the
26 exploration, extraction, and removal of minerals, other than oil and gas or other
27 hydrocarbon substances and geothermal resources, in accordance with this article.
28 Where the lands have been acquired for the use of a specific state agency, the state
29 agency, prior to issuance, shall approve the work to be performed under the
30 authority of the permit or lease and the state agency shall specify terms and
31 conditions required to ensure that the work shall be performed in a manner which is
32 not inconsistent with the purposes for which the land is owned or operated.

33 (c) If the property is a wildlife management area acquired pursuant to Section
34 ~~1525 60600~~ of the Fish and ~~Game~~ Wildlife Code, the commission shall not issue
35 any permit or lease under this section unless the Department of Fish and ~~Game~~
36 Wildlife determines, and reports in writing to the commission, that the proposed
37 activity will not cause a net loss of wildlife habitat value or acreage in that area
38 because privately owned land of greater total wildlife habitat value and acreage,
39 which has habitat values similar in type to the area to be permitted or leased, will be
40 acquired and dedicated to the state to replace the land of that wildlife management
41 area. The replacement land shall be located within 10 miles of the wildlife
42 management area where the lease or permit is to be issued.

1 (d) The commission shall not issue a permit or lease under this section for any
2 land under the jurisdiction of the Department of Parks and Recreation, for any
3 refuge or other protected area, as described in ~~Division 7 (commencing with Section~~
4 ~~10500)~~ Title 3 (commencing with Section 7230) of Part 1 of Division 4, Section
5 13950, 34060, or 34065, or Title 3 (commencing with Section 58700) of Part 1 of
6 Division 16, of the Fish and Game Wildlife Code, or for any ecological reserve, as
7 described in ~~Article 4 (commencing with Section 1580)~~ of Chapter 5 of Division 2
8 Part 6 (commencing with Section 60750) of Division 16 of the Fish and Game
9 Wildlife Code.

10 (e) Notwithstanding Section 6217, as of June 30 of each year, a sum equal to 50
11 percent of the revenue received by the state for the fiscal year ending on June 30
12 pursuant to permits and leases for the development of minerals, other than oil, gas,
13 or other hydrocarbon substances and geothermal resources, on lands which have
14 been dedicated to a public use and are administered by a state agency other than the
15 commission shall be available for appropriation by the Legislature for the support
16 of, and apportionment and transfer by the Controller to, that state agency.

17 (f) If the state agency receives a majority of its funding from a special fund
18 established for the general support of the agency, the revenue made available by
19 subdivision (e) shall be deposited in that fund and shall be available, when
20 appropriated, for the general purposes of the agency.

21 (g) Any person issued a permit or lease under subdivision (a) shall comply with
22 all existing federal, state, and local government laws.

23 **Comment.** Subdivision (c) of Section 6890 is amended to reflect the recodification of the former
24 Fish and Game Code. The section is also amended to update a reference to the former Department
25 of Fish and Game. See Fish & Wildlife Code § 1500.

26 **Pub. Res. Code § 8554 (amended).**

27 SEC. _____. Section 8554 of the Public Resources Code is amended to read:

28 8554. The Department of Fish and Game Wildlife is hereby designated the
29 “official state agency engaged in the conservation or propagation of wild life”
30 referred to in Section 9 of the act of Congress cited in Section 8551 of this code.

31 **Comment.** Section 8554 is amended to update a reference to the former Department of Fish and
32 Game. See Fish & Wildlife Code § 1500.

33 **Pub. Res. Code § 8560 (amended).**

34 SEC. _____. Section 8560 of the Public Resources Code is amended to read:

35 8560. (a) For purposes of this chapter, the following terms apply:

36 (1) “Conservation plan” means a habitat conservation plan developed pursuant to
37 Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1539)
38 and its implementing regulations, as the federal act and regulations exist as of
39 January 1, 2016, and an approved natural communities conservation plan developed
40 pursuant to the Natural Community Conservation Planning Act (~~Chapter 10~~

1 ~~(commencing with Section 2800) of Division 3 Title 2 (commencing with Section~~
2 ~~64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code).~~

3 (2) “Conveyance” includes any method, including sale, donation, or exchange, by
4 which all or a portion of the right, title, and interest of the United States in and to
5 federal lands located in California is transferred to another entity.

6 (3) “Federal public land” means any land owned by the United States, including
7 the surface estate, the subsurface estate, or any improvements on those estates.

8 (4) “Infrastructure” means any development or construction that is not on or
9 appurtenant to the federal public land at the time of transfer.

10 (b)(1) Except as provided in Chapter 6 (commencing with Section 6441) of Part
11 1, it is the policy of the State of California to discourage conveyances that transfer
12 ownership of federal public lands in California from the federal government.

13 (2)(A) Except as provided in this chapter, conveyances of federal public lands in
14 California are void ab initio unless the commission was provided with the right of
15 first refusal to the conveyance or the right to arrange for the transfer of the federal
16 public land to another entity.

17 (B) The commission may seek declaratory and injunctive relief from a court of
18 competent jurisdiction to contest conveyances made to any entity unless the
19 requirements of this paragraph are met.

20 (C) The commission shall formally consider its right of first refusal or arrange for
21 the transfer of federal public lands to a third party at a public hearing.

22 (D)(i) Prior to the conveyance of federal public lands in California, if the
23 commission was provided with the right of first refusal or the right to arrange for
24 the transfer of the federal public lands to another entity, the commission shall issue
25 a certificate affirming compliance with this section.

26 (ii) The commission shall waive its right of first refusal or the right to arrange for
27 the transfer of the federal public lands to another entity, and issue a certification of
28 compliance affirming compliance with this section for a conveyance that is deemed
29 by the commission to be routine. A conveyance deemed by the commission to be
30 routine includes, but is not limited to, the exchange of lands of equal value between
31 the federal government and a private entity. The commission may adopt regulations
32 to establish a process and criteria for determining the types of conveyances it
33 considers to be routine. The executive officer of the commission shall have the
34 authority to issue certifications of compliance for conveyances made in compliance
35 with this subparagraph.

36 (E) The commission, the Wildlife Conservation Board, and the Department of
37 Fish and Wildlife shall enter into a memorandum of understanding that establishes
38 a state policy that all three agencies shall undertake all feasible efforts to protect
39 against any future unauthorized conveyance or any change in federal public land
40 designation, including, but not limited to, any change in use, classification, or legal
41 status of any lands designated as federal monuments pursuant to the federal
42 Antiquities Act of 1906 (Public Law 59-209).

1 (c) The state shall not be responsible for any costs associated with conveyed
2 federal public land that the commission did not accept, purchase, or arrange for the
3 transfer of, pursuant to this section. Costs include, but are not limited to,
4 management costs and infrastructure development costs.

5 (d) The commission may establish, through regulations or another appropriate
6 method, a process for engaging with federal land managers and potential purchasers
7 of federal public lands early in the conveyance process.

8 (e) The commission shall ensure, for any conveyed federal public land the
9 commission accepts, purchases, or arranges for the transfer of, that future
10 management of the conveyed federal public land is determined in a public process
11 that gives consideration of past recognized and legal uses of those lands. At a
12 minimum, the public process required by this subdivision shall include a noticed
13 and open meeting as required by the Bagley-Keene Open Meeting Act (Article 9
14 (commencing with Section 11120) of Division 3 of Title 2 of the Government
15 Code).

16 (f) The executive officer of the commission shall waive the commission's right of
17 first refusal or the right to arrange for the transfer of the federal public lands to
18 another entity, and issue a certification of compliance affirming compliance with
19 this section for any of the following:

20 (1) The conveyance of federal public lands pursuant to a conservation plan.

21 (2) The renewal of a lease in existence as of January 1, 2017.

22 (3) The conveyance of federal public lands to a federally recognized Native
23 American tribe or lands taken into or out of trust for a Native American tribe or
24 individual Native American.

25 (4) The conveyance of any federal public lands not managed by the federal
26 National Forest Service, the federal Bureau of Reclamation, the federal Bureau of
27 Land Management, the United States Fish and Wildlife Service, or the federal
28 National Park Service unless the land conveyed satisfies any of the following:

29 (A) Is part of a national monument or national marine sanctuary.

30 (B) Contains national conservation lands.

31 (C) Is land placed in the National Register of Historic Places.

32 (D) Is designated for preservation or conservation uses.

33 (5) The conveyance of federal public lands to the State of California.

34 (g) The provisions of this section are severable. If any provision of this section or
35 its application is held invalid, that invalidity shall not affect other provisions or
36 applications that can be given effect without the invalid provision or application.

37 **Comment.** Paragraph (1) of subdivision (a) of Section 8560 is amended to reflect the
38 recodification of the former Fish and Game Code.

39 **Pub. Res. Code § 8723 (amended).**

40 SEC. _____. Section 8723 of the Public Resources Code is amended to read:

1 8723. (a) Within 240 days of the execution of a memorandum of agreement
2 pursuant to Section 8722, the commission shall prepare and submit to the United
3 States Secretary of the Interior a proposal for land exchanges that consolidate school
4 land parcels in the California desert into contiguous holdings that are suitable for
5 large-scale renewable energy-related projects. In developing the proposal, the
6 commission shall give priority to land exchanges that will facilitate the development
7 of large-scale renewable energy projects.

8 (b) The commission's proposal shall be based on an acre-for-acre exchange with
9 the United States. If the United States is not authorized to enter into such an
10 agreement, the commission may propose an exchange based on equivalent appraised
11 values.

12 (c) Notwithstanding subdivision (b), the commission may withhold a school land
13 parcel from an exchange proposal or request additional consideration from the
14 United States Secretary of the Interior if the commission reasonably believes, based
15 on existing and reliable information, that an acre-for-acre exchange would not
16 provide the state with compensation that is equal to or greater than the fair market
17 value of the school land parcel. For the purposes of this subdivision, the commission
18 shall consider the potential renewable energy value of a parcel the commission
19 would receive in the exchange.

20 (d) In preparing the land exchange proposal, the commission shall consult with
21 the Department of Fish and ~~Game~~ Wildlife to identify areas in the California desert
22 that would be consistent with the proposed or adopted provisions of the Desert
23 Renewable Energy Conservation Plan and are either of the following:

24 (1) Suitable for renewable energy projects because the identified areas do not
25 support habitat or habitat corridor values for species listed as threatened,
26 endangered, or candidate species pursuant to the California Endangered Species Act
27 (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing~~
28 ~~with Section 62000) of Division 17~~ of the Fish and ~~Game~~ Wildlife Code) or the
29 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), that, in the
30 judgment of the Department of Fish and ~~Game~~ Wildlife, are sufficient to warrant
31 consideration of their designation as a mitigation or conservation area for these
32 species.

33 (2) Suitable as potential mitigation areas to mitigate the impacts that renewable
34 energy-related projects may have on the environment.

35 (e) The commission's costs and expenses attributable to the land exchange process
36 may be payable from the fund. Notwithstanding Section 6217.5, a portion of the
37 revenues generated from renewable energy leases pursuant to this chapter shall be
38 made available to the commission, upon appropriation by the Legislature, to cover
39 the commission's costs attributable to the land exchange process.

40 (f) The commission may consider counter land exchange proposals from the
41 United States Secretary of the Interior and make additional proposals to the extent
42 that the additional proposals achieve the goals set forth in this chapter.

1 (g) Final approval of a land exchange proposed pursuant to this chapter shall be
2 made by the commission at a properly noticed commission meeting.

3 Comment. Paragraph (1) of subdivision (d) of Section 8723 is amended to reflect the
4 recodification of the former Fish and Game Code. The section is also amended to update references
5 to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 9960 (amended).**

7 SEC. _____. Section 9960 of the Public Resources Code is amended to read:

8 9960. The following definitions shall govern the interpretation of this chapter:

9 (a) "Suisun Marsh" means the Suisun Marsh as defined in Section 29101.

10 (b) "Primary management area" means the primary management area as defined
11 in Section 29102.

12 (c) "Suisun Marsh Protection Plan" means the plan identified and defined in
13 Section 29113.

14 (d) "District" means the Suisun Resource Conservation District.

15 (e) "Board" means the board of directors of the district.

16 (f) "Individual ownership" means a separate privately owned parcel of land within
17 the primary management area. Contiguous parcels of land owned by the same legal
18 entity comprise a single individual ownership.

19 (g) "Department" means the Department of Fish and ~~Game~~ Wildlife.

20 **Comment.** Section 9960 is amended to update a reference to the former Department of Fish and
21 Game. See Fish & Wildlife Code § 1500.

22 **Pub. Res. Code § 10002 (amended).**

23 SEC. _____. Section 10002 of the Public Resources Code is amended to read:

24 10002. (a) The Director of Fish and ~~Game~~ Wildlife shall prepare proposed
25 streamflow requirements, which shall be specified in terms of cubic feet of water
26 per second, for each stream or watercourse identified pursuant to Section 10001. In
27 developing the requirements for each stream, the director shall consult with the
28 Director of Water Resources, the Director of Parks and Recreation and with all
29 affected local governments. The Director of Fish and ~~Game~~ Wildlife may also
30 consult with any private individuals, groups, or organizations as the director deems
31 advisable. Upon completion of the proposed streamflow requirements for any
32 individual stream or watercourse, the Director of Fish and ~~Game~~ Wildlife shall
33 transmit these proposed requirements to the State Water Resources Control Board.
34 The State Water Resources Control Board shall consider these requirements within
35 a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and
36 ~~Game~~ Wildlife shall complete the preparation of proposed requirements for the
37 initial streams not later than July 1, 1989.

38 (b) The Department of Fish and ~~Game~~ Wildlife may contract for temporary
39 services for purposes of preparing the proposed streamflow requirements.

1 **Comment.** Section 10002 is amended to update references to the former Department of Fish and
2 Game, and to the Director of that department. See Fish & Wildlife Code § 1500. The section is also
3 amended to add subdivision designations.

4 **Pub. Res. Code § 10004 (amended).**

5 SEC. _____. Section 10004 of the Public Resources Code is amended to read:

6 10004. The Department of Fish and ~~Game~~ Wildlife shall initiate studies to develop
7 proposed streamflow requirements for those streams or watercourses in each fiscal
8 year for which funds are appropriated and shall complete studies on each stream or
9 watercourse within three years. It is the intent of the Legislature that the department
10 develop a program that will initiate studies on at least 10 streams or watercourses in
11 each fiscal year.

12 **Comment.** Section 10004 is amended to update a reference to the former Department of Fish
13 and Game. See Fish & Wildlife Code § 1500.

14 **Pub. Res. Code § 10005 (amended).**

15 SEC. _____. Section 10005 of the Public Resources Code is amended to read:

16 10005. (a) The Department of Fish and ~~Game~~ Wildlife shall impose and collect a
17 filing fee of eight hundred fifty dollars (\$850) to defray the costs of identifying
18 streams and providing studies pursuant to Division 10 (commencing with Section
19 10000) of the Public Resources Code.

20 (b) The filing fee shall be proportional to the cost incurred by the Department of
21 Fish and ~~Game~~ Wildlife and shall be annually reviewed and adjustments
22 recommended to the Legislature in an amount necessary to pay the costs of the
23 Department of Fish and ~~Game~~ Wildlife as specified in subdivision (a).

24 (c) Any user of water, including a person or entity holding riparian or
25 appropriative rights, shall pay the filing fee to the Department of Fish and ~~Game~~
26 Wildlife upon application to the State Water Resources Control Board for any
27 permit, transfer, extension, or change of point of diversion, place of use, or purpose
28 of use, if there is a diversion of water from any waterway where fish reside. No
29 permit, or other entitlement identified in this section is effective until the filing fee
30 is paid. The State Water Resources Control Board shall, every six months, forward
31 all fees collected to the department and provide the location for each entitlement for
32 which a filing fee has been collected.

33 (d) The fee imposed by this section shall not be imposed on the following
34 applications filed with the State Water Resources Control Board:

35 (1) Small domestic use registrations and livestock stockpond certificates
36 submitted pursuant to Article 2.7 (commencing with Section 1228) of Chapter 2 of
37 Division 2 of the Water Code.

38 (2) The first application for an extension of time for an individual permit if no
39 change in point of diversion, place of use, or purpose of use is included in the
40 application.

1 (3) Water applications which, in the opinion of the Department of Fish and Game
2 Wildlife, are filed for administrative and technical clarification purposes only.

3 (4) Water applications or petitions, the primary purpose of which is to benefit fish
4 and wildlife resources. The determination of the benefit to fish and wildlife shall be
5 made, in writing, by the Department of Fish and Game Wildlife in order to be
6 exempt from the fee.

7 (e) If an applicant or petitioner files multiple applications or petitions for the same
8 appropriation, transfer, extension, or change, and the State Water Resources Control
9 Board reviews and considers the applications or petitions together, only one filing
10 fee is required for those applications or petitions.

11 **Comment.** Section 10005 is amended to update references to the former Department of Fish and
12 Game. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 10332 (amended).**

14 SEC. ____ . Section 10332 of the Public Resources Code is amended to read:

15 10332. As used in this division, the following terms have the following meanings:

16 (a) “Board” means the Wildlife Conservation Board created pursuant to ~~Article 2~~
17 ~~(commencing with Section 1320) of Chapter 4 of Division 20~~ Article 1
18 (commencing with Section 54750) of Chapter 2 of Title 1 of Part 2 of Division 15
19 of the Fish and Game Wildlife Code.

20 (b) “Conservation easement” means a conservation easement, as defined by
21 Section 815.1 of the Civil Code, that is perpetual.

22 (c) “Local public agency” means any city, county, city and county, resource
23 conservation district, district formed pursuant to Article 3 (commencing with
24 Section 5500) of Chapter 3 of Division 5, authority formed pursuant to Division 26
25 (commencing with Section 35100), or joint powers authority made up of two or
26 more local public agencies and one or more state agencies.

27 (d) “Nonprofit organization” means any nonprofit public benefit corporation
28 formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with
29 Section 5000) of Title 1 of the Corporations Code), qualified to do business in
30 California, and qualified under Section 501(c)(3) of Title 26 of the Internal Revenue
31 Code as a tax-exempt corporation that has as a principal purpose the conservation
32 of land and water resources.

33 (e) “Property” means any real property, and any perpetual interest therein,
34 including land, conservation easements, and land containing water rights.

35 (f) “Qualified property” means property that is rangeland, grazing land, or
36 grassland and is used or is suitable for grazing; is zoned for agricultural grazing, or
37 open-space use; and is used or suitable for habitat for aquatic or terrestrial wildlife
38 species or native plants.

39 (g) “State agency” means any public entity created by statute within the Resources
40 Agency.

41 **Comment.** Section 10332 is amended to reflect the recodification of the former Fish and Game
42 Code.

1 **Pub. Res. Code § 10334 (amended).**

2 SEC. _____. Section 10334 of the Public Resources Code is amended to read:

3 10334. Funds may be expended by the board for the acquisition of conservation
4 easements over qualified property pursuant to the authority granted to the board
5 under Section ~~1348~~ 54815 of the Fish and ~~Game~~ Wildlife Code. The board may also
6 make grants of funds to a state agency, local public agency, or nonprofit
7 organization for the acquisition of conservation easements over qualified property.

8 **Comment.** Section 10334 is amended to reflect the recodification of the former Fish and Game
9 Code.

10 **Pub. Res. Code § 10342 (amended).**

11 SEC. _____. Section 10342 of the Public Resources Code is amended to read:

12 10342. Any conservation easement, money, or other asset acquired pursuant to
13 this division shall not be deemed a transfer pursuant to ~~Article 1 (commencing with~~
14 ~~Section 2780) of Chapter 9 of Division 3~~ Title 5 (commencing with Section 55800)
15 of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code.

16 **Comment.** Section 10342 is amended to reflect the recodification of the former Fish and Game
17 Code.

18  **Note.** The section above refers to “a transfer pursuant to Article 1 (commencing with Section
19 2780) of Chapter 9 of Division 3” of the existing Fish and Game Code.

20 That reference appears to be erroneous, because there are no references to a “transfer” in the
21 referenced article.

22 However, there are a number of transfer-related provisions in the chapter that contains the
23 referenced article. That chapter was probably the intended object of the cross-reference. Section
24 10342 would be revised accordingly.

25 **The Commission requests public comment on whether that approach would cause any**
26 **problems.**

27 **Pub. Res. Code § 10344 (amended).**

28 SEC. _____. Section 10344 of the Public Resources Code is amended to read:

29 10344. The board may coordinate this program with the Oak Woodlands
30 Conservation Act established pursuant to ~~Article 3.5 (commencing with Section~~
31 ~~1360) of Chapter 4 of Division 2~~ Chapter 3 (commencing with Section 54900) of
32 Title 1 of Part 2 of Division 15 the Fish and ~~Game~~ Wildlife Code, as administered
33 by the board.

34 **Comment.** Section 10344 is amended to reflect the recodification of the former Fish and Game
35 Code.

36 **Pub. Res. Code § 12252 (amended).**

37 SEC. _____. Section 12252 of the Public Resources Code is amended to read:

38 12252. The easement shall not be required as a condition of any lease, permit,
39 license, certificate, or other entitlement for use issued by one or more public
40 agencies, including, but not limited to, mitigating the significant effects on the
41 environment of a project pursuant to an approved environmental impact report or

1 mitigated negative declaration pursuant to the California Environmental Quality Act
2 (Division 13 (commencing with Section 21000)), the Z'berg-Nejedly Forest
3 Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of
4 Division 4), the California Endangered Species Act (~~Chapter 1.5 (commencing with~~
5 ~~Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division~~
6 17 of the Fish and Game Wildlife Code), or pursuant to an approved environmental
7 impact statement or a finding of no significant impact under the National
8 Environmental Policy Act of 1969 (42 U.S.C.A. Sec. 4321 et seq.) or the federal
9 Endangered Species Act of 1973 (16 U.S.C.A. Sec. 1531 et seq.).

10 **Comment.** Section 12252 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Pub. Res. Code § 21080.23 (amended).**

13 SEC. _____. Section 21080.23 of the Public Resources Code is amended to read:

14 21080.23. (a) This division does not apply to any project which consists of the
15 inspection, maintenance, repair, restoration, reconditioning, relocation,
16 replacement, or removal of an existing pipeline, as defined in subdivision (a) of
17 Section 51010.5 of the Government Code, or any valve, flange, meter, or other piece
18 of equipment that is directly attached to the pipeline, if the project meets all of the
19 following conditions:

20 (1)(A) The project is less than eight miles in length.

21 (B) Notwithstanding subparagraph (A), actual construction and excavation
22 activities undertaken to achieve the maintenance, repair, restoration, reconditioning,
23 relocation, replacement, or removal of an existing pipeline are not undertaken over
24 a length of more than one-half mile at any one time.

25 (2) The project consists of a section of pipeline that is not less than eight miles
26 from any section of pipeline that has been subject to an exemption pursuant to this
27 section in the past 12 months.

28 (3) The project is not solely for the purpose of excavating soil that is contaminated
29 by hazardous materials, and, to the extent not otherwise expressly required by law,
30 the party undertaking the project immediately informs the lead agency of the
31 discovery of contaminated soil.

32 (4) To the extent not otherwise expressly required by law, the person undertaking
33 the project has, in advance of undertaking the project, prepared a plan that will result
34 in notification of the appropriate agencies so that they may take action, if determined
35 to be necessary, to provide for the emergency evacuation of members of the public
36 who may be located in close proximity to the project.

37 (5) Project activities are undertaken within an existing right-of-way and the right-
38 of-way is restored to its condition prior to the project.

39 (6) The project applicant agrees to comply with all conditions otherwise
40 authorized by law, imposed by the city or county planning department as part of any
41 local agency permit process, that are required to mitigate potential impacts of the

1 proposed project, and to otherwise comply with the Keene-Nejedly California
2 Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division
3 5), the California Endangered Species Act (~~Chapter 1.5 (commencing with Section~~
4 ~~2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17~~ of the
5 Fish and ~~Game~~ Wildlife Code), and other applicable state laws, and with all
6 applicable federal laws.

7 (b) If a project meets all of the requirements of subdivision (a), the person
8 undertaking the project shall do all of the following:

9 (1) Notify, in writing, any affected public agency, including, but not limited to,
10 any public agency having permit, land use, environmental, public health protection,
11 or emergency response authority of the exemption of the project from this division
12 by subdivision (a).

13 (2) Provide notice to the public in the affected area in a manner consistent with
14 paragraph (3) of subdivision (b) of Section 21092.

15 (3) In the case of private rights-of-way over private property, receive from the
16 underlying property owner permission for access to the property.

17 (4) Comply with all conditions otherwise authorized by law, imposed by the city
18 or county planning department as part of any local agency permit process, that are
19 required to mitigate potential impacts of the proposed project, and otherwise comply
20 with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7
21 (commencing with Section 5810) of Division 5), the California Endangered Species
22 Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
23 ~~(commencing with Section 62000) of Division 17~~ of the Fish and ~~Game~~ Wildlife
24 Code), and other applicable state laws, and with all applicable federal laws.

25 (c) This section does not apply to either of the following:

26 (1) A project in which the diameter of the pipeline is increased.

27 (2) A project undertaken within the boundaries of an oil refinery.

28 **Comment.** Section 21080.23 is amended to reflect the recodification of the former Fish and
29 Game Code.

30 **Pub. Res. Code § 21080.25 (amended).**

31 SEC. ____ . Section 21080.25 of the Public Resources Code is amended to read:

32 21080.25. (a) For purposes of this section, the following definitions shall apply:

33 (1) “Antenna support structures” means lattice towers, monopoles, and roof-
34 mounts.

35 (2) “Authority” means the Los Angeles Regional Interoperable Communication
36 System Joint Powers Authority.

37 (3) “Habitat of significant value” includes all of the following:

38 (A) Wildlife habitat of national, statewide, or regional importance.

39 (B) Habitat identified as candidate, fully protected, sensitive, or species of special
40 status by a state or federal agency.

41 (C) Habitat essential to the movement of resident or migratory wildlife.

1 (4) “LA-RICS” means the Los Angeles Regional Interoperable Communications
2 System, consisting of a long-term evolution broadband mobile data system, a land
3 mobile radio system, or both.

4 (5) “LMR” means a land mobile radio system.

5 (6) “LTE” means a long-term evolution broadband mobile data system.

6 (7) “Riparian area” means an area that is transitional between terrestrial and
7 aquatic ecosystems, that is distinguished by gradients in biophysical conditions,
8 ecological processes, and biota, and that meets the following criteria:

9 (A) Is an area through which surface and subsurface hydrology connect bodies of
10 water with their adjacent uplands.

11 (B) Is adjacent to perennial, intermittent, and ephemeral streams, lakes, or
12 estuarine or marine shorelines.

13 (C) Includes those portions of terrestrial ecosystems that significantly influence
14 exchanges of energy and matter with aquatic ecosystems.

15 (8) “Wetlands” has the same meaning as defined in the United States Fish and
16 Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

17 (9) “Wildlife habitat” means the ecological communities upon which wild
18 animals, birds, plants, fish, amphibians, and invertebrates depend for their
19 conservation and protection.

20 (b) Except as provided in subdivision (d), if all the criteria specified in subdivision
21 (c) are met at the individual project site, this division does not apply to the design,
22 site acquisition, construction, operation, or maintenance of the following elements
23 of the LA-RICS:

24 (1) Antennas, including microwave dishes and arrays.

25 (2) Antenna support structures.

26 (3) Equipment enclosures.

27 (4) Central system switch facilities.

28 (5) Associated foundations and equipment.

29 (c) As a condition of the exemption specified in subdivision (b), all of the
30 following criteria shall be met at the individual project site:

31 (1) The project site is publicly owned and already contains either of the following:

32 (A) An antenna support structure and either of the following components:

33 (i) Antennas.

34 (ii) Equipment enclosures.

35 (B) A police or sheriff station or other public facility that transmits or receives
36 public safety radio signals, except a fire station.

37 (2) Construction and implementation at the project site would not have a
38 substantial adverse impact on wetlands, riparian areas, or habitat of significant
39 value, and would not harm any species protected by the federal Endangered Species
40 Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (~~Chapter~~
41 ~~10 (commencing with Section 1900) of Division 2 Title 1 (commencing with~~
42 Section 53800) of Part 3 of Division 14 of the Fish and Game Wildlife Code), or

1 the California Endangered Species Act (~~Chapter 1.5 (commencing with Section~~
2 ~~2050) of Division 3~~ Part 1 (commencing with Section 62000) of Division 17 of the
3 Fish and ~~Game~~ Wildlife Code) or the habitat of those species.

4 (3) Construction and implementation of the project at the site would not have a
5 substantial adverse impact on historical resources pursuant to Section 21084.1.

6 (4) Operation of the project at the site would not exceed the maximum permissible
7 exposure standards established by the Federal Communications Commission, as set
8 forth in Sections 1.1307 and 1.1310 of Title 47 of the Code of Federal Regulations.

9 (5) Any new LTE antenna support structures or LMR antenna support structures
10 would comply with applicable state and federal height restrictions and any height
11 restrictions mandated by an applicable comprehensive land use plan adopted by an
12 airport land use commission. The new monopoles shall not exceed 70 feet in height
13 without appurtenances and attachments, and new lattice towers shall not exceed 180
14 feet in height without appurtenances and attachments.

15 (6) Each new central system switch is located within an existing enclosed
16 structure at a publicly owned project site or is housed at an existing private
17 communications facility.

18 (d) Subdivision (b) does not apply if the individual project site is located on either
19 of the following:

20 (1) A school site.

21 (2) A cultural or sacred site, as described in Section 5097.9 or 5097.993.

22 (e)(1) Before determining that a project is not subject to this division pursuant to
23 this section, the authority shall hold a noticed public meeting in each county
24 supervisorial district in which the project is located to hear and respond to public
25 comments. The notice shall be provided at least 72 hours in advance of the meeting
26 and published no fewer times than required by Section 6061 of the Government
27 Code by the authority in a newspaper of general circulation in each county
28 supervisorial district in which the project is located.

29 (2) If the authority determines that a project is not subject to this division pursuant
30 to this section, and it determines to approve or carry out that project, the notice of
31 exemption shall be filed with the Office of Planning and Research and the county
32 clerk in the county in which the project is located in the manner specified in
33 subdivisions (b) and (c) of Section 21152. The authority shall post the notice of
34 exemption on its Internet Web site.

35 (f) The authority shall post on its Internet Web site all of the following, as
36 applicable:

37 (1) Draft and final environmental documentation in compliance with this division
38 or the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et
39 seq.).

40 (2) The date of filing of notices required pursuant to this division or the federal
41 National Environmental Policy Act of 1969.

42 (3) All notice and hearing information regarding review and approval of
43 environmental documentation by federal agencies.

1 (g) On or after January 1, 2017, the authority and its member agencies shall
2 approve use agreements for the LA-RICS in an open and noticed public meeting.

3 (h) This section shall remain in effect only until January 1, 2020, and as of that
4 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
5 deletes or extends that date.

6 **Comment.** Paragraph (2) of subdivision (c) of Section 21080.25 is amended to reflect the
7 recodification of the former Fish and Game Code.

8 **Pub. Res. Code § 21080.29 (amended).**

9 SEC. _____. Section 21080.29 of the Public Resources Code is amended to read:

10 21080.29. (a) A project located in Los Angeles County that is approved by a
11 public agency before the effective date of the act adding this section is not in
12 violation of any requirement of this division by reason of the failure to construct a
13 roadway across the property transferred to the state pursuant to subdivision (c) and
14 to construct a bridge over the adjacent Ballona Channel in Los Angeles County,
15 otherwise required as a mitigation measure pursuant to this division, if all of the
16 following conditions apply:

17 (1) The improvements specified in this subdivision are not constructed, due in
18 whole or in part, to the project owner's or developer's relinquishment of easement
19 rights to construct those improvements.

20 (2) The easement rights in paragraph (1) are relinquished in connection with the
21 State of California, acting by and through the Wildlife Conservation Board of the
22 Department of Fish and ~~Game~~ Wildlife, acquiring a wetlands project that is a
23 minimum of 400 acres in size and located within the coastal zone.

24 (b) Where those easement rights have been relinquished, any municipal ordinance
25 or regulation adopted by a charter city or a general law city shall be inapplicable to
26 the extent that the ordinance or regulation requires construction of the transportation
27 improvements specified in subdivision (a), or would otherwise require reprocessing
28 or resubmittal of a permit or approval, including, but not limited to, a final recorded
29 map, a vesting tentative map, or a tentative map, as a result of the transportation
30 improvements specified in subdivision (a) not being constructed.

31 (c)(1) If the Wildlife Conservation Board of the Department of Fish and ~~Game~~
32 Wildlife acquires property within the coastal zone that is a minimum of 400 acres
33 in size pursuant to a purchase and sale agreement with Playa Capital Company,
34 LLC, the Controller shall direct the trustee under the Amendment to Declaration of
35 Trust entered into on or about December 11, 1984, by First Nationwide Savings, as
36 trustee, Summa Corporation, as trustor, and the Controller, as beneficiary, known
37 as the HRH Inheritance Tax Security Trust, to convey title to the trust estate of the
38 trust, including real property commonly known as Playa Vista Area C, to the State
39 of California acting by and through the Wildlife Conservation Board of the
40 Department of Fish and ~~Game~~ Wildlife for conservation, restoration, or recreation

1 purposes only, with the right to transfer the property for those uses to any other
2 agency of the State of California.

3 (2) This subdivision shall constitute the enabling legislation required by the
4 Amendment to Declaration of Trust to empower the Controller to direct the trustee
5 to convey title to the trust estate under the HRH Inheritance Tax Security Trust to
6 the State of California or an agency thereof.

7 (3) The conveyance of the trust estate to the Wildlife Conservation Board
8 pursuant to this subdivision shall supersede any duty or obligation imposed upon
9 the Controller under the Probate Code or the Revenue and Taxation Code with
10 respect to the disposition or application of the net proceeds of the trust estate.

11 **Comment.** Section 21080.29 is amended to update references to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 21080.35 (amended).**

14 SEC. _____. Section 21080.35 of the Public Resources Code is amended to read:

15 21080.35. (a) Except as provided in subdivision (d), this division does not apply
16 to the installation of a solar energy system on the roof of an existing building or at
17 an existing parking lot.

18 (b) For the purposes of this section, the following terms mean the following:

19 (1) “Existing parking lot” means an area designated and used for parking of
20 vehicles as of the time of the application for the solar energy system and for at least
21 the previous two years.

22 (2) “Solar energy system” includes all associated equipment. Associated
23 equipment consists of parts and materials that enable the generation and use of solar
24 electricity or solar-heated water, including any monitoring and control, safety,
25 conversion, and emergency responder equipment necessary to connect to the
26 customer’s electrical service or plumbing and any equipment, as well as any
27 equipment necessary to connect the energy generated to the electrical grid, whether
28 that connection is onsite or on an adjacent parcel of the building and separated only
29 by an improved right-of-way. “Associated equipment” does not include a
30 substation.

31 (c)(1) Associated equipment shall be located on the same parcel of the building,
32 except that associated equipment necessary to connect the energy generated to the
33 electrical grid may be located immediately adjacent to the parcel of the building or
34 immediately adjacent to the parcel of the building and separated only by an
35 improved right-of-way.

36 (2) Associated equipment shall not occupy more than 500 square feet of ground
37 surface and the site of the associated equipment shall not contain plants protected
38 by the Native Plant Protection Act (~~Chapter 10 (commencing with Section 1900)~~ of
39 ~~Division 2~~ Title 1 (commencing with Section 53800) of Part 3 of Division 14 of the
40 Fish and ~~Game~~ Wildlife Code).

41 (d) This section does not apply if the associated equipment would otherwise
42 require one of the following:

1 (1) An individual federal permit pursuant to Section 401 or 404 of the federal
2 Clean Water Act (33 U.S.C. Sec. 1341 or 1344) or waste discharge requirements
3 pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing
4 with Section 13000) of the Water Code).

5 (2) An individual take permit for species protected under the federal Endangered
6 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California Endangered
7 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
8 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
9 Code).

10 (3) A streambed alteration permit pursuant to ~~Chapter 6 (commencing with~~
11 ~~Section 1600) of Division 2 Title 3 (commencing with Section 69700) of Part 4 of~~
12 Division 17 of the Fish and Game Wildlife Code.

13 (e) This section does not apply if the installation of a solar energy system at an
14 existing parking lot involves either of the following:

15 (1) The removal of a tree required to be planted, maintained, or protected pursuant
16 to local, state, or federal requirements, unless the tree dies and there is no
17 requirement to replace the tree.

18 (2) The removal of a native tree over 25 years old.

19 (f) This section does not apply to any transmission or distribution facility or
20 connection.

21 **Comment.** Section 21080.35 is amended to reflect the recodification of the former Fish and
22 Game Code.

23 **Pub. Res. Code § 21080.37 (amended).**

24 SEC. _____. Section 21080.37 of the Public Resources Code is amended to read:

25 21080.37. (a) This division does not apply to a project or an activity to repair,
26 maintain, or make minor alterations to an existing roadway if all of the following
27 conditions are met:

28 (1) The project is carried out by a city or county with a population of less than
29 100,000 persons to improve public safety.

30 (2)(A) The project does not cross a waterway.

31 (B) For purposes of this paragraph, “waterway” means a bay, estuary, lake, pond,
32 river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-
33 marine shoreline.

34 (3) The project involves negligible or no expansion of an existing use beyond that
35 existing at the time of the lead agency’s determination.

36 (4) The roadway is not a state roadway.

37 (5)(A) The site of the project does not contain wetlands or riparian areas and does
38 not have significant value as a wildlife habitat, and the project does not harm any
39 species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
40 1531 et seq.), the Native Plant Protection Act (~~Chapter 10 (commencing with~~
41 ~~Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of~~

1 Division 14 of the Fish and ~~Game~~ Wildlife Code), or the California Endangered
2 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
3 (commencing with Section 62000) of Division 17 of the Fish and ~~Game~~ Wildlife
4 Code), and the project does not cause the destruction or removal of any species
5 protected by a local ordinance.

6 (B) For the purposes of this paragraph:

7 (i) “Riparian areas” mean those areas transitional between terrestrial and aquatic
8 ecosystems and that are distinguished by gradients in biophysical conditions,
9 ecological processes, and biota. A riparian area is an area through which surface and
10 subsurface hydrology connect waterbodies with their adjacent uplands. A riparian
11 area includes those portions of terrestrial ecosystems that significantly influence
12 exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent
13 to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine
14 shorelines.

15 (ii) “Significant value as a wildlife habitat” includes wildlife habitat of national,
16 statewide, regional, or local importance; habitat for species protected by the federal
17 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California
18 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
19 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and ~~Game~~
20 Wildlife Code), or the Native Plant Protection Act (~~Chapter 10 (commencing with~~
21 Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of
22 Division 14 of the Fish and ~~Game~~ Wildlife Code); habitat identified as candidate,
23 fully protected, sensitive, or species of special status by local, state, or federal
24 agencies; or habitat essential to the movement of resident or migratory wildlife.

25 (iii) “Wetlands” has the same meaning as in the United States Fish and Wildlife
26 Service Manual, Part 660 FW 2 (June 21, 1993).

27 (iv) “Wildlife habitat” means the ecological communities upon which wild
28 animals, birds, plants, fish, amphibians, and invertebrates depend for their
29 conservation and protection.

30 (6) The project does not impact cultural resources.

31 (7) The roadway does not affect scenic resources, as provided pursuant to
32 subdivision (c) of Section 21084.

33 (b) Prior to determining that a project is exempt pursuant to this section, the lead
34 agency shall do both of the following:

35 (1) Include measures in the project to mitigate potential vehicular traffic and
36 safety impacts and bicycle and pedestrian safety impacts.

37 (2) Hold a noticed public hearing on the project to hear and respond to public
38 comments. The hearing on the project may be conducted with another noticed lead
39 agency public hearing. Publication of the notice shall be no fewer times than
40 required by Section 6061 of the Government Code, by the public agency in a
41 newspaper of general circulation in the area.

42 (c) For purposes of this section, “roadway” means a roadway as defined pursuant
43 to Section 530 of the Vehicle Code and the previously graded and maintained

1 shoulder that is within a roadway right-of-way of no more than five feet from the
2 edge of the roadway.

3 (d) Whenever a local agency determines that a project is not subject to this
4 division pursuant to this section, and it approves or determines to carry out that
5 project, the local agency shall file a notice with the Office of Planning and Research,
6 and with the county clerk in the county in which the project will be located in the
7 manner specified in subdivisions (b) and (c) of Section 21152.

8 (e) This section shall remain in effect only until January 1, 2020, and as of that
9 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
10 deletes or extends that date.

11 **Comment.** Section 21080.37 is amended to reflect the recodification of the former Fish and
12 Game Code.

13 **Pub. Res. Code § 21083.4 (amended).**

14 SEC. ____ . Section 21083.4 of the Public Resources Code is amended to read:

15 21083.4. (a) For purposes of this section, “oak” means a native tree species in the
16 genus *Quercus*, not designated as Group A or Group B commercial species pursuant
17 to regulations adopted by the State Board of Forestry and Fire Protection pursuant
18 to Section 4526, and that is 5 inches or more in diameter at breast height.

19 (b) As part of the determination made pursuant to Section 21080.1, a county shall
20 determine whether a project within its jurisdiction may result in a conversion of oak
21 woodlands that will have a significant effect on the environment. If a county
22 determines that there may be a significant effect to oak woodlands, the county shall
23 require one or more of the following oak woodlands mitigation alternatives to
24 mitigate the significant effect of the conversion of oak woodlands:

25 (1) Conserve oak woodlands, through the use of conservation easements.

26 (2)(A) Plant an appropriate number of trees, including maintaining plantings and
27 replacing dead or diseased trees.

28 (B) The requirement to maintain trees pursuant to this paragraph terminates seven
29 years after the trees are planted.

30 (C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of
31 the mitigation requirement for the project.

32 (D) The requirements imposed pursuant to this paragraph also may be used to
33 restore former oak woodlands.

34 (3) Contribute funds to the Oak Woodlands Conservation Fund, as established
35 under ~~subdivision (a) of Section 1363~~ Section 54925 of the ~~Fish and Game~~ Wildlife
36 Code, for the purpose of purchasing oak woodlands conservation easements, as
37 specified under paragraph (1) of subdivision (d) of that section and the guidelines
38 and criteria of the Wildlife Conservation Board. A project applicant that contributes
39 funds under this paragraph shall not receive a grant from the Oak Woodlands
40 Conservation Fund as part of the mitigation for the project.

41 (4) Other mitigation measures developed by the county.

1 (c) Notwithstanding ~~subdivision (d) of Section 1363~~ subdivision (a) of Section
2 54940 of the Fish and ~~Game~~ Wildlife Code, a county may use a grant awarded
3 pursuant to the Oak Woodlands Conservation Act (~~Article 3.5 (commencing with~~
4 ~~Section 1360) of Chapter 4 of Division 2~~ Chapter 3 (commencing with Section
5 54900) of Title 1 of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code) to
6 prepare an oak conservation element for a general plan, an oak protection ordinance,
7 or an oak woodlands management plan, or amendments thereto, that meets the
8 requirements of this section.

9 (d) The following are exempt from this section:

10 (1) Projects undertaken pursuant to an approved Natural Community
11 Conservation Plan or approved subarea plan within an approved Natural
12 Community Conservation Plan that includes oaks as a covered species or that
13 conserves oak habitat through natural community conservation preserve designation
14 and implementation and mitigation measures that are consistent with this section.

15 (2) Affordable housing projects for lower income households, as defined pursuant
16 to Section 50079.5 of the Health and Safety Code, that are located within an
17 urbanized area, or within a sphere of influence as defined pursuant to Section 56076
18 of the Government Code.

19 (3) Conversion of oak woodlands on agricultural land that includes land that is
20 used to produce or process plant and animal products for commercial purposes.

21 (4) Projects undertaken pursuant to Section 21080.5 of the Public Resources
22 Code.

23 (e)(1) A lead agency that adopts, and a project that incorporates, one or more of
24 the measures specified in this section to mitigate the significant effects to oaks and
25 oak woodlands shall be deemed to be in compliance with this division only as it
26 applies to effects on oaks and oak woodlands.

27 (2) The Legislature does not intend this section to modify requirements of this
28 division, other than with regard to effects on oaks and oak woodlands.

29 (f) This section does not preclude the application of Section 21081 to a project.

30 (g) This section, and the regulations adopted pursuant to this section, shall not be
31 construed as a limitation on the power of a public agency to comply with this
32 division or any other provision of law.

33 **Comment.** Section 21083.4 is amended to reflect the recodification of the former Fish and Game
34 Code.

35 **Pub. Res. Code § 21089 (amended).**

36 SEC. _____. Section 21089 of the Public Resources Code is amended to read:

37 21089. (a) A lead agency may charge and collect a reasonable fee from a person
38 proposing a project subject to this division in order to recover the estimated costs
39 incurred by the lead agency in preparing a negative declaration or an environmental
40 impact report for the project and for procedures necessary to comply with this
41 division on the project. Litigation expenses, costs, and fees incurred in actions

1 alleging noncompliance with this division under Section 21167 are not recoverable
2 under this section.

3 (b) The Department of Fish and ~~Game~~ Wildlife may charge and collect filing fees,
4 as provided in ~~Section 711.4~~ Sections 66200 through 66245, inclusive, of the Fish
5 and ~~Game~~ Wildlife Code. Notwithstanding Section 21080.1, a finding required
6 under Section 21081, or a project approved under a certified regulatory program
7 authorized pursuant to Section 21080.5 is not operative, vested, or final until the
8 filing fees required pursuant to ~~Section 711.4~~ Sections 66200 through 66245,
9 inclusive, of the Fish and ~~Game~~ Wildlife Code are paid.

10 (c)(1) A public agency may charge and collect a reasonable fee from members of
11 the public for a copy of an environmental document not to exceed the cost of
12 reproducing the environmental document. A public agency may provide the
13 environmental document in an electronic format as provided pursuant to Section
14 6253.9 of the Government Code.

15 (2) For purposes of this subdivision, “environmental document” means an initial
16 study, negative declaration, mitigated negative declaration, draft and final
17 environmental impact report, a document prepared as a substitute for an
18 environmental impact report, negative declaration, or mitigated negative declaration
19 under a program certified pursuant to Section 21080.5, and a document prepared
20 under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321
21 et seq.) and used by a state or local agency in the place of the initial study, negative
22 declaration, mitigated negative declaration, or an environmental impact report.

23 **Comment.** Section 21089 is amended to reflect the recodification of the former Fish and Game
24 Code. The section is also amended to update a reference to the former Department of Fish and
25 Game. See Fish & Wildlife Code § 1500.

26 **Pub. Res. Code § 21104.2 (amended).**

27 SEC. _____. Section 21104.2 of the Public Resources Code is amended to read:

28 21104.2. The state lead agency shall consult with, and obtain written findings
29 from, the Department of Fish and ~~Game~~ Wildlife in preparing an environmental
30 impact report on a project, as to the impact of the project on the continued existence
31 of any endangered species or threatened species pursuant to Article 4 (commencing
32 with Section 2090) of Chapter 1.5 of Division 3 of the Fish and Game Code.

33 **Comment.** Section 21104.2 is amended to update a reference to the former Department of Fish
34 and Game. See Fish & Wildlife Code § 1500.

35  **Note.** The section above cross-refers to Article 4 (commencing with Section 2090) of Chapter
36 1.5 of Division 3 of the existing Fish and Game Code, which was repealed by its own terms in
37 1999. See 1993 Cal. Stat. ch. 337, § 1. The former article provided for consultation by the
38 Department of Fish and Game with specified state agencies relating to the extent a proposed state
39 project would impact endangered or threatened species.

40 **With the repeal of Article 4, it is not clear how Section 21104.2 should be revised.**

41 **The Commission requests public comment on that issue.**

1 **Pub. Res. Code § 21155.1 (amended).**

2 SEC. _____. Section 21155.1 of the Public Resources Code is amended to read:

3 21155.1. If the legislative body finds, after conducting a public hearing, that a
4 transit priority project meets all of the requirements of subdivisions (a) and (b) and
5 one of the requirements of subdivision (c), the transit priority project is declared to
6 be a sustainable communities project and shall be exempt from this division.

7 (a) The transit priority project complies with all of the following environmental
8 criteria:

9 (1) The transit priority project and other projects approved prior to the approval
10 of the transit priority project but not yet built can be adequately served by existing
11 utilities, and the transit priority project applicant has paid, or has committed to pay,
12 all applicable in-lieu or development fees.

13 (2)(A) The site of the transit priority project does not contain wetlands or riparian
14 areas and does not have significant value as a wildlife habitat, and the transit priority
15 project does not harm any species protected by the federal Endangered Species Act
16 of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (~~Chapter 10~~
17 ~~(commencing with Section 1900) of Division 2~~ Title 1 (commencing with Section
18 53800) of Part 3 of Division 14 of the Fish and ~~Game~~ Wildlife Code), or the
19 California Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050)~~
20 ~~of Division 3~~ Part 1 (commencing with Section 62000) of Division 17 of the Fish
21 and ~~Game~~ Wildlife Code), and the project does not cause the destruction or removal
22 of any species protected by a local ordinance in effect at the time the application for
23 the project was deemed complete.

24 (B) For the purposes of this paragraph, “wetlands” has the same meaning as in the
25 United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

26 (C) For the purposes of this paragraph:

27 (i) “Riparian areas” means those areas transitional between terrestrial and aquatic
28 ecosystems and that are distinguished by gradients in biophysical conditions,
29 ecological processes, and biota. A riparian area is an area through which surface and
30 subsurface hydrology connect waterbodies with their adjacent uplands. A riparian
31 area includes those portions of terrestrial ecosystems that significantly influence
32 exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent
33 to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine
34 shorelines.

35 (ii) “Wildlife habitat” means the ecological communities upon which wild
36 animals, birds, plants, fish, amphibians, and invertebrates depend for their
37 conservation and protection.

38 (iii) Habitat of “significant value” includes wildlife habitat of national, statewide,
39 regional, or local importance; habitat for species protected by the federal
40 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California
41 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
42 ~~3~~ Part 1 (commencing with Section 62000) of Division 17 of the Fish and ~~Game~~
43 Wildlife Code), or the Native Plant Protection Act (~~Chapter 10 (commencing with~~

1 ~~Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of~~
2 ~~Division 14 of the Fish and Game Wildlife Code);~~ habitat identified as candidate,
3 fully protected, sensitive, or species of special status by local, state, or federal
4 agencies; or habitat essential to the movement of resident or migratory wildlife.

5 (3) The site of the transit priority project is not included on any list of facilities
6 and sites compiled pursuant to Section 65962.5 of the Government Code.

7 (4) The site of the transit priority project is subject to a preliminary endangerment
8 assessment prepared by an environmental assessor to determine the existence of any
9 release of a hazardous substance on the site and to determine the potential for
10 exposure of future occupants to significant health hazards from any nearby property
11 or activity.

12 (A) If a release of a hazardous substance is found to exist on the site, the release
13 shall be removed or any significant effects of the release shall be mitigated to a level
14 of insignificance in compliance with state and federal requirements.

15 (B) If a potential for exposure to significant hazards from surrounding properties
16 or activities is found to exist, the effects of the potential exposure shall be mitigated
17 to a level of insignificance in compliance with state and federal requirements.

18 (5) The transit priority project does not have a significant effect on historical
19 resources pursuant to Section 21084.1.

20 (6) The transit priority project site is not subject to any of the following:

21 (A) A wildland fire hazard, as determined by the Department of Forestry and Fire
22 Protection, unless the applicable general plan or zoning ordinance contains
23 provisions to mitigate the risk of a wildland fire hazard.

24 (B) An unusually high risk of fire or explosion from materials stored or used on
25 nearby properties.

26 (C) Risk of a public health exposure at a level that would exceed the standards
27 established by any state or federal agency.

28 (D) Seismic risk as a result of being within a delineated earthquake fault zone, as
29 determined pursuant to Section 2622, or a seismic hazard zone, as determined
30 pursuant to Section 2696, unless the applicable general plan or zoning ordinance
31 contains provisions to mitigate the risk of an earthquake fault or seismic hazard
32 zone.

33 (E) Landslide hazard, flood plain, flood way, or restriction zone, unless the
34 applicable general plan or zoning ordinance contains provisions to mitigate the risk
35 of a landslide or flood.

36 (7) The transit priority project site is not located on developed open space.

37 (A) For the purposes of this paragraph, “developed open space” means land that
38 meets all of the following criteria:

39 (i) Is publicly owned, or financed in whole or in part by public funds.

40 (ii) Is generally open to, and available for use by, the public.

1 (iii) Is predominantly lacking in structural development other than structures
2 associated with open spaces, including, but not limited to, playgrounds, swimming
3 pools, ballfields, enclosed child play areas, and picnic facilities.

4 (B) For the purposes of this paragraph, “developed open space” includes land that
5 has been designated for acquisition by a public agency for developed open space,
6 but does not include lands acquired with public funds dedicated to the acquisition
7 of land for housing purposes.

8 (8) The buildings in the transit priority project are 15 percent more energy
9 efficient than required by Chapter 6 of Title 24 of the California Code of Regulations
10 and the buildings and landscaping are designed to achieve 25 percent less water
11 usage than the average household use in the region.

12 (b) The transit priority project meets all of the following land use criteria:

13 (1) The site of the transit priority project is not more than eight acres in total area.

14 (2) The transit priority project does not contain more than 200 residential units.

15 (3) The transit priority project does not result in any net loss in the number of
16 affordable housing units within the project area.

17 (4) The transit priority project does not include any single level building that
18 exceeds 75,000 square feet.

19 (5) Any applicable mitigation measures or performance standards or criteria set
20 forth in the prior environmental impact reports, and adopted in findings, have been
21 or will be incorporated into the transit priority project.

22 (6) The transit priority project is determined not to conflict with nearby operating
23 industrial uses.

24 (7) The transit priority project is located within one-half mile of a rail transit
25 station or a ferry terminal included in a regional transportation plan or within one-
26 quarter mile of a high-quality transit corridor included in a regional transportation
27 plan.

28 (c) The transit priority project meets at least one of the following three criteria:

29 (1) The transit priority project meets both of the following:

30 (A) At least 20 percent of the housing will be sold to families of moderate income,
31 or not less than 10 percent of the housing will be rented to families of low income,
32 or not less than 5 percent of the housing is rented to families of very low income.

33 (B) The transit priority project developer provides sufficient legal commitments
34 to the appropriate local agency to ensure the continued availability and use of the
35 housing units for very low, low-, and moderate-income households at monthly
36 housing costs with an affordable housing cost or affordable rent, as defined in
37 Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period
38 required by the applicable financing. Rental units shall be affordable for at least 55
39 years. Ownership units shall be subject to resale restrictions or equity sharing
40 requirements for at least 30 years.

41 (2) The transit priority project developer has paid or will pay in-lieu fees pursuant
42 to a local ordinance in an amount sufficient to result in the development of an

1 equivalent number of units that would otherwise be required pursuant to paragraph
2 (1).

3 (3) The transit priority project provides public open space equal to or greater than
4 five acres per 1,000 residents of the project.

5 **Comment.** Subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 21155.1
6 are amended to reflect the recodification of the former Fish and Game Code.

7 **Pub. Res. Code § 21157.7 (amended).**

8 SEC. _____. Section 21157.7 of the Public Resources Code is amended to read:

9 21157.7. (a) For purposes of this section, a master environmental impact report is
10 a document prepared in accordance with subdivision (c) for the projects described
11 in subdivision (b) that, upon certification, is followed by review of subsequent
12 projects as provided in Sections 21157.1 and 21157.5.

13 (b) A master environmental impact report may be prepared for a plan adopted by
14 the Department of Transportation for improvements to regional segments of
15 Highway 99 funded pursuant to subdivision (b) of Section 8879.23 of the
16 Government Code, to streamline, coordinate, and improve environmental review.

17 (c) The report shall include all of the following:

18 (1) A detailed statement as required by Section 21100.

19 (2) A description of the anticipated highway improvements along Highway 99
20 that would be within the scope of the master environmental impact report, that
21 contains sufficient information about all phases of the Highway 99 construction
22 activities, including, but not limited to, all of the following:

23 (A) The specific types of improvements that will be undertaken.

24 (B) The anticipated location and alternative locations for any of the Highway 99
25 improvements, including overpasses, bridges, railroad crossings, and interchanges.

26 (C) A capital outlay or capital improvement program, or other scheduling or
27 implementing device that governs the construction activities associated with the
28 Highway 99 improvements.

29 (d) The Department of Transportation may communicate, coordinate, and consult
30 with the Resources Agency, Wildlife Conservation Board, Department of Fish and
31 ~~Game~~ Wildlife, Department of Conservation, and other appropriate federal, state, or
32 local governments, including interested stakeholders, to consider and implement
33 mitigation requirements on a regional basis for the projects described in subdivision
34 (b). This may include both of the following:

35 (1) Identification of priority areas for mitigation, using information from these
36 agencies and departments as well as from other sources.

37 (2) Utilization of existing conservation programs of the agencies or departments
38 identified in this subdivision, if mitigation under those programs for improvements
39 under this section does not supplant mitigation for a project.

40 (e) The Department of Transportation may execute an agreement, memorandum
41 of understanding, or other similar instrument to memorialize its understanding of

1 any communication, coordination, or implementation activities with other state
2 agencies for the purposes of meeting mitigation requirements on a regional basis.

3 (f) Notwithstanding any other provision of law, nothing in this section is intended
4 to interfere with or prevent the existing authority of an agency or department to
5 carry out its programs, projects, or responsibilities to identify, review, approve,
6 deny, or implement any mitigation requirements, and nothing in this section shall
7 be construed as a limitation on mitigation requirements for the project, or a
8 limitation on compliance with requirements under this division or any other
9 provision of law.

10 (g) Notwithstanding Section 21157.6, the master environmental impact report
11 shall not be used for the purposes of this section, if the certification of the master
12 environmental impact report occurred more than seven years prior to the filing of
13 an application for the subsequent project.

14 **Comment.** Section 21157.7 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Pub. Res. Code § 21159.21 (amended).**

17 SEC. ____ . Section 21159.21 of the Public Resources Code is amended to read:

18 21159.21. A housing project qualifies for an exemption from this division
19 pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the
20 applicable section and all of the following criteria:

21 (a) The project is consistent with any applicable general plan, specific plan, and
22 local coastal program, including any mitigation measures required by a plan or
23 program, as that plan or program existed on the date that the application was deemed
24 complete and with any applicable zoning ordinance, as that zoning ordinance
25 existed on the date that the application was deemed complete, except that a project
26 shall not be deemed to be inconsistent with the zoning designation for the site if that
27 zoning designation is inconsistent with the general plan only because the project site
28 has not been rezoned to conform with a more recently adopted general plan.

29 (b) Community-level environmental review has been adopted or certified.

30 (c) The project and other projects approved prior to the approval of the project
31 can be adequately served by existing utilities, and the project applicant has paid, or
32 has committed to pay, all applicable in-lieu or development fees.

33 (d) The site of the project does not contain wetlands, does not have any value as
34 a wildlife habitat, and the project does not harm any species protected by the federal
35 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant
36 Protection Act (~~Chapter 10 (commencing with Section 1900) of Division 2 Title 1~~
37 (commencing with Section 53800) of Part 3 of Division 14 of the Fish and Game
38 Wildlife Code), the California Endangered Species Act (~~Chapter 1.5 (commencing~~
39 ~~with Section 2050) of Division 3 Part 1 (commencing with Section 62000) of~~
40 Division 17 of the Fish and Game Wildlife Code), and the project does not cause
41 the destruction or removal of any species protected by a local ordinance in effect at
42 the time the application for the project was deemed complete. For the purposes of

1 this subdivision, “wetlands” has the same meaning as in Section 328.3 of Title 33
2 of the Code of Federal Regulations and “wildlife habitat” means the ecological
3 communities upon which wild animals, birds, plants, fish, amphibians, and
4 invertebrates depend for their conservation and protection.

5 (e) The site of the project is not included on any list of facilities and sites compiled
6 pursuant to Section 65962.5 of the Government Code.

7 (f) The site of the project is subject to a preliminary endangerment assessment
8 prepared by an environmental assessor to determine the existence of any release of
9 a hazardous substance on the site and to determine the potential for exposure of
10 future occupants to significant health hazards from any nearby property or activity.

11 (1) If a release of a hazardous substance is found to exist on the site, the release
12 shall be removed, or any significant effects of the release shall be mitigated to a
13 level of insignificance in compliance with state and federal requirements.

14 (2) If a potential for exposure to significant hazards from surrounding properties
15 or activities is found to exist, the effects of the potential exposure shall be mitigated
16 to a level of insignificance in compliance with state and federal requirements.

17 (g) The project does not have a significant effect on historical resources pursuant
18 to Section 21084.1.

19 (h) The project site is not subject to any of the following:

20 (1) A wildland fire hazard, as determined by the Department of Forestry and Fire
21 Protection, unless the applicable general plan or zoning ordinance contains
22 provisions to mitigate the risk of a wildland fire hazard.

23 (2) An unusually high risk of fire or explosion from materials stored or used on
24 nearby properties.

25 (3) Risk of a public health exposure at a level that would exceed the standards
26 established by any state or federal agency.

27 (4) Within a delineated earthquake fault zone, as determined pursuant to Section
28 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the
29 applicable general plan or zoning ordinance contains provisions to mitigate the risk
30 of an earthquake fault or seismic hazard zone.

31 (5) Landslide hazard, flood plain, flood way, or restriction zone, unless the
32 applicable general plan or zoning ordinance contains provisions to mitigate the risk
33 of a landslide or flood.

34 (i)(1) The project site is not located on developed open space.

35 (2) For the purposes of this subdivision, “developed open space” means land that
36 meets all of the following criteria:

37 (A) Is publicly owned, or financed in whole or in part by public funds.

38 (B) Is generally open to, and available for use by, the public.

39 (C) Is predominantly lacking in structural development other than structures
40 associated with open spaces, including, but not limited to, playgrounds, swimming
41 pools, ballfields, enclosed child play areas, and picnic facilities.

1 (3) For the purposes of this subdivision, “developed open space” includes land
2 that has been designated for acquisition by a public agency for developed open
3 space, but does not include lands acquired by public funds dedicated to the
4 acquisition of land for housing purposes.

5 (j) The project site is not located within the boundaries of a state conservancy.

6 **Comment.** Subdivision (d) of Section 21159.21 is amended to reflect the recodification of the
7 former Fish and Game Code.

8 **Pub. Res. Code § 25619 (amended).**

9 SEC. ____ . Section 25619 of the Public Resources Code is amended to read:

10 25619. (a) For purposes of this section, “qualified counties” means the Counties
11 of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Riverside,
12 San Bernardino, San Diego, San Joaquin, San Luis Obispo, Stanislaus, and Tulare.

13 (b) The commission shall provide up to seven million dollars (\$7,000,000) in
14 grants to qualified counties for the development or revision of rules and policies,
15 including, but not limited to, general plan elements, zoning ordinances, and a natural
16 community conservation plan as a plan participant, that facilitate the development
17 of eligible renewable energy resources, and their associated electric transmission
18 facilities, and the processing of permits for eligible renewable energy resources. The
19 commission may allocate not more than 1 percent of appropriated funds to provide
20 training to county planning staff to facilitate the siting and permitting of eligible
21 renewable energy resources. A general plan element or zoning ordinance that is
22 adopted or revised pursuant to this section shall be completed within two years of
23 receipt of the grant and shall be consistent with the conservation strategies of any
24 natural community conservation plan if one has been approved, or is under
25 development, pursuant to the Natural Community Conservation Planning Act
26 (~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
27 with Section 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code).
28 For counties within the Desert Renewable Energy Conservation Plan planning area,
29 the commission may award a grant to a county only if the county meets one of the
30 following conditions:

31 (1) The county is a “plan participant,” as defined by paragraph (1) of subdivision
32 (j) of Section ~~2805~~ 64515 of the Fish and ~~Game~~ Wildlife Code, in the Desert
33 Renewable Energy Conservation Plan.

34 (2) The county enters into a memorandum of understanding with the commission
35 in which the county agrees to participate in the development of a natural community
36 conservation plan for the purpose of ensuring that the natural community
37 conservation plan can achieve the goals set forth in the planning agreement entered
38 into pursuant to ~~Section 2810~~ Sections 64555 and 64560 of the Fish and ~~Game~~
39 Wildlife Code, that is dated May 2010, for the preparation of a natural community
40 conservation plan, in a manner that is consistent with the applicable policies of the
41 county.

1 (c) In its initial round of grant funding, the commission shall establish a preference
2 for a grant to a qualified county in an amount that is adequate to develop a renewable
3 energy element in its general plan that will facilitate the development and siting of
4 eligible renewable energy resources that utilize multiple renewable energy
5 technologies. The commission shall also establish a preference for a grant for those
6 counties that have experience in geothermal energy development and have adopted
7 a geothermal element, as defined in Section 25133, to its general plan.

8 (d) The commission shall only implement this section upon receiving a specific
9 appropriation for the purposes of this section by the Legislature from the Renewable
10 Resources Trust Fund or other funds from the Energy Resources Program Account.

11 **Comment.** Subdivision (b) of Section 25619 is amended to reflect the recodification of the
12 former Fish and Game Code.

13 **Pub. Res. Code § 26403 (amended).**

14 SEC. ____ . Section 26403 of the Public Resources Code is amended to read:

15 26403. Programs and projects eligible for funding from the Resources Account
16 shall be limited to any of the following:

17 (1) Appropriations to the State Coastal Conservancy for grants to public and
18 private agencies for the restoration of urban waterfronts, as described in “An Urban
19 Waterfronts Program for California” required by Chapter 1040 of the Statutes of
20 1981. Appropriations to the conservancy may include, but shall not be limited to,
21 particular projects identified in that report.

22 (2) Projects under the Roberti-Z’berg Urban Open-Space and Recreation Program
23 Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public
24 Resources Code).

25 (3) Appropriations to the State Coastal Conservancy for grants to public and
26 private agencies for acquisition, development, rehabilitation, restoration, operation,
27 and maintenance of real property and facilities which provide public access ways to
28 or along the coast or the shoreline of San Francisco Bay.

29 (4) Wetland protection, preservation, restoration, and ~~enhancement~~ enhancement
30 projects in accordance with the Keene-Nejedly California Wetlands Preservation
31 Act (Chapter 7 (commencing with Section 5810) of Division 5 of the Public
32 Resources Code), or, in accordance with provisions governing the State Coastal
33 Conservancy (Division 21 (commencing with Section 31000) of the Public
34 Resources Code).

35 (5) Restoration, enhancement, and preservation of wildlife habitat on federal lands
36 pursuant to the Sikes Act (16 U.S.C. Sec. 670a, et seq.).

37 (6) Acquisition and development of real property for wildlife management in
38 accordance with the purposes of the Wildlife Conservation Law of 1947 (~~Chapter 4~~
39 ~~(commencing with Section 1300) of Division 2 Title 1 (commencing with Section~~
40 54700) of Part 2 of Division 15 of the Fish and Game Wildlife Code).

1 (7) Reforestation, urban forestry, and forest improvement projects in accordance
2 with the provisions of Part 2.5 (commencing with Section 4790) of Division 4 of
3 the Public Resources Code.

4 (8) Water reclamation, watershed management, water conservation, instream use,
5 and drainage management programs approved by the Director of Water Resources
6 or the State Water Resources Control Board.

7 (9) Watershed restoration, erosion control, fire hazard reduction, land
8 conservation, and fish and wildlife habitat improvement projects.

9 (10) Acquisition, restoration, and preservation of habitat for rare and endangered
10 species.

11 (11) Programs for the prevention of soil loss and soil degradation.

12 (12) Programs for the preservation and protection of prime agricultural lands.

13 (13) Shoreline erosion control projects.

14 (14) Mitigation of environmental damage resulting from gas or oil production on
15 state lands.

16 (15) Programs to develop a computer-based mapping system to store, refine,
17 analyze, and display resource data.

18 (16) Programs for development and enhancement of renewable agricultural
19 resources.

20 (17) Programs to safeguard public and environmental health from hazardous
21 materials.

22 (18) Programs for geothermal resources assessment.

23 (19) Other programs which enhance and conserve renewable and nonrenewable
24 resources.

25 **Comment.** Section 26403(6) is amended to reflect the recodification of the former Fish and
26 Game Code. The section is also amended to make a technical correction.

27 **Pub. Res. Code § 28000 (amended).**

28 SEC. _____. Section 28000 of the Public Resources Code is amended to read:

29 28000. The Legislature hereby finds and declares all of the following:

30 (a) There has long been a public concern for protecting and preserving the natural
31 resources, wildlife habitat, recreational, and other environmental values, and public
32 health at Morro Bay and its watershed, beginning with Senate Resolution 176 in
33 1966.

34 (b) In 1966, the Senate declared that the preservation of Morro Bay's fish,
35 wildlife, recreational and aesthetic resources is of great importance to the people of
36 California, and directed the Resources Agency to conduct a study of Morro Bay and
37 its watershed and to prepare a plan for the preservation of the natural resources of
38 the bay and watershed.

39 (c) The need for a management plan for Morro Bay was demonstrated in a 1966
40 study by the Department of Fish and ~~Game~~ Wildlife, resulting from the Senate
41 resolution, which described Morro Bay's rich natural resources and proposed the

1 formation of a multiagency planning task force to prepare a comprehensive area
2 plan for approval by the Legislature.

3 (d) The need for developing a management plan for Morro Bay was recognized
4 in 1975 by the report of an intergovernmental task force, “A Coastal Watershed
5 Environmental Management System–Morro Bay, California,” which recommended
6 various models of cooperative and comprehensive planning and management of
7 Morro Bay and its watershed.

8 (e) The Morro Bay Task Force, composed of representatives of 50 government
9 agencies and interest groups, was established in 1987 and adopted as a goal the long-
10 term preservation, conservation, and enhancement of Morro Bay. It selected
11 management planning as the best means to pursue that goal.

12 (f) The need to develop and carry out a management plan for Morro Bay and its
13 watershed has been clearly recognized by the Legislature in adopting Assembly
14 Concurrent Resolution 118 in 1990 (Resolution Chapter 58 of the Statutes of 1990).

15 (g) This need is also recognized by the approval by the Governor of the
16 nomination of Morro Bay for the National Estuary Program, as developed and
17 adopted by the State Water Resources Control Board. The development of a
18 management plan for Morro Bay will improve the likelihood that Morro Bay will
19 be accepted into the National Estuary Program.

20 (h) The Congress of the United States is expected to renew and revise the Clean
21 Water Act (33 U.S.C. Sec. 1250 et seq.), and to include funding for watershed
22 management planning. Designating Morro Bay and its watershed as a management
23 planning area will increase the likelihood that Congress will allocate federal funds
24 for Morro Bay management planning.

25 (i) There is now clear and compelling evidence that Morro Bay is suffering from
26 an unnaturally rapid, undesirable, and irreversible deterioration as a unique and
27 valuable natural resource, including (1) a 1988 study, funded by the State Coastal
28 Conservancy, which determined that Morro Bay has lost over 30 percent of its
29 estuary over the last 100 years, and that it continues to be threatened by unnaturally
30 rapid sedimentation and the loss of riparian flow caused by activities on state-owned
31 and local agency-owned properties and on privately owned agricultural lands within
32 the watershed, and (2) occasional, recent measurements by the State Department of
33 Health Services of coliform content that exceed safe levels.

34 (j) The need to prevent erosion in the Morro Bay watershed, which results in
35 further sedimentation and loss of bay habitat, has been clearly recognized by the
36 commitment of over three million dollars (\$3,000,000) to watershed enhancement
37 projects, mostly through the State Coastal Conservancy.

38 (k) The Morro Bay watershed was selected as the pilot watershed for developing
39 California’s nonpoint source pollution regulations to comply with the federal
40 Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.).

41 (l) There are unknown factors influencing the health of Morro Bay which need
42 study, including (1) unsafe levels of nitrates in groundwater in residential areas

1 adjoining the bay, coupled with rapidly increasing coverage of intertidal mudflats
2 with algae, and (2) occasional quarantine of oyster production in Morro Bay because
3 of paralytic poisoning caused by planktonic invasion.

4 (m) Morro Bay is an essential link in the Pacific Flyway, providing the state's
5 largest waterfowl habitat south of San Francisco. Annually, Morro Bay has the
6 second or third largest Audubon count of bird species in the nation.

7 (n) Morro Bay offers many beneficial human uses, such as oyster farming,
8 harboring commercial and recreational fishing boats, recreational boating, and
9 aesthetic tourist attractions supporting a large business community. A healthy bay
10 is important for all of these activities and enterprises.

11 (o) Morro Bay remains relatively unspoiled. Action to maintain and enhance it
12 will be far less costly than restoring it after deterioration.

13 (p) Through the efforts of governmental agencies and volunteer organizations
14 communicating through the Morro Bay Task Force, strong, widespread,
15 multipartisan support for the development of a management plan has arisen.
16 Cooperative effort and the involvement of all concerned has already been
17 established as the method to follow in planning.

18 (q) It is necessary to develop a comprehensive management plan for Morro Bay
19 to conduct research, to coordinate the monitoring of sediment and water quality, to
20 promote coordinated education and public outreach programs, and to identify and
21 seek sources of funding for these activities.

22 **Comment.** Section 28000 is amended to update a reference to the former Department of Fish
23 and Game. See Fish & Wildlife Code § 1500.

24 **Pub. Res. Code § 28004 (amended).**

25 SEC. _____. Section 28004 of the Public Resources Code is amended to read:

26 28004. (a)(1) The agency shall convene the Morro Bay Management Plan Task
27 Force to develop the plan. The Central Coast Regional Water Quality Control Board
28 shall be utilized to carry out necessary administrative functions, including selecting
29 a temporary chairperson of the task force, until such time as the task force
30 establishes its own organization, leadership, and procedures. The task force shall
31 meet at least four times each calendar year. The task force shall submit the plan to
32 the San Luis Obispo County Board of Supervisors and to the Morro Bay City
33 Council for approval. Following that approval, the task force shall, on or before July
34 1, 1997, submit the plan to the Legislature.

35 (2) On and after July 1, 1997, the task force shall, on an ongoing basis, make
36 recommendations to the agency regarding the need for any revisions in the plan.

37 (3) The task force shall terminate as of June 30, 2007.

38 (b) The agency shall encourage all local, state, and federal agencies with
39 jurisdiction over parts of, or activities within, the bay and its watershed to participate
40 in the task force. The agency shall also encourage the participation of all interested
41 business and agricultural groups, commercial organizations, environmental groups,
42 and any other interested groups or individuals.

1 (1) Participating agencies may include, but are not limited to, the agency, the
2 National Guard, the Department of Parks and Recreation, the Department of Fish
3 and ~~Game~~ Wildlife, the Department of Corrections, the State Department of Health
4 Services, the California Coastal Commission, the State Water Resources Control
5 Board, the Central Coast Regional Water Quality Control Board, the Coastal San
6 Luis Resource Conservation District, the State Coastal Conservancy, the California
7 Conservation Corps, California Polytechnic State University San Luis Obispo, the
8 University of California Agricultural Extension, the County of San Luis Obispo,
9 and the City of Morro Bay.

10 (2) Other participants may include, but are not limited to, the Pacific Gas and
11 Electric Company, agricultural groups, commercial fishing, mariculture, and fish
12 processing groups, local chambers of commerce, and members of the tourist
13 industry.

14 (3) The costs incurred by each voluntary participant in the task force shall be
15 limited to the costs of its own participation at the meetings called by the chairperson
16 of the task force.

17 **Comment.** Section 28004 is amended to update a reference to the former Department of Fish
18 and Game. See Fish & Wildlife Code § 1500.

19 **Pub. Res. Code § 29004 (amended).**

20 SEC. _____. Section 29004 of the Public Resources Code is amended to read:

21 29004. The Legislature further finds and declares as follows:

22 (a) That the San Francisco Bay Conservation and Development Commission and
23 the Department of Fish and ~~Game~~ Wildlife, pursuant to the Nejedly-Bagley-Z'berg
24 Suisun Marsh Preservation Act of 1974 (former Chapter 9 (commencing with
25 Section 1850) of Division 2 of the Fish and Game Code, added by Chapter 1486 of
26 the Statutes of 1974), have made a detailed study of the Suisun Marsh; that there
27 has been extensive participation by other governmental agencies, private interests,
28 and the general public in the study; and that, based on the study, the commission
29 has prepared the Suisun Marsh Protection Plan for the orderly and long-range
30 conservation, use, and management of the natural, scenic, recreational, and
31 manmade resources of the marsh.

32 (b) That the Suisun Marsh Protection Plan contains a series of recommendations
33 which require implementation by the Legislature; and, accordingly, these
34 recommendations are implemented in the manner provided in this division.

35 **Comment.** Section 29004 is amended to clarify a cross-reference to Chapter 9 (commencing
36 with Section 1850) of Division 2 of the former Fish and Game Code. The section is also amended
37 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

38 **Pub. Res. Code § 29107 (amended).**

39 SEC. _____. Section 29107 of the Public Resources Code is amended to read:

40 29107. "Department" means the Department of Fish and ~~Game~~ Wildlife.

1 **Comment.** Section 29107 is amended to update a reference to the former Department of Fish
2 and Game. See Fish & Wildlife Code § 1500.

3 **Pub. Res. Code § 29305 (amended).**

4 SEC. _____. Section 29305 of the Public Resources Code is amended to read:
5 29305. The Wildlife Conservation Board shall acquire title to, or a lesser right or
6 interest in, land or water that the board determines is appropriate for the purposes
7 of the protection plan. When authorized by the board, the department shall construct
8 facilities that are suitable for the purpose for which the acquisitions were made. The
9 acquisitions shall be made in accordance with the Wildlife Conservation Law of
10 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1~~
11 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and ~~Game~~
12 Wildlife Code) and the criteria specified in Section 29009 of this code.

13 **Comment.** Section 29305 is amended to reflect the recodification of the former Fish and Game
14 Code.

15 **Pub. Res. Code § 29413 (amended).**

16 SEC. _____. Section 29413 of the Public Resources Code is amended to read:
17 29413. (a) Not less than 15 days after submission of the local protection program,
18 or any component thereof, pursuant to Section 29412, the commission shall request
19 comments on the program from the Department of Fish and ~~Game~~ Wildlife, from
20 the State Department of Health, from all local governments, and from such other
21 governmental agencies and interested persons as the commission may determine
22 would be of assistance in reviewing the proposed program. The department or any
23 such agency or person shall provide its comments within 60 days of the
24 commission’s request, and failure to provide comments within such time shall be
25 deemed to mean that the department or any such agency or person has no comments
26 to make.

27 (b) In addition to its responsibilities under subdivision (a), the department shall
28 specifically determine whether the component of the local protection program
29 prepared by the Suisun Resource Conservation District is, in the opinion of the
30 department, consistent with this division and the policies of the protection plan.

31 (c) The Director of Health shall specifically determine whether the component of
32 the local protection program prepared by the Solano County Mosquito Abatement
33 District is in conformity with the applicable provisions of the Health and Safety
34 Code.

35 **Comment.** Section 29413 is amended to update a reference to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Pub. Res. Code § 30100.2 (amended).**

38 SEC. _____. Section 30100.2 of the Public Resources Code is amended to read:
39 30100.2. “Aquaculture” means a form of agriculture as defined in Section ~~47~~ 225
40 of the Fish and ~~Game~~ Wildlife Code. Aquaculture products are agricultural

1 products, and aquaculture facilities and land uses shall be treated as agricultural
2 facilities and land uses in all planning and permit-issuing decisions governed by this
3 division.

4 **Comment.** Section 30100.2 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Pub. Res. Code § 30170 (amended).**

7 SEC. ____ . Section 30170 of the Public Resources Code is amended to read:

8 30170. In San Diego County:

9 (a) In the City of Oceanside, approximately 500 acres are excluded as specifically
10 shown on maps 30A and 31.

11 (b) In the City of Carlsbad, approximately 180 acres in the downtown area, except
12 for the Elm Street corridor, are excluded as specifically shown on map 31.

13 (c) In the City of Carlsbad, the area lying north of the Palomar Airport as generally
14 shown on maps 31 and 32 and as specifically described in this subdivision is
15 excluded.

16 Those portions of lots “F” and “G” of Rancho Agua Hedionda, part in the City of
17 Carlsbad and part in the unincorporated area of the County of San Diego, State of
18 California, according to the partition map thereof No. 823, filed in the office of the
19 county recorder of that county, November 16, 1896, described as follows:

20 Commencing at point 1 of said lot “F” as shown on said map; thence along the
21 boundary line of said lot “F” south $25^{\circ} 33' 56\text{Prime}$; east, 229.00 feet to point 23
22 of said lot “F” and south $54^{\circ} 40' 19\text{Prime}$; east, 1347.00 feet; thence leaving said
23 boundary line south $35^{\circ} 19' 44\text{Prime}$; west, 41.28 feet to the true point of
24 beginning, which point is the true point of beginning, of the land described in deed
25 to Japatul Corporation recorded December 8, 1975, at recorder’s file/page No.
26 345107 of official records to said county; thence along the boundary line of said
27 land south $35^{\circ} 19' 44\text{Prime}$; west, 2216.46 feet and north $53^{\circ} 02' 49\text{Prime}$; west,
28 1214.69 feet to the northeast corner of the land described in deed to Japatul
29 Corporation recorded December 8, 1975, at recorder’s file/page No. 345103 of said
30 official records; thence along the boundary lines of said land as follows: West, 1550
31 feet, more or less, to the boundary of said lot “F”; south $00^{\circ} 12' 00\text{Prime}$; west,
32 550 feet, more or less, to point 5 of said lot “F”; south $10^{\circ} 25' 10\text{Prime}$; east along
33 a straight line between said point 5 and point 14 of said lot “F,” to point 14 of said
34 lot “F”; thence along the boundary of said lot “F” south $52^{\circ} 15' 45\text{Prime}$; east
35 (record south $51^{\circ} 00' 00\text{Prime}$; east) 1860.74 feet more or less to the most westerly
36 corner of the land conveyed to James L. Hieatt, et ux, by deed recorded June 11,
37 1913, in Book 617, page 54 of deed, records of said county; thence along the
38 northwesterly and northeasterly boundary of Hieatt’s land as follows: North $25^{\circ} 00'$
39 00Prime ; east, 594.00 feet and south $52^{\circ} 15' 45\text{Prime}$; east (record south 51°
40 $00' 00\text{Prime}$; east per deed) 1348.61 feet to a point of intersection with the
41 northerly line of Palomar County Airport, said point being on the boundary of the

1 land conveyed to Japatul Corporation by deed recorded December 8, 1975, at
2 recorder's file/page No. 345107 of said official records; thence along said boundary
3 as follows: North 79° 10' 00″ east, 4052.22 feet north 10° 50' 00″
4 west, 500.00 feet; north 79° 10' 00″ east 262.00 feet, south 10° 50'
5 00″ east, 500.00 feet; north 79° 10' 00″ east, 1005 feet, more or less,
6 to the westerly line of the land conveyed to the County of San Diego by deed
7 recorded May 28, 1970, at recorder's file/page No. 93075 of said official records;
8 thence continuing along the boundary of last said Japatul Corporation's land north
9 38° 42' 44″ west, 2510.58 feet to the beginning of a tangent 1845.00 foot
10 radius curve concave northeasterly; along the arc of said curve through a central
11 angle of 14° 25' 52″ a distance of 464.70 feet to a point of the southerly
12 boundary of the land allotted to Thalia Kelly Considine, et al., by partial final
13 judgment in partition, recorded January 18, 1963, at recorder's file/page No. 11643
14 of said official records; thence continuing along last said Japatul Corporation's land
15 south 67° 50' 28″ west, 1392.80 feet north 33° 08' 52″ west, 915.12
16 feet and north 00° 30' 53″ west, 1290.37 feet to the southerly line of said
17 land conveyed to the County of San Diego, being also the northerly line of last said
18 Japatul Corporation's land; thence along said common line north 74° 57' 25″
19 west, 427.67 feet to the beginning of a tangent 2045.00 foot radius curve concave
20 northerly; and westerly along the arc of said curve through a central angle of 16°
21 59' 24″,, a distance of 606.41 feet to the true point of beginning.

22 And those properties known as assessors parcel Nos. 212-020-08, 212-020-22,
23 and 212-020-23.

24 Excepting therefrom, that portion, if any, conveyed to the County of San Diego,
25 by quitclaim deed recorded January 12, 1977, at recorder's file/page No. 012820 of
26 said official records.

27 No development may occur in the area described in this subdivision until a plan
28 for drainage of the parcel to be developed has been approved by the local
29 government having jurisdiction over the area after consultation with the commission
30 and the Department of Fish and Game Wildlife. The plan shall assure that no
31 detrimental increase occurs in runoff of water from the parcel to be developed and
32 shall require that the facilities necessary to implement the plan are installed as part
33 of the development.

34 (d) In the City of Carlsbad and adjacent unincorporated areas, approximately 600
35 acres consisting of the Palomar Airport and an adjoining industrial park are
36 excluded as specifically shown on maps 31 and 32.

37 (e) An area consisting of approximately 333 acres lying west and south of the
38 Palomar Airport and bounded on the south by Palomar Airport Road is excluded as
39 specifically shown on maps 31 and 32.

40 No development may occur in the area described in this subdivision until a plan
41 for drainage of the parcel to be developed has been approved by the local
42 government having jurisdiction over the area after consultation with the commission
43 and the Department of Fish and Game Wildlife. The plan shall assure that no

1 detrimental increase occurs in runoff of water from the parcel to be developed and
2 shall require that the facilities necessary to implement the plan are installed as part
3 of the development.

4 (f) On or before October 1, 1980, the commission shall, after public hearing and
5 in consultation with the City of Carlsbad, prepare, approve, and adopt a local coastal
6 program for the following parcels in the vicinity of Batiquitos Lagoon within the
7 City of Carlsbad: lands owned by Rancho La Costa, a registered limited partnership,
8 lands (consisting of approximately 80 acres) owned by Standard Pacific of San
9 Diego, Inc., that were conveyed by Rancho La Costa on October 8, 1977, and lands
10 owned by the Occidental Petroleum Company. Those parcels shall be determined
11 by ownership as of September 12, 1979. As used in this subdivision, “parcels”
12 means the parcels identified in this paragraph. The local coastal program required
13 by this subdivision shall include all of the following elements:

14 (1) Protection of agricultural lands and uses to the extent feasible.

15 (2) Minimization of adverse impacts from sedimentation.

16 (3) Protection of feasible public recreational opportunities.

17 (4) Provision for economically feasible development consistent with the three
18 elements specified in this subdivision.

19 The local coastal program required by this subdivision shall, after adoption by the
20 commission, be deemed certified and shall for all purposes of this division constitute
21 certified local coastal program segments for those parcels in the City of Carlsbad.
22 The segments of the city’s local coastal program for those parcels may be amended
23 pursuant to the provisions of this division relating to the amendment of local coastal
24 programs. In addition, until (i) the City of Carlsbad adopts or enacts the
25 implementing actions contained in the local coastal program, or (ii) other statutory
26 provisions provide alternately for the adoption, certification, and implementation of
27 a local coastal program for those parcels, the local coastal program required by this
28 subdivision may also be amended by the commission at the request of the owner of
29 any of those parcels. For administrative purposes, the commission may group these
30 requests in order to schedule them for consideration at a single commission hearing.
31 However, the commission shall schedule these requests for consideration at least
32 once during each four-month period, beginning January 1, 1982. After either of
33 these events occur, however, these property owners shall no longer be eligible to
34 request the commission to amend the local coastal program.

35 If the commission fails to adopt a local coastal program within the time limits
36 specified in this subdivision, those parcels shall be excluded from the coastal zone
37 and shall no longer be subject to this division. It is the intent of the Legislature in
38 enacting this subdivision that a procedure to expedite the preparation and adoption
39 of a local coastal program for those parcels be established so that the public and
40 affected property owners know as soon as possible what the permissible uses of
41 those lands are.

1 (g) In the vicinity of the intersection of Del Mar Heights Road and the San Diego
2 Freeway, approximately 250 acres are excluded as specifically shown on map 33.

3 (h) In the vicinity of the intersection of Carmel Valley Road and the San Diego
4 Freeway, approximately 45 acres are added as specifically shown on map 33.

5 In the City of San Diego, the Carmel Valley area consisting of approximately
6 1,400 acres as shown on map 33 that has been placed on file with the Secretary of
7 State on January 23, 1980, shall be excluded from the coastal zone after the City of
8 San Diego submits, and the commission certifies, a drainage plan and a
9 transportation plan for the area. The city shall implement and enforce the certified
10 drainage and transportation plans. Any amendments or changes to the underlying
11 land use plan for the area that affects drainage, or to either the certified drainage or
12 transportation plan, shall be reviewed and processed in the same manner as an
13 amendment of a certified local coastal program pursuant to Section 30514. Any land
14 use not in conformance with the certified drainage and transportation plans may be
15 appealed to the commission pursuant to the appeals procedure as provided by
16 Chapter 7 (commencing with Section 30600). The drainage plan and any
17 amendments thereto shall be prepared after consultation with the Department of Fish
18 and ~~Game~~ Wildlife and shall ensure that problems resulting from water runoff,
19 sedimentation, and siltation are adequately identified and resolved.

20 (i) Near the head of the south branch of Los Penasquitos Canyon, the boundary is
21 moved seaward to the five-mile limit as described in Section 30103 and as
22 specifically shown on map 33.

23 (j) In the City of San Diego, approximately 1,855 acres known as the Mount
24 Soledad and La Jolla Mesa areas are added as specifically shown on map 34.
25 However, on or before February 29, 1980, and pursuant to either subdivision (d) of
26 Section 30610 or Section 30610.5, the commission shall exclude from coastal
27 development permit requirements any single-family residence within the area
28 specified in this subdivision. No coastal development permit shall be required for
29 any improvement, maintenance activity, relocation, or reasonable expansion of any
30 commercial radio or television transmission facilities within the area specified in
31 this subdivision unless the proposed activity could result in a significant change in
32 the density or intensity of use in the area or could have a significant adverse impact
33 on highly scenic resources of public importance. However, no prior review by the
34 commission of this activity shall be required.

35 (k) In the City of San Diego, approximately 30 acres known as the Famosa Slough
36 is added as specifically shown on maps 34 and 35.

37 **Comment.** Section 30170 is amended to update references to the former Department of Fish and
38 Game. See Fish & Wildlife Code § 1500.

39 **Pub. Res. Code § 30233 (amended).**

40 SEC. _____. Section 30233 of the Public Resources Code is amended to read:

41 30233. (a) The diking, filling, or dredging of open coastal waters, wetlands,
42 estuaries, and lakes shall be permitted in accordance with other applicable

1 provisions of this division, where there is no feasible less environmentally damaging
2 alternative, and where feasible mitigation measures have been provided to minimize
3 adverse environmental effects, and shall be limited to the following:

4 (1) New or expanded port, energy, and coastal-dependent industrial facilities,
5 including commercial fishing facilities.

6 (2) Maintaining existing, or restoring previously dredged, depths in existing
7 navigational channels, turning basins, vessel berthing and mooring areas, and boat
8 launching ramps.

9 (3) In open coastal waters, other than wetlands, including streams, estuaries, and
10 lakes, new or expanded boating facilities and the placement of structural pilings for
11 public recreational piers that provide public access and recreational opportunities.

12 (4) Incidental public service purposes, including, but not limited to, burying
13 cables and pipes or inspection of piers and maintenance of existing intake and outfall
14 lines.

15 (5) Mineral extraction, including sand for restoring beaches, except in
16 environmentally sensitive areas.

17 (6) Restoration purposes.

18 (7) Nature study, aquaculture, or similar resource-dependent activities.

19 (b) Dredging and spoils disposal shall be planned and carried out to avoid
20 significant disruption to marine and wildlife habitats and water circulation. Dredge
21 spoils suitable for beach replenishment should be transported for these purposes to
22 appropriate beaches or into suitable longshore current systems.

23 (c) In addition to the other provisions of this section, diking, filling, or dredging
24 in existing estuaries and wetlands shall maintain or enhance the functional capacity
25 of the wetland or estuary. Any alteration of coastal wetlands identified by the
26 Department of Fish and ~~Game~~ Wildlife, including, but not limited to, the 19 coastal
27 wetlands identified in its report entitled, “Acquisition Priorities for the Coastal
28 Wetlands of California”, shall be limited to very minor incidental public facilities,
29 restorative measures, nature study, commercial fishing facilities in Bodega Bay, and
30 development in already developed parts of south San Diego Bay, if otherwise in
31 accordance with this division.

32 For the purposes of this section, “commercial fishing facilities in Bodega Bay”
33 means that not less than 80 percent of all boating facilities proposed to be developed
34 or improved, where the improvement would create additional berths in Bodega Bay,
35 shall be designed and used for commercial fishing activities.

36 (d) Erosion control and flood control facilities constructed on watercourses can
37 impede the movement of sediment and nutrients that would otherwise be carried by
38 storm runoff into coastal waters. To facilitate the continued delivery of these
39 sediments to the littoral zone, whenever feasible, the material removed from these
40 facilities may be placed at appropriate points on the shoreline in accordance with
41 other applicable provisions of this division, where feasible mitigation measures have
42 been provided to minimize adverse environmental effects. Aspects that shall be

1 considered before issuing a coastal development permit for these purposes are the
2 method of placement, time of year of placement, and sensitivity of the placement
3 area.

4 **Comment.** Section 30233 is amended to update a cross-reference to the former Department of
5 Fish and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 30265.5 (amended).**

7 SEC. ____ . Section 30265.5 of the Public Resources Code is amended to read:

8 30265.5. (a) The Governor, or the Governor’s designee, shall coordinate activities
9 concerning the transport and refining of offshore oil. Coordination efforts shall
10 consider public health risks, the ability to achieve short- and long-term air emission
11 reduction goals, the potential for reducing California’s vulnerability and
12 dependence on oil imports, economic development and jobs, and other factors
13 deemed important by the Governor, or the Governor’s designee.

14 (b) The Governor, or the Governor’s designee, shall work with state and local
15 agencies, and the public, to facilitate the transport and refining of offshore oil in a
16 manner which will promote the greatest public health and environmental and
17 economic benefits to the people of the state.

18 (c) The Governor, or the Governor’s designee, shall consult with any individual
19 or organization having knowledge in this area, including, but not limited to,
20 representatives from the following:

21 (1) State Energy Resources Conservation and Development Commission.

22 (2) State Air Resources Board.

23 (3) California Coastal Commission.

24 (4) Department of Fish and ~~Game~~ Wildlife.

25 (5) State Lands Commission.

26 (6) Public Utilities Commission.

27 (7) Santa Barbara County.

28 (8) Santa Barbara County Air Pollution Control District.

29 (9) Southern California Association of Governments.

30 (10) South Coast Air Quality Management District.

31 (11) Oil industry.

32 (12) Public interest groups.

33 (13) United States Department of the Interior.

34 (14) United States Department of Energy.

35 (15) United States Environmental Protection Agency.

36 (16) National Oceanic and Atmospheric Administration.

37 (17) United States Coast Guard.

38 (d) This act is not intended, and shall not be construed, to decrease, duplicate, or
39 supersede the jurisdiction, authority, or responsibilities of any local government, or
40 any state agency or commission, to discharge its responsibilities concerning the
41 transportation and refining of oil.

1 **Comment.** Section 30265.5 is amended to update a reference to the former Department of Fish
2 and Game. See Fish & Wildlife Code § 1500.

3 **Pub. Res. Code § 30404 (amended).**

4 SEC. _____. Section 30404 of the Public Resources Code is amended to read:

5 30404. (a) The Natural Resources Agency shall periodically, in the case of the
6 State Energy Resources Conservation and Development Commission, the State
7 Board of Forestry and Fire Protection, the State Water Resources Control Board and
8 the California regional water quality control boards, the State Air Resources Board
9 and air pollution control districts and air quality management districts, the
10 Department of Fish and ~~Game~~ Wildlife, the Department of Parks and Recreation,
11 the California Geological Survey and the Division of Oil, Gas, and Geothermal
12 Resources in the Department of Conservation, and the State Lands Commission,
13 and may, with respect to any other state agency, submit recommendations designed
14 to encourage the state agency to carry out its functions in a manner consistent with
15 this division. The recommendations may include proposed changes in
16 administrative regulations, rules, and statutes.

17 (b) This section shall become operative on July 1, 2013.

18 **Comment.** Section 30404 is amended to update a reference to the former Department of Fish
19 and Game. See Fish & Wildlife Code § 1500.

20 **Pub. Res. Code § 30420 (amended).**

21 SEC. _____. Section 30420 of the Public Resources Code is amended to read:

22 30420. Prior to taking any action on (1) a local coastal program or any amendment
23 thereto, (2) any coastal development permit, or (3) any consistency determination
24 or certification, that relates to the disposal of hazardous substances at sea, the
25 commission shall consult with the following governmental entities:

26 (a) Department of Toxic Substances Control.

27 (b) State Lands Commission.

28 (c) State Air Resources Board and relevant air pollution control districts or air
29 quality management districts.

30 (d) Department of Fish and ~~Game~~ Wildlife.

31 (e) State Water Resources Control Board and relevant California regional water
32 quality control boards.

33 (f) Secretary for Environmental Protection.

34 (g) Governor's Office of Planning and Research.

35 (h) The local government located closest to the proposed activity, or within whose
36 jurisdiction the activity is proposed, or within whose jurisdiction there may be
37 effects of the proposed activity.

38 **Comment.** Section 30420 is amended to update a reference to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 30609.5 (amended).**

2 SEC. _____. Section 30609.5 of the Public Resources Code is amended to read:

3 30609.5. (a) Except as provided in subdivisions (b) and (c), no state land that is
4 located between the first public road and the sea, with an existing or potential public
5 accessway to or from the sea, or that the commission has formally designated as part
6 of the California Coastal Trail, shall be transferred or sold by the state to any private
7 entity unless the state retains a permanent property interest in the land adequate to
8 provide public access to or along the sea. In any transfer or sale of real property by
9 a state agency to a private entity or person pursuant to this section, the instrument
10 of conveyance created by the state shall require that the private entity or person or
11 the entity or person's successors or assigns manage the property in such a way as to
12 ensure that existing or potential public access is not diminished. The instrument of
13 conveyance shall further require that any violation of this management requirement
14 shall result in the reversion of the real property to the state.

15 (b) This section shall not apply to the transfer of state land to a nonprofit
16 organization that exists for the purposes of preserving lands for public use and
17 enjoyment and meets the requirements of subdivision (b) of Section 831.5 of the
18 Government Code.

19 (c) Notwithstanding the provisions of subdivision (a), state lands between the first
20 public road and the sea, that are under the possession and control of the Department
21 of Parks and Recreation or the State Coastal Conservancy, may be transferred or
22 sold if the department or the conservancy makes one or more of the following
23 findings at a noticed public hearing relating to the transfer or sale of the property:

24 (1) The state has retained or will retain, as a condition of the transfer or sale,
25 permanent property interests on the land providing public access to or along the sea.

26 (2) Equivalent or greater public access to the same beach or shoreline area is
27 provided for than would be feasible if the land were to remain in state ownership.

28 (3) The land to be transferred or sold is an environmentally sensitive area with
29 natural resources that would be adversely impacted by public use, and the state will
30 retain permanent property interests in the land that may be necessary to protect, or
31 otherwise provide for the permanent protection of, those resources prior to or as a
32 condition of the transfer or sale.

33 (4) The land to be transferred or sold has neither existing nor potential public
34 accessway to the sea.

35 (d) Nothing in this section shall be construed to interfere with the management
36 responsibilities of state resource agencies, including, but not limited to, the
37 responsibilities to ensure public safety and implement the California Endangered
38 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
39 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
40 Code).

41 (e) As used in this section, "state land" means any real property in which the state
42 or any state agency has an ownership interest including, but not limited to, a fee,

1 title, easement, deed restriction, or other interest in land. It does not include land in
2 which a city, county, city and county, or district has an ownership interest.

3 (f) Nothing in this section is intended to restrict a private property owner's right
4 to sell or transfer private property.

5 **Comment.** Subdivision (d) of Section 30609.5 is amended to reflect the recodification of the
6 former Fish and Game Code.

7 **Pub. Res. Code § 30921 (amended).**

8 SEC. ____ . Section 30921 of the Public Resources Code is amended to read:

9 30921. (a) Upon appropriation by the Legislature for that purpose, funds may be
10 expended by the board, in consultation with the State Coastal Conservancy, the
11 California Coastal Commission, and, as appropriate, the Department of Fish and
12 ~~Game~~ Wildlife, to award grants, not to exceed one million dollars (\$1,000,000) per
13 project, to local public agencies and nonprofit organizations for the purposes of this
14 chapter.

15 (b) The projects funded to carry out this chapter shall demonstrate the capability
16 of contributing to sustained, long-term water quality or environmental restoration
17 or protection benefits for a period of 20 years, address the causes of degradation
18 rather than the symptoms, and be consistent with water quality control plans and
19 resource protection plans prepared, implemented, or adopted by the board, the
20 applicable regional board, the Department of Fish and ~~Game~~ Wildlife, and the State
21 Coastal Conservancy.

22 (c) An applicant for funds to carry out this chapter shall be required to submit to
23 the board a monitoring and reporting plan that does all of the following:

24 (1) Identifies the sources of pollution to be prevented or reduced by the project.

25 (2) Describes the baseline water quality or environmental quality to be addressed.

26 (3) Describes the manner in which the project will be effective in preventing or
27 reducing pollution and in demonstrating the desired environmental results.

28 (4) Describes the monitoring program, including, but not limited to, the
29 methodology, frequency, and duration of monitoring.

30 (d) Upon completion of the project, a recipient of funds to carry out this chapter
31 shall submit a report to the board that summarizes the completed activities and
32 indicates whether the purposes of the project have been met. The report shall include
33 information collected by the recipient in accordance with the project monitoring and
34 reporting plan, including a determination of the effectiveness of the project in
35 preventing or reducing pollution, and the results of the monitoring program. The
36 board shall make the report available to the public, watershed groups, and federal,
37 state, and local agencies.

38 (e) The board may not award more than 25 percent of a grant to carry out this
39 chapter in advance of the expenditure of funds by a grantee.

40 (f) An applicant for funds to carry out this chapter shall inform the board of any
41 necessary public agency approvals, entitlements, and permits that may be necessary

1 to implement the project. The applicant shall certify to the board, at the appropriate
2 time, that those approvals, entitlements, and permits have been granted.

3 (g) Where recovery plans for coho salmon, steelhead trout, or other threatened or
4 endangered coastal and marine aquatic species exist, projects funded to carry out
5 this chapter shall be consistent with those plans and, to the extent feasible, shall seek
6 to implement actions specified in those plans.

7 (h) The board, in consultation with the California Coastal Commission, shall
8 appoint a marine managed areas water quality task force comprised of individuals
9 representing the breadth and diversity of coastal communities, interested nonprofit
10 groups, and marine resource users. All proposals for grant funding to carry out this
11 chapter shall be reviewed by the task force. The task force may recommend projects
12 to the board for funding consideration.

13 (i) The board shall provide opportunity for public review and comment in
14 awarding funds to carry out this chapter.

15 **Comment.** Section 30921 is amended to update references to the former Department of Fish and
16 Game. See Fish & Wildlife Code § 1500.

17 **Pub. Res. Code § 31220 (amended).**

18 SEC. _____. Section 31220 of the Public Resources Code is amended to read:

19 31220. (a) In order to improve and protect coastal and marine water quality and
20 habitats, the conservancy may undertake coastal watershed and coastal and marine
21 habitat water quality, sediment management, and living marine resources protection
22 and restoration projects or award grants for those projects, consistent with this
23 chapter. Except for projects described in paragraph (7), (8), (9), or (10) of
24 subdivision (b), the conservancy shall consult with the State Water Resources
25 Control Board in the development of the project or grant to ensure consistency with
26 Chapter 3 (commencing with Section 30915) of Division 20.4 of the Public
27 Resources Code.

28 (b) The conservancy may undertake a project or award a grant for a project under
29 this section only if the project does one or more of the following:

30 (1) Reduces contamination of waters within the coastal zone or marine waters.

31 (2) Protects or restores fish and wildlife habitat within coastal and marine waters
32 and coastal watersheds, including, but not limited to, permit coordination projects
33 for watershed restoration.

34 (3) Reduces threats to coastal and marine fish and wildlife.

35 (4) Reduces unnatural erosion and sedimentation of coastal watersheds or
36 contributes to the reestablishment of natural erosion and sediment cycles.

37 (5) Provides for monitoring and mapping of coastal currents, marine habitats, and
38 marine wildlife, in order to facilitate the protection and enhancement of resources
39 within the coastal zone. A project considered under this paragraph shall be
40 implemented in consultation with the Department of Fish and ~~Game~~ Wildlife.

1 (6) Acquires, protects, and restores coastal wetlands, riparian areas, floodplains,
2 and other sensitive watershed lands, including watershed lands draining to sensitive
3 coastal or marine areas.

4 (7) Reduces the impact of population and economic pressures on coastal and
5 marine resources.

6 (8) Provides for public access compatible with resource protection and restoration
7 objectives.

8 (9) Provides for the construction or expansion of nature centers or research
9 facilities that emphasize conservation education or research activities focusing on
10 the marine portion of the coastal zone or the land and ocean interface.

11 (10) Provides for projects and activities consistent with Division 26.5
12 (commencing with Section 35500).

13 (c) Projects funded pursuant to this section shall include a monitoring and
14 evaluation component and shall be consistent with the following, if available and
15 relevant to the project:

16 (1) Integrated Watershed Management Program established pursuant to Section
17 30947.

18 (2) Local watershed management plans.

19 (3) Water quality control plans adopted by the State Water Resources Control
20 Board and regional water quality control boards.

21 **Comment.** Section 31220 is amended to update a reference to the former Department of Fish
22 and Game. See Fish & Wildlife Code § 1500.

23 **Pub. Res. Code § 31251.2 (amended).**

24 SEC. _____. Section 31251.2 of the Public Resources Code is amended to read:

25 31251.2. (a) In order to enhance the natural or scenic character of coastal
26 resources within the coastal zone, the conservancy may undertake a project or award
27 a grant, consistent with subdivision (a) of Section 30200 and pursuant to this
28 chapter, to enhance a watershed resource that is partly outside of the coastal zone.
29 Any of these projects or grants which involve the management of fish shall be
30 approved by the Department of Fish and ~~Game~~ Wildlife.

31 Neither the conservancy nor any other state agency shall undertake a project
32 affecting an area partly inside and partly outside the coastal zone under this chapter,
33 except at the request of the local public agency or agencies having jurisdiction over
34 the entire project area.

35 (b) Any enhancement activity carried out pursuant to this section shall not be
36 subject to any commission review, as set forth in Section 31258, for that portion of
37 the activity located outside the coastal zone. However, the commission through its
38 executive director and the Department of Fish and ~~Game~~ Wildlife may review and
39 comment on the enhancement plan's consistency with the policies and objectives of
40 Division 20 (commencing with Section 30000).

1 (c) No funds set forth in subdivision (c) of Section 5096.151 of the Public
2 Resources Code, shall be expended on enhancement activities that are outside the
3 coastal zone.

4 (d) This section shall not apply to any portion of the Santa Monica Mountains
5 Zone as set forth in Division 23 (commencing with Section 33000).

6 **Comment.** Section 31251.2 is amended to update references to the former Department of Fish
7 and Game. See Fish & Wildlife Code § 1500.

8 **Pub. Res. Code § 32301 (amended).**

9 SEC. ____ . Section 32301 of the Public Resources Code is amended to read:

10 32301. The Legislature finds and declares all of the following:

11 (a) The Sacramento-San Joaquin Delta is a unique natural resource of local, state,
12 and national significance.

13 (b) At 1,300 square miles, the Delta is the largest estuary on the west coast of
14 North and South America.

15 (c) Its rivers and labyrinths of sloughs and channels are home to 750 species of
16 plants and wildlife as well as 55 species of fish, provide habitat for 700 native plant
17 and animal species, and are part of the Pacific Flyway.

18 (d) The Delta contains more than 500,000 acres of agricultural land, with unique
19 soils, and farmers who are creative and utilize innovative agriculture, such as carbon
20 sequestration crops, subsidence reversal crops, wildlife-friendly crops, and crops
21 direct for marketing to the large urban populations nearby.

22 (e) The Delta and Suisun Marsh provide numerous opportunities for recreation,
23 such as boating, kayaking, fishing, hiking, birding, and hunting. Navigable
24 waterways in the Delta are available for public access and currently make up the
25 majority of recreational opportunities. There is a need for land-based recreational
26 access points including parks, picnic areas, and campgrounds.

27 (f) The Delta's history is rich with a distinct natural, agricultural, and cultural
28 heritage. It is home to the community of Locke, the only town in the United States
29 built primarily by early Chinese immigrants. Other legacy communities include
30 Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista,
31 Ryde, and Walnut Grove.

32 (g) The Delta is home to more than 500,000 people and 200,000 jobs, and
33 contributes over thirty-five billion dollars (\$35,000,000,000) to the state's economy.

34 (h) In addition, the Delta provides water to more than 25 million Californians and
35 three million acres of agricultural land. It supports a four hundred billion dollar
36 (\$400,000,000,000) economy and is traversed by energy, communications, and
37 transportation facilities vital to the economic health of California.

38 (i) A Sacramento-San Joaquin Delta Conservancy can support efforts that advance
39 both environmental protection and the economic well-being of Delta residents in a
40 complementary manner, including all of the following:

41 (1) Protect and enhance habitat and habitat restoration.

42 (2) Protect and preserve Delta agriculture and working landscapes.

- 1 (3) Provide increased opportunities for tourism and recreation.
 - 2 (4) Promote Delta legacy communities and economic vitality in the Delta in
3 coordination with the Delta Protection Commission.
 - 4 (5) Increase the resilience of the Delta to the effects of natural disasters such as
5 floods and earthquakes, in coordination with the Delta Protection Commission.
 - 6 (6) Protect and improve water quality.
 - 7 (7) Assist the Delta regional economy through the operation of the conservancy's
8 program.
 - 9 (8) Identify priority projects and initiatives for which funding is needed.
 - 10 (9) Protect, conserve, and restore the region's physical, agricultural, cultural,
11 historical, and living resources.
 - 12 (10) Assist local entities in the implementation of their habitat conservation plans
13 (HCPs) and natural community conservation plans (NCCPs).
 - 14 (11) Facilitate take protection and safe harbor agreements under the federal
15 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California
16 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
17 ~~3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish and Game
18 Wildlife Code) for adjacent landowners and local public agencies.
 - 19 (12) Promote environmental education.
- 20 **Comment.** Paragraph (11) of subdivision (i) of Section 32301 is amended to reflect the
21 recodification of the former Fish and Game Code.

22 **Pub. Res. Code § 32322 (amended).**

23 SEC. _____. Section 32322 of the Public Resources Code is amended to read:

- 24 32322. (a) The conservancy shall act as a primary state agency to implement
25 ecosystem restoration in the Delta.
- 26 (b) The conservancy shall support efforts that advance environmental protection
27 and the economic well-being of Delta residents, including all of the following:
- 28 (1) Protect and enhance habitat and habitat restoration.
 - 29 (2) Protect and preserve Delta agriculture and working landscapes.
 - 30 (3) Provide increased opportunities for tourism and recreation in the Delta.
 - 31 (4) Promote Delta legacy communities and economic vitality in the Delta, in
32 coordination with the Delta Protection Commission.
 - 33 (5) Increase the resilience of the Delta to the effects of natural disasters such as
34 floods and earthquakes, in coordination with the Delta Protection Commission.
 - 35 (6) Protect and improve water quality.
 - 36 (7) Assist the Delta regional economy through the operation of the conservancy's
37 program.
 - 38 (8) Identify priority projects and initiatives for which funding is needed.
 - 39 (9) Protect, conserve, and restore the region's physical, agricultural, cultural,
40 historical, and living resources.

1 (10) Assist local entities in the implementation of their habitat conservation plans
2 (HCPs) and natural community conservation plans (NCCPs).

3 (11) Facilitate take protection and safe harbor agreements under the federal
4 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California
5 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
6 ~~3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish and Game
7 Wildlife Code), and the Natural Community Conservation Planning Act (~~Chapter~~
8 ~~10 (commencing with Section 2800) of Division 3 Title 2 (commencing with~~
9 Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code) for
10 adjacent landowners and local public agencies.

11 (12) Promote environmental education through grant funding.

12 (c) When implementing subdivision (b), the conservancy shall undertake efforts
13 to enhance public use and enjoyment of lands owned by the public.

14 **Comment.** Paragraph (11) of subdivision (b) of Section 32322 is amended to reflect the
15 recodification of the former Fish and Game Code.

16 **Pub. Res. Code § 32526 (amended).**

17 SEC. _____. Section 32526 of the Public Resources Code is amended to read:

18 32526. The conservancy shall facilitate and coordinate the activities of its
19 employees with personnel of the Department of Parks and Recreation, the
20 Department of Fish and Game Wildlife, and local law enforcement and rescue
21 agencies.

22 **Comment.** Section 32526 is amended to update a reference to the former Department of Fish
23 and Game. See Fish & Wildlife Code § 1500.

24 **Pub. Res. Code § 33700 (amended).**

25 SEC. _____. Section 33700 of the Public Resources Code is amended to read:

26 33700. (a) As used in this chapter, “mountainous lands” means all lands,
27 irrespective of their angle of slope or other natural or manmade terrain features,
28 within the territory of the conservancy that lie above the floor of the Coachella
29 Valley, if there is no alluvial fan, or that lie above any alluvial fan extending onto
30 the valley floor, as more specifically set forth in that certain map entitled “Coachella
31 Valley Mountainous Lands Map” and dated ____ __, 1999, and placed on file with
32 the Secretary of State, which map is hereby incorporated in this subdivision by this
33 reference. The map described in this subdivision may be combined with, and made
34 a part of, the map described in Section 33502.

35 (b) The governing board of the conservancy may adjust the boundary delineating
36 mountainous lands within the conservancy’s territory, but not by more than 100
37 yards from the boundary mapped as specified in subdivision (a), to avoid bisecting
38 any single lot or parcel in existence on January 1, 1991, or to conform the boundary
39 to more readily identifiable natural or manmade features in existence on January 1,
40 1991, if the adjustment will not jeopardize any of the resource values specified in
41 Section 33500. Any adjustment in the boundary shall be reflected in a revision to

1 the map specified in subdivision (a), which revision shall be promptly filed with the
2 Secretary of State.

3 (c) In the event of any inconsistency between the definition of “mountainous
4 lands,” as set forth in this section, and the map described in this section, the
5 definition shall control.

6 (d) As used in this chapter, “natural community conservation lands” means all
7 lands within the territory of the conservancy, the preservation of which is necessary
8 to implement a natural community conservation plan that has been approved by the
9 Department of Fish and ~~Game~~ Wildlife pursuant to ~~Chapter 10 (commencing with~~
10 ~~Section 2800) of Division 3~~ Title 2 (commencing with Section 64500) of Part 2 of
11 Division 17 of the Fish and ~~Game~~ Wildlife Code.

12 **Comment.** Section 33700 is amended to reflect the recodification of the former Fish and Game
13 Code. The section is also amended to update a reference to the former Department of Fish and
14 Game. See Fish & Wildlife Code § 1500.

15 **Pub. Res. Code § 33913 (amended).**

16 SEC. ____ . Section 33913 of the Public Resources Code is amended to read:

17 33913. Land may be acquired by the department if the land is located in a
18 designated corridor of statewide or regional priority as determined pursuant to
19 Section 65081.3 of the Government Code. Proposals by other entities for the
20 acquisition of land by the department shall be submitted to the regional
21 transportation planning agency in whose jurisdiction the land is located for review
22 and recommended action, and be approved by the department. No proposal shall be
23 approved by the department pursuant to this section unless the regional
24 transportation planning agency, after a public hearing, finds that the range of
25 potential transportation facilities to be located on the land can be constructed in a
26 manner which will avoid or mitigate significant environmental impacts or values
27 identified in subdivisions (a), (b), and (c). The regional transportation planning
28 agency is not required to comply with the California Environmental Quality Act in
29 any manner, other than complying with the provisions of subdivision (a), in order
30 to make this finding, if it has prepared an environmental review of the corridor of
31 statewide or regional priority in which the land is located pursuant to Section
32 65081.3 of the Government Code. The regional transportation planning agency shall
33 base its finding on a consideration of each of the following:

34 (a) The information contained in the environmental impact report prepared
35 pursuant to Section 65081.3 of the Government Code and a document describing
36 the proposed land acquisition which includes the content of an initial study
37 described in subdivision (d) of Section 15063 of Title 14 of the California Code of
38 Regulations (California Environmental Quality Act Guidelines). However, the
39 study need not include greater specificity about the type or nature of the proposed
40 transportation project than has been provided in action by the governing body of the
41 project applicant agency.

1 (b) Review by the Department of Fish and ~~Game~~ Wildlife. The Department of
2 Fish and ~~Game~~ Wildlife shall make the results of its review of the proposed land
3 acquisition known to the regional transportation planning agency no later than 30
4 days after the acquisition is submitted to them by the regional transportation
5 planning agency for review, or its comments shall not be considered in the finding.

6 (c) Other information submitted to the regional transportation planning agency in
7 the public hearing or in writing regarding the proposed acquisition by the
8 department.

9 **Comment.** Section 33913 is amended to update references to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Pub. Res. Code § 34001 (amended).**

12 SEC. _____. Section 34001 of the Public Resources Code is amended to read:

13 34001. (a) The Department of Fish and ~~Game~~ Wildlife may make grants to
14 nonprofit organizations, political subdivisions of the state, and Indian tribes to
15 cooperate with the department in salmon and steelhead rehabilitation along the north
16 coast of California.

17 (b) The Director of Fish and ~~Game~~ Wildlife may establish criteria for the awarding
18 of these grants to applicants who demonstrate the greatest expertise in
19 accomplishing the salmon and steelhead rehabilitation projects.

20 **Comment.** Section 34001 is amended to update a reference to the former Department of Fish
21 and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.
22 The section is also amended to add subdivision designations.

23 **Pub. Res. Code § 34002 (amended).**

24 SEC. _____. Section 34002 of the Public Resources Code is amended to read:

25 34002. The Department of Fish and ~~Game~~ Wildlife may provide nonprofit
26 organizations and Indian tribes partial funding of grants provided under Section
27 34001 or Section 3 of Chapter 344 of the Statutes of 1981, if in the opinion of the
28 department, any such organization meets all of the following requirements:

29 (a) Has a previously demonstrated record of successfully completing one or more
30 salmon or steelhead rehabilitation projects funded under the Cooperative North
31 Coast Salmon and Steelhead Restoration Project.

32 (b) Utilizes acceptable accounting procedures.

33 (c) Demonstrates that the project can be accomplished more efficiently and
34 economically and with partial funding provided before the project's completion.

35 **Comment.** Section 34002 is amended to update a reference to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Pub. Res. Code § 35650 (amended)**

38 SEC. _____. Section 35650 of the Public Resources Code is amended to read:

39 35650. (a) The California Ocean Protection Trust Fund is established in the State
40 Treasury.

1 (b) Moneys deposited in the fund may be expended, upon appropriation by the
2 Legislature, for both of the following:

3 (1) Projects and activities authorized by the council consistent with Chapter 3
4 (commencing with Section 35600).

5 (2) Upon authorization by the council, for grants or loans to public agencies,
6 nonprofit corporations, or private entities for, or direct expenditures on, projects or
7 activities that do one or more of the following:

8 (A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and
9 species.

10 (B) Improve the management of fisheries through grants or loans for the
11 development and implementation of fishery management plans pursuant to ~~Part 1.7~~
12 ~~(commencing with Section 7050) of Division 6 Title 3 (commencing with Section~~
13 12100) of Part 4 of Division 6 of the Fish and ~~Game~~ Wildlife Code, a part of the
14 Marine Life Management Act of 1998, that promote long-term stewardship and
15 collaboration with fishery participants to develop strategies that increase
16 environmental and economic sustainability. Eligible projects and activities include,
17 but are not limited to, innovative community-based or cooperative management and
18 allocation strategies that create incentives for ecosystem improvement. Eligible
19 expenditures include, but are not limited to, costs related to activities identified in
20 subdivisions (a), (b), and (d) of Section ~~7075~~ 12400 of the Fish and ~~Game~~ Wildlife
21 Code, fishery research, monitoring, data collection and analysis to support adaptive
22 management, and other costs related to the development and implementation of a
23 fishery management plan developed pursuant to this subparagraph.

24 (C) Foster sustainable fisheries, including grants or loans for one or more of the
25 following:

26 (i) Projects that encourage the development and use of more selective fishing gear.

27 (ii) The design of community-based or cooperative management mechanisms that
28 promote long-term stewardship and collaboration with fishery participants to
29 develop strategies that increase environmental and economic sustainability.

30 (iii) Collaborative research and demonstration projects between fishery
31 participants, scientists, and other interested parties.

32 (iv) Promotion of value-added wild fisheries to offset economic losses attributable
33 to reduced fishing opportunities.

34 (v) The creation of revolving loan programs for the purpose of implementing
35 sustainable fishery projects.

36 (D) Improve coastal water quality.

37 (E) Allow for increased public access to, and enjoyment of, ocean and coastal
38 resources, consistent with sustainable, long-term protection and conservation of
39 those resources.

40 (F) Improve management, conservation, and protection of coastal waters and
41 ocean ecosystems.

1 (G) Provide monitoring and scientific data to improve state efforts to protect and
2 conserve ocean resources.

3 (H) Protect, conserve, and restore coastal waters and ocean ecosystems, including
4 any of the following:

5 (i) Acquisition, installation, and initiation of monitoring and enforcement
6 systems.

7 (ii) Acquisition from willing sellers of vessels, equipment, licenses, harvest rights,
8 permits, and other rights and property, to reduce threats to ocean ecosystems and
9 resources.

10 (I) Address coastal water contamination from biological pathogens, including
11 collaborative projects and activities to identify the sources of pathogens and develop
12 detection systems and treatment methods.

13 (J)(i) Provide funding for adaptive management, planning, coordination,
14 monitoring, research, and other necessary activities to minimize the adverse impacts
15 of climate change on California's ocean ecosystem, including, but not limited to,
16 the effects of sea level rise, changes in ocean productivity, and ocean acidification
17 on coastal and ocean habitat, wildlife, fisheries, chemistry, and other key attributes
18 of ocean ecosystems and to increase the state's understanding of the ocean's role in
19 carbon sequestration. Adaptive management strategies, planning, research,
20 monitoring, or other activities shall be designed to improve the management of
21 coastal and ocean resources or aid the state to adapt to climate change impacts.

22 (ii) Information or activities developed under clause (i), to the extent appropriate,
23 shall provide guidance to the State Air Resources Board for the adoption of early
24 action measures for the elimination or reduction of emissions from sources or
25 categories of sources pursuant to the California Global Warming Solutions Act of
26 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety
27 Code).

28 (c) Grants or loans may be made to a private entity pursuant to this section only
29 for projects or activities that further public purposes consistent with Sections 35510,
30 35515, 35617, and 35632.

31 (d) Consistent with the purposes specified in Section 35515, and in furtherance of
32 the findings in Sections ~~7059 and 7060~~ 12165 and 12200 of the Fish and ~~Game~~
33 Wildlife Code, the council, in authorizing grants or loans for projects or
34 expenditures pursuant to this section, shall promote coordination of state programs
35 and activities that protect and conserve ocean resources to avoid redundancy and
36 conflicts to ensure that the state's programs and activities are complementary.

37 **Comment.** Section 35650 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Pub. Res. Code § 36602 (amended).**

40 SEC. _____. Section 36602 of the Public Resources Code is amended to read:

41 36602. The following definitions govern the construction of this chapter:

1 (a) “Committee” is the State Interagency Coordinating Committee established
2 pursuant to Section 36800.

3 (b) “Designating entity” is the Fish and Game Commission, State Park and
4 Recreation Commission, or State Water Resources Control Board, each of which
5 has the authority to designate specified state marine managed areas.

6 (c) “Managing agency” is the Department of Fish and ~~Game~~ Wildlife or the
7 Department of Parks and Recreation, each of which has the authority to manage
8 specified state marine managed areas.

9 (d) “Marine managed area” (MMA) is a named, discrete geographic marine or
10 estuarine area along the California coast designated by law or administrative action,
11 and intended to protect, conserve, or otherwise manage a variety of resources and
12 their uses. The resources and uses may include, but are not limited to, living marine
13 resources and their habitats, scenic views, water quality, recreational values, and
14 cultural or geological resources. General areas that are administratively established
15 for recreational or commercial fishing restrictions, such as seasonal or geographic
16 closures or size limits, are not included in this definition. MMAs include the
17 following classifications:

18 (1) State marine reserve, as defined in subdivision (a) of Section 36700.

19 (2) State marine park, as defined in subdivision (b) of Section 36700.

20 (3) State marine conservation area, as defined in subdivision (c) of Section 36700.

21 (4) State marine cultural preservation area, as defined in subdivision (d) of Section
22 36700.

23 (5) State marine recreational management area, as defined in subdivision (e) of
24 Section 36700.

25 (6) State water quality protection areas, as defined in subdivision (f) of Section
26 36700.

27 (e) “Marine protected area” (MPA), consistent with the Marine Life Protection
28 Act (~~Chapter 10.5 (commencing with Section 2850) of Division 3 Part 2~~
29 (commencing with Section 60400) of Division 16 of the Fish and ~~Game~~ Wildlife
30 Code) is a named, discrete geographic marine or estuarine area seaward of the mean
31 high tide line or the mouth of a coastal river, including any area of intertidal or
32 subtidal terrain, together with its overlying water and associated flora and fauna that
33 has been designated by law or administrative action to protect or conserve marine
34 life and habitat. MPAs are primarily intended to protect or conserve marine life and
35 habitat, and are therefore a subset of marine managed areas (MMAs). MPAs include
36 the following classifications:

37 (1) State marine reserve, as defined in subdivision (a) of Section 36700.

38 (2) State marine park, as defined in subdivision (b) of Section 36700.

39 (3) State marine conservation area, as defined in subdivision (c) of Section 36700.

40 **Comment.** Subdivision (e) of Section 36602 is amended to reflect the recodification of the
41 former Fish and Game Code. The section is also amended to update a reference to the former
42 Department of Fish and Game. See Fish & Wildlife Code § 1500.
43 .

1 **Pub. Res. Code § 36725 (amended).**

2 SEC. _____. Section 36725 of the Public Resources Code is amended to read:

3 36725. (a) The Fish and Game Commission may designate, delete, or modify state
4 marine recreational management areas established by the commission for hunting
5 purposes, state marine reserves, and state marine conservation areas. The Fish and
6 Game Commission shall consult with, and secure concurrence from, the State Parks
7 and Recreation Commission prior to modifying or deleting state marine reserves
8 and state marine conservation areas designated by the State Parks and Recreation
9 Commission. The Fish and Game Commission shall not delete or modify state
10 marine recreational management areas designated by the State Parks and Recreation
11 Commission.

12 (b) The State Parks and Recreation Commission may designate, delete, or modify
13 state marine reserves, state marine parks, state marine conservation areas, state
14 marine cultural preservation areas, and state marine recreational management areas.
15 The State Parks and Recreation Commission may not designate, delete, or modify a
16 state marine reserve, state marine park, or state marine conservation area without
17 the concurrence of the Fish and Game Commission on any proposed restrictions
18 upon, or change in, the use of living marine resources.

19 (c) If an unresolved conflict exists between the Fish and Game Commission and
20 the State Parks and Recreation Commission regarding a state marine reserve, state
21 marine park, or state marine conservation area, the Secretary of the Resources
22 Agency may reconcile the conflict.

23 (d) The State Water Resources Control Board may designate, delete, or modify
24 state water quality protection areas.

25 (e) The Fish and Game Commission, State Parks and Recreation Commission,
26 and State Water Resources Control Board each may restrict or prohibit recreational
27 uses and other human activities in the MMAs for the benefit of the resources therein,
28 except in the case of restrictions on the use of living marine resources. Pursuant to
29 this section, and consistent with Section ~~2860~~ 60450 of the Fish and ~~Game~~ Wildlife
30 Code, the Fish and Game Commission may regulate commercial and recreational
31 fishing and any other taking of marine species in MMAs.

32 (f)(1) The Department of Fish and ~~Game~~ Wildlife may manage state marine
33 reserves, state marine conservation areas, state marine recreational management
34 areas established for hunting purposes and, if requested by the State Water
35 Resources Control Board, state water quality protection areas.

36 (2) The Department of Parks and Recreation may manage state marine reserves,
37 state marine parks, state marine conservation areas, state marine cultural
38 preservation areas, and state marine recreational management areas. Department
39 authority over units within the state park system shall extend to units of the state
40 MMAs system that are managed by the department.

41 (3) The State Water Resources Control Board and the California regional water
42 quality control boards may take appropriate actions to protect state water quality
43 protection areas. The State Water Resources Control Board may request the

1 Department of Fish and ~~Game~~ Wildlife or the Department of Parks and Recreation
2 to take appropriate management action.

3 **Comment.** Subdivision (e) of Section 36725 is amended to reflect the recodification of the
4 former Fish and Game Code. The section is also amended to update a reference to the former
5 Department of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 36750 (amended).**

7 SEC. _____. Section 36750 of the Public Resources Code is amended to read:

8 36750. Any MMA in existence on January 1, 2002, that has not been reclassified
9 in accordance with the Marine Life Protection Act (~~Chapter 10.5 (commencing with~~
10 ~~Section 2850) of Division 3~~ Part 2 (commencing with Section 60400) of Division
11 16 of the Fish and ~~Game~~ Wildlife Code), shall be reclassified under the
12 classification system described in Section 36700 by January 1, 2003, based upon
13 the management purpose and level of resource protection at each site on January 1,
14 2002. Upon the reclassification of existing sites, but no later than January 1, 2003,
15 the use of all other classifications shall cease for the marine and estuarine
16 environments of the state, though the classifications may continue to be used for the
17 terrestrial and freshwater environments where applicable. The reclassification
18 process shall be the responsibility of the State Interagency Coordinating Committee
19 established pursuant to Section 36800, and shall occur to the extent feasible in
20 conjunction and consistent with the MMA master planning process created pursuant
21 to the Marine Life Protection Act (~~Chapter 10.5 (commencing with Section 2850)~~
22 ~~of Division 3~~ Part 2 (commencing with Section 60400) of Division 16 of the Fish
23 and ~~Game~~ Wildlife Code).

24 **Comment.** Section 36750 is amended to reflect the recodification of the former Fish and Game
25 Code.

26 **Pub. Res. Code § 36800 (amended).**

27 SEC. _____. Section 36800 of the Public Resources Code is amended to read:

28 36800. The Secretary of the Resources Agency shall establish and chair the State
29 Interagency Coordinating Committee, whose members are representatives from
30 those state agencies, departments, boards, commissions, and conservancies with
31 jurisdiction or management interests over marine managed areas, including, but not
32 limited to, the Department of Fish and ~~Game~~ Wildlife, Department of Parks and
33 Recreation, California Coastal Commission, State Water Resources Control Board,
34 and State Lands Commission. The Secretary of the Resources Agency shall
35 designate additional members of the committee. The committee shall review
36 proposals for new or amended MMAs to ensure that the minimum required
37 information is included in the proposal, to determine those state agencies that should
38 review the proposal, and to ensure consistency with other such designations in the
39 state. The committee shall also serve to ensure the proper and timely routing of site
40 proposals, review any proposed site-specific regulations for consistency with the

1 state system as a whole, and conduct periodic reviews of the statewide system to
2 evaluate whether it is meeting the mission and statement of objectives.

3 **Comment.** Section 36800 is amended to update a reference to the former Department of Fish
4 and Game. See Fish & Wildlife Code § 1500.

5 **Pub. Res. Code § 36900 (amended).**

6 SEC. _____. Section 36900 of the Public Resources Code is amended to read:

7 36900. Individuals or organizations may submit a proposal to designate an MMA
8 directly through the committee or an appropriate designating entity. Proposals
9 submitted to a designating entity shall be forwarded to the committee to initiate the
10 review process. Proposals for designating, deleting, or modifying MMAs may be
11 submitted to the committee or a designating entity at any time. The committee and
12 scientific review panel established pursuant to subdivision (b) shall annually
13 consider and promptly act upon proposals until an MPA master plan is adopted
14 pursuant to ~~subdivision (b) of Section 2859~~ subdivisions (b) and (c) of Section
15 60520 of the Fish and ~~Game~~ Wildlife Code, and thereafter, no less than once every
16 three years. Upon adoption of a statewide MPA plan, subsequent site proposals
17 determined by the committee to be consistent with that plan shall be eligible for a
18 simplified and cursory review of not more than 45 days.

19 (a) The committee shall review proposals to ensure that the minimum required
20 information is included in the proposal, to determine those state agencies that should
21 review the proposal, and to ensure consistency with other designations of that type
22 in the state. After initial review by the coordinating committee and appropriate
23 agencies, the proposal shall be forwarded to a scientific review panel established
24 pursuant to subdivision (b).

25 (b) The Secretary of the Resources Agency shall establish a scientific review
26 panel, with statewide representation and direction from the committee, to evaluate
27 proposals for technical and scientific validity, including consideration of such things
28 as site design criteria, location, and size. This panel, to the extent practical, shall be
29 the same as the master plan team used in the process set forth in the Marine Life
30 Protection Act (~~Chapter 10.5 (commencing with Section 2850) of Division 3 Part 2~~
31 (commencing with Section 60400) of Division 16 of the Fish and ~~Game~~ Wildlife
32 Code). Members shall maintain familiarity with the types and effectiveness of
33 MMAs used in other parts of the world for potential application to California.
34 Members shall be reimbursed reasonable costs to participate in the activities of the
35 panel. Where feasible, advice shall be sought from the appropriate federal agencies
36 and existing regional or statewide marine research panels and advisory groups. After
37 review by the scientific review panel, the committee shall forward the proposal and
38 any recommendations to the appropriate designating entity for a public review
39 process.

40 (c) Designating entities shall establish a process that provides for public review
41 and comment in writing and through workshops or hearings, consistent with the
42 legal mandates applicable to designating entities. All input provided by the

1 committee and scientific review panel shall be made available to the public during
2 this process. Outreach shall be made to the broadest ocean and coastal constituency
3 possible, and shall include commercial and sport fishing groups, conservation
4 organizations, waterfowl groups and other recreational interests, academia, the
5 general public, and all levels of government.

6 (d) This process does not replace the need to obtain the appropriate permits or
7 reviews of other government agencies with jurisdiction or permitting authority.

8 (e) Nothing in this section shall be construed as altering or impeding the process
9 identified under the Marine Life Protection Act (~~Chapter 10.5 (commencing with~~
10 ~~Section 2850) of Division 3 Part 2 (commencing with Section 60400) of Division~~
11 16 of the Fish and Game Wildlife Code) or the actions of the master plan team
12 described in that act.

13 **Comment.** Section 36900 is amended to reflect the recodification of the former Fish and Game
14 Code.

15 **Pub. Res. Code § 37002 (amended).**

16 SEC. _____. Section 37002 of the Public Resources Code is amended to read:

17 37002. As used in this division, the following terms have the following meanings:

18 (a) “Approval” or “approval for acceptance” means the board’s approval of the
19 granting of a tax credit for a donation of property pursuant to the program.

20 (b) “Board” means the Wildlife Conservation Board created pursuant to ~~Article 2~~
21 ~~(commencing with Section 1320) of Chapter 4 of Division 2 Article 1 (commencing~~
22 with Section 54750) of Chapter 2 of Title 1 of Part 2 of Division 15 of the Fish and
23 Game Wildlife Code.

24 (c) “Conservation easement” means a conservation easement, as defined by
25 Section 815.1 of the Civil Code, that is contributed in perpetuity.

26 (d) “Department” means any entity created by statute within the Natural
27 Resources Agency and authorized to hold title to land, or the Natural Resources
28 Agency.

29 (e)(1) “Designated nonprofit organization” means a nonprofit organization
30 qualified under Section 501(c)(3) of Title 26 of the United States Code that has as a
31 principal purpose the conservation of land and water resources and that is designated
32 by a local government or a department to accept property pursuant to this division
33 in lieu of the local government or a department. In order to be eligible to receive a
34 donation of property pursuant to this division, a nonprofit organization shall have
35 experience in land conservation.

36 (2) If bond funds are used pursuant to Chapter 7 (commencing with Section
37 37030), the designated nonprofit organization shall also meet the eligibility
38 requirements specified in the relevant provision of the applicable bond act, for a
39 nonprofit organization.

40 (f) “Donee” means any of the following:

41 (1) A department to which a donor has applied to donate property.

1 (2) A local government that has submitted a joint application with a department
2 requesting approval of a donation of property to that local government.

3 (3) A local government that has submitted an application directly to the board.

4 (4) A designated nonprofit organization.

5 (g) “Donor” means a property owner that donates, or submits an application to
6 donate, property pursuant to the program.

7 (h)(1) “Local government” means any city, county, city and county, or any
8 district, as defined in Section 5902 or in Division 26 (commencing with Section
9 35100), or any joint powers authority made up of one or more of those entities or
10 those entities and departments.

11 (2) If bond funds are used pursuant to Chapter 7 (commencing with Section
12 37030), “local government” also includes any other local governmental entity
13 eligible to receive bond funds pursuant to the relevant provision of the applicable
14 bond act.

15 (i) “Program” means the Natural Heritage Preservation Tax Credit Program
16 authorized by this division.

17 (j) “Property” means any real property, and any perpetual interest therein,
18 including land, conservation easements, and land containing water rights, as well as
19 water rights.

20 (k) “Secretary” means the Secretary of the Natural Resources Agency.

21 **Comment.** Subdivision (b) of Section 37002 is amended to reflect the recodification of the
22 former Fish and Game Code.

23 **Pub. Res. Code § 37014 (amended).**

24 SEC. _____. Section 37014 of the Public Resources Code is amended to read:

25 37014. Assets received by a donee pursuant to this division shall not be deemed
26 transfers pursuant to ~~Chapter 9 (commencing with Section 2780) of Division 3 Title~~
27 5 (commencing with Section 55800) of Part 2 of Division 15 of the Fish and Game
28 Wildlife Code. Funds from the Habitat Conservation Fund, the Environmental
29 Enhancement and Mitigation Program Fund created pursuant to Section 164.56 of
30 the Streets and Highways Code, the State Parks and Recreation Fund, and the
31 Wildlife Restoration Fund, may not be used to fund the tax credit authorized
32 pursuant to this division.

33 **Comment.** Section 37014 is amended to reflect the recodification of the former Fish and Game
34 Code.

35 **Pub. Res. Code § 37015 (amended).**

36 SEC. _____. Section 37015 of the Public Resources Code is amended to read:

37 37015. The board shall approve only contributions of properties that meet one or
38 more of the following criteria:

39 (a) The property will help meet the goals of a habitat conservation plan,
40 multispecies conservation plan, natural community conservation plan, or any other
41 similar plan subsequently authorized by statute that is designed to benefit native

1 species of plants, including, but not limited to, protecting forests, old growth trees,
2 or oak woodlands, and animals and development. In proposing and approving the
3 acceptance of contributed property pursuant to this subdivision, the recovery
4 benefits for listed species, the habitat value of the property, the value of the property
5 as a wildlife corridor, and similar habitat-related considerations shall be the criteria
6 on which the acceptance is based.

7 (b) The property will provide corridors or reserves for native plants and wildlife
8 that will help improve the recovery possibilities of listed species and increase the
9 chances that the species will recover sufficiently to be eligible to be removed from
10 the list, or will help avoid the listing of species pursuant to the California
11 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050)~~ of Division
12 ~~3 Part 1 (commencing with Section 62000)~~ of Division 17 of the Fish and Game
13 Wildlife Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.),
14 or protect wetlands, waterfowl habitat, or river or stream corridors, or promote the
15 biological viability of important California species.

16 (c) The property interest is a perpetual conservation easement over agricultural
17 land, or is a permanent contribution of agricultural land, that is threatened by
18 development and is located in an unincorporated area certified by the secretary to
19 be zoned for agricultural use by the county. Property accepted pursuant to this
20 subdivision shall be accepted pursuant to the California Farmland Conservancy
21 Program Act established by Division 10.2 (commencing with Section 10200),
22 pursuant to the agricultural conservation program of the Coastal Conservancy, or
23 pursuant to the Bay Area Conservancy Program established pursuant to Chapter 4.5
24 (commencing with Section 31160) of Division 21.

25 (d)(1) The property interest is a water right, or land with an associated water right,
26 and the contribution of the property will help improve the chances of recovery of a
27 listed species, will reduce the likelihood that any species of fish or other aquatic
28 organism will be listed pursuant to the California Endangered Species Act (~~Chapter~~
29 ~~1.5 (commencing with Section 2050)~~ of Division ~~3 Part 1 (commencing with~~
30 ~~Section 62000)~~ of Division 17 of the Fish and Game Wildlife Code) or the federal
31 Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), will improve the protection
32 of listed species, or will improve the viability and health of fish species of economic
33 importance to the state. The donee receiving the water right, or land with an
34 associated water right, shall ensure that it shall retain title to the water right, and that
35 the water shall be used to fulfill the purposes for which the water right or land
36 associated with a water right is being accepted.

37 (2) Any contribution of a water right that includes a change in the point of
38 diversion, place of use, or purpose of use may be made only if the proposed change
39 will not injure any legal user of the water involved and is made in accordance with
40 either Chapter 10 (commencing with Section 1700), or Chapter 10.5 (commencing
41 with Section 1725), of Part 2 of Division 2 of the Water Code.

1 (e) The property will be used as a park or open space or will augment public access
2 to or enjoyment of existing regional or local park, beach, or open-space facilities, or
3 will preserve archaeological resources.

4 **Comment.** Section 37015 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Pub. Res. Code § 71550 (amended).**

7 SEC. _____. Section 71550 of the Public Resources Code is amended to read:

8 71550. (a) The members of the board first appointed shall serve as incorporators
9 of the endowment and shall take whatever actions are necessary to establish the
10 endowment pursuant to the Nonprofit Public Benefit Corporation Law (Part 2
11 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code)
12 once a majority of the board is appointed.

13 (b) It is the intent of the Legislature that the endowment not be incorporated until
14 the endowment board has received its initial notice of application from the
15 Department of Fish and ~~Game~~ Wildlife, pursuant to Section ~~6610~~ 67100 of the Fish
16 and ~~Game~~ Wildlife Code.

17 **Comment.** Section 71550 is amended to reflect the recodification of the former Fish and Game
18 Code. The section is also amended to update a reference to the former Department of Fish and
19 Game. See Fish & Wildlife Code § 1500.

20 **Pub. Res. Code § 71551 (amended).**

21 SEC. _____. Section 71551 of the Public Resources Code is amended to read:

22 71551. The California Endowment for Marine Preservation shall receive funds
23 generated pursuant to the California Marine Resources Legacy Act (~~Article 2~~
24 ~~(commencing with Section 6420) of Chapter 5 of Part 1 of Division 6~~ Title 3
25 ~~(commencing with Section 25600) of Part 3 of Division 7~~ of the Fish and ~~Game~~
26 Wildlife Code).

27 **Comment.** Section 71551 is amended to reflect the recodification of the former Fish and Game
28 Code.

29 **Pub. Res. Code § 71556 (amended).**

30 SEC. _____. Section 71556 of the Public Resources Code is amended to read:

31 71556. The endowment shall coordinate its activities with the Department of Fish
32 and ~~Game~~ Wildlife, the California Coastal Commission, the San Francisco Bay
33 Conservation and Development Commission, the State Lands Commission, and
34 appropriate federal agencies, including the National Marine Fisheries Service and
35 the Minerals Management Service of the United States Department of the Interior.
36 Nothing in this division limits the authority and responsibility of any of these
37 agencies.

38 **Comment.** Section 71556 is amended to update a reference to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 71560 (amended).**

2 SEC. ____ . Section 71560 of the Public Resources Code is amended to read:

3 71560. (a) The endowment may receive charitable contributions or any sources of
4 income that may be lawfully received, including loans from the state.

5 (b) The endowment shall administer any funds it receives in accordance with this
6 division.

7 (c)(1) Except as provided in paragraph (2), the endowment shall invest and
8 manage any funds it receives so that the investments shall provide a source of
9 income in perpetuity and the principal amount consisting of charitable contributions
10 and donations, including cost savings donated pursuant to Section ~~6618~~ 67265 of
11 the Fish and ~~Game~~ Wildlife Code, shall not be spent. Any returns on investments
12 made by the endowment are the only funds that shall be available for expenditure
13 by the endowment.

14 (2) Ten percent of any funds received by the endowment pursuant to Section ~~6618~~
15 67265 of the Fish and ~~Game~~ Wildlife Code in a calendar year shall be allocated by
16 the endowment board, pursuant to Section 71552, as grants for projects or programs
17 consistent with the purpose of this chapter within 24 months of receipt of the funds.
18 The majority of these funds shall be granted to state agencies engaged in coastal and
19 ocean protection.

20 (d) The endowment shall invest and manage any funds it receives in accordance
21 with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with
22 Section 5110) of Division 2 of Title 1 of the Corporations Code).

23 (e) The accounts of the endowment shall be audited annually in accordance with
24 generally accepted auditing standards by independent certified public accountants.

25 (f) The financial transactions of the endowment for any fiscal year may be audited
26 by the California State Auditor's Office.

27 (g) Each recipient of assistance by grant, contract, or loan pursuant to this division
28 shall keep records reasonably necessary to disclose fully the amount of the
29 assistance, the disposition of the assistance, the total cost of the project or
30 undertaking in connection with which the assistance is given or used, the amount
31 and nature of that portion of the cost of the project or undertaking supplied by other
32 sources, and other records that will facilitate an effective audit. Each recipient of a
33 fixed price contract awarded pursuant to competitive bidding procedures is exempt
34 from this subdivision.

35 (h) The endowment, or its authorized representative, and the California State
36 Auditor's Office shall have access to any records necessary for the purpose of
37 auditing and examining all funds received or expended by the recipients of
38 assistance.

39 **Comment.** Subdivision (c) of Section 71560 is amended to reflect the recodification of the
40 former Fish and Game Code.

1 **Pub. Res. Code § 72421 (amended).**

2 SEC. _____. Section 72421 of the Public Resources Code is amended to read:

3 72421. (a) The owner or operator shall notify the California Emergency
4 Management Agency immediately, but not longer than 30 minutes, after discovery
5 of any of the following:

6 (1) A large passenger vessel release of graywater into the marine waters of the
7 state or a marine sanctuary.

8 (2) A large passenger vessel release of sewage into the marine waters of the state
9 or a marine sanctuary.

10 (3) A large passenger vessel or oceangoing ship release of hazardous waste, other
11 waste, sewage sludge, or oily bilgewater into the marine waters of the state or a
12 marine sanctuary.

13 (4) An oceangoing ship with sufficient holding tank capacity release of sewage or
14 graywater into the marine waters of the state or a marine sanctuary.

15 (b) The owner or operator shall include all of the following in the notification
16 required pursuant to subdivision (a):

17 (1) Date of the release.

18 (2) Time of the release.

19 (3) Location, by latitude and longitude, of the release.

20 (4) Volume of the release.

21 (5) Source of the release.

22 (6) Remedial action taken to prevent future releases.

23 (c) The California Emergency Management Agency shall transmit the notification
24 required by subdivision (a) to the board and the Department of Fish and ~~Game~~
25 Wildlife immediately, but not longer than 30 minutes, after receiving the
26 notification.

27 **Comment.** Section 72421 is amended to update a reference to the former Department of Fish
28 and Game. See Fish & Wildlife Code § 1500.

29 **Pub. Res. Code § 72430 (amended).**

30 SEC. _____. Section 72430 of the Public Resources Code is amended to read:

31 72430. (a) A person who violates Section 72420 or 72420.2 is subject to a civil
32 penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

33 (b) The civil penalty imposed for each separate violation pursuant to this section
34 is separate from, and in addition to, any other civil penalty imposed for a separate
35 violation pursuant to this section or any other provision of law.

36 (c) In determining the amount of a civil penalty imposed pursuant to this section,
37 the court shall take into consideration all relevant circumstances, including, but not
38 limited to, the nature, circumstance, extent, and gravity of the violation. In making
39 this determination, the court shall consider the degree of toxicity and volume of the
40 release, the extent of harm caused by the violation, whether the effects of the
41 violation may be reversed or mitigated, and with respect to the defendant, the ability
42 to pay, the effect of a civil penalty on the ability to continue in business, all voluntary

1 cleanup efforts undertaken, the prior history of violations, the gravity of the
2 behavior, the economic benefit, if any, resulting from the violation, and all other
3 matters the court determines justice may require.

4 (d)(1) A civil action brought under this section may only be brought in accordance
5 with this subdivision. That civil action may be brought by the Attorney General
6 upon complaint or request by the Department of Fish and ~~Game~~ Wildlife or the
7 appropriate California regional water quality control board, or by a district attorney
8 or city attorney.

9 (2) Notwithstanding Section 13223 of the Water Code, a regional water quality
10 control board may delegate to its executive officer authority to request the Attorney
11 General for judicial enforcement under this section.

12 (3) If a district attorney or city attorney brings an action under this section, the
13 action shall be in the name of the people of the State of California.

14 (4) An action relating to the same violation may be joined or consolidated.

15 **Comment.** Section 72430 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Pub. Res. Code § 75050 (amended).**

18 SEC. _____. Section 75050 of the Public Resources Code is amended to read:

19 75050. The sum of nine hundred twenty eight million dollars (\$928,000,000) shall
20 be available for the protection and restoration of rivers, lakes and streams, their
21 watersheds and associated land, water, and other natural resources in accordance
22 with the following schedule:

23 (a) The sum of one hundred eighty million dollars (\$180,000,000) shall be
24 available to the Department of Fish and ~~Game~~ Wildlife, in consultation with the
25 department, for Bay-Delta and coastal fishery restoration projects. Of the funds
26 provided in this section, up to \$20,000,000 shall be available for the development
27 of a natural community conservation plan for the CALFED Bay-Delta Program and
28 up to \$45,000,000 shall be available for coastal salmon and steelhead fishery
29 restoration projects that support the development and implementation of species
30 recovery plans and strategies for salmonid species listed as threatened or endangered
31 under state or federal law.

32 (b) The sum of ninety million dollars (\$90,000,000) shall be available for projects
33 related to the Colorado River in accordance with the following schedule:

34 (1) Not more than \$36,000,000 shall be available to the department for water
35 conservation projects that implement the Allocation Agreement as defined in the
36 Quantification Settlement Agreement.

37 (2) Not more than \$7,000,000 shall be available to the Department of Fish and
38 ~~Game~~ Wildlife for projects to implement the Lower Colorado River Multi-Species
39 Habitat Conservation Plan.

40 (3) \$47,000,000 shall be available for deposit into the Salton Sea Restoration
41 Fund.

1 (c) The sum of fifty four million dollars (\$54,000,000) shall be available to the
2 department for development, rehabilitation, acquisition, and restoration costs
3 related to providing public access to recreation and fish and wildlife resources in
4 connection with state water project obligations pursuant to Water Code Section
5 11912.

6 (d) The sum of seventy two million dollars (\$72,000,000) shall be available to the
7 secretary for projects in accordance with the California River Parkways Act of 2004
8 Chapter 3.8 (commencing with Section 5750) of Division 5. Up to \$10,000,000 may
9 be transferred to the Department of Conservation for the Watershed Coordinator
10 Grant Program.

11 (e) The sum of eighteen million dollars (\$18,000,000) shall be available to the
12 department for the Urban Streams Restoration Program pursuant to Water Code
13 Section 7048.

14 (f) The sum of thirty six million dollars (\$36,000,000) shall be available for river
15 parkway projects to the San Joaquin River Conservancy.

16 (g) The sum of seventy two million dollars (\$72,000,000) shall be available for
17 projects within the watersheds of the Los Angeles and San Gabriel Rivers according
18 to the following schedule:

19 (1) \$36,000,000 to the San Gabriel and Lower Los Angeles Rivers and Mountains
20 Conservancy pursuant to Division 22.8 (commencing with Section 32600).

21 (2) \$36,000,000 to the Santa Monica Mountains Conservancy for implementation
22 of watershed protection activities throughout the watershed of the Upper Los
23 Angeles River pursuant to Section 79508 of the Water Code.

24 (h) The sum of thirty six million dollars (\$36,000,000) shall be available for the
25 Coachella Valley Mountains Conservancy.

26 (i) The sum of forty five million dollars (\$45,000,000) shall be available for
27 projects to expand and improve the Santa Ana River Parkway. Project funding shall
28 be appropriated to the State Coastal Conservancy for projects developed in
29 consultation with local government agencies participating in the development of the
30 Santa Ana River Parkway. Of the amount provided in this paragraph the sum of
31 thirty million dollars (\$30,000,000) shall be equally divided between projects in
32 Orange, San Bernardino and Riverside Counties.

33 (j) The sum of fifty four million dollars (\$54,000,000) shall be available for the
34 Sierra Nevada Conservancy.

35 (k) The sum of thirty six million dollars (\$36,000,000) shall be available for the
36 California Tahoe Conservancy.

37 (l) The sum of forty five million dollars (\$45,000,000) shall be available to the
38 California Conservation Corps for resource conservation and restoration projects
39 and for facilities acquisition, development, restoration, and rehabilitation and for
40 grants and state administrative costs, in accordance with the following schedule:

41 (1) The sum of twenty five million dollars (\$25,000,000) shall be available for
42 projects to improve public safety and improve and restore watersheds including
43 regional and community fuel load reduction projects on public lands, and stream

1 and river restoration projects. Not less than 50% of these funds shall be in the form
2 of grants to local conservation corps.

3 (2) The sum of twenty million dollars (\$20,000,000) shall be available for grants
4 to local conservation corps for acquisition and development of facilities to support
5 local conservation corps programs, and for local resource conservation activities.

6 (m) The sum of ninety million dollars (\$90,000,000) to the state board for
7 matching grants to local public agencies for the reduction and prevention of
8 stormwater contamination of rivers, lakes, and streams. The Legislature may enact
9 legislation to implement this subdivision.

10 (n) The sum of one hundred million dollars (\$100,000,000) shall be available to
11 the secretary for the purpose of implementing a court settlement to restore flows and
12 naturally-reproducing and self-sustaining populations of salmon to the San Joaquin
13 River between Friant Dam and the Merced River. These funds shall be available for
14 channel and structural improvements, and related research pursuant to the court
15 settlement. The secretary is authorized to enter into a cost-sharing agreement with
16 the United States Secretary of the Interior and other parties, as necessary, to
17 implement this provision.

18 **Comment.** Section 75050 is amended to update references to the former Department of Fish and
19 Game. See Fish & Wildlife Code § 1500.

20  **Note.** Section 75050 was added to the Public Resources Code in 2006 by an initiative statute,
21 Proposition 84. The Commission believes that the proposed technical revision of that section would
22 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
23 and associated text.

24 **Pub. Res. Code § 75055 (amended).**

25 SEC. _____. Section 75055 of the Public Resources Code is amended to read:

26 75055. The sum of four hundred fifty million dollars (\$450,000,000) shall be
27 available for the protection and conservation of forests and wildlife habitat
28 according to the following schedule:

29 (a) Notwithstanding Section 13340 of the Government Code, the sum of one
30 hundred eighty million dollars (\$180,000,000) is continuously appropriated to the
31 board for forest conservation and protection projects. The goal of this grant program
32 is to promote the ecological integrity and economic stability of California's diverse
33 native forests for all their public benefits through forest conservation, preservation
34 and restoration of productive managed forest lands, forest reserve areas, redwood
35 forests and other forest types, including the conservation of water resources and
36 natural habitats for native fish, wildlife and plants found on these lands.

37 (b)(1) Notwithstanding Section 13340 of the Government Code, the sum of one
38 hundred thirty five million dollars (\$135,000,000) is hereby continuously
39 appropriated to the board for the development, rehabilitation, restoration,
40 acquisition and protection of habitat that accomplishes one or more of the following
41 objectives:

42 (A) Promotes the recovery of threatened and endangered species.

1 (B) Provides corridors linking separate habitat areas to prevent fragmentation.

2 (C) Protects significant natural landscapes and ecosystems such as old growth
3 redwoods, mixed conifer forests and oak woodlands, riparian and wetland areas, and
4 other significant habitat areas.

5 (D) Implements the recommendations of California Comprehensive Wildlife
6 Strategy, as submitted October 2005 to the United States Fish and Wildlife Service.

7 (2) Funds authorized by this subdivision may be used for direct expenditures or
8 for grants and for related state administrative costs, pursuant to the Wildlife
9 Conservation Law of 1947, ~~Chapter 4 (commencing with Section 1300) of Division~~
10 ~~2 Title 1 (commencing with Section 54700) of Part 2 of Division 15~~ of the Fish and
11 ~~Game Wildlife Code, the Oak Woodland Conservation Act, Article 3.5~~
12 ~~(commencing with Section 1360) of Chapter 4 of Division 2 Chapter 3~~
13 ~~(commencing with Section 54900) of Title 1 of Part 2 of Division 15~~ of the Fish and
14 ~~Game Wildlife Code, and the California Rangeland, Grazing Land and Grassland~~
15 ~~Protection Act, commencing with Section 10330 of Division 10.4.~~ Funds scheduled
16 in this subdivision may be used to prepare management plans for properties acquired
17 by the Wildlife Conservation Board and for the development of scientific data,
18 habitat mapping and other research information necessary to determine the priorities
19 for restoration and acquisition statewide.

20 (3) Up to twenty five million dollars (\$25,000,000) may be granted to the
21 University of California for the Natural Reserve System for matching grants for land
22 acquisition and for the construction and development of facilities that will be used
23 for research and training to improve the management of natural lands and the
24 preservation of California's wildlife resources.

25 (c) The sum of ninety million dollars (\$90,000,000) shall be available to the board
26 for grants to implement or assist in the establishment of Natural Community
27 Conservation Plans, ~~Chapter 10 (commencing with Section 2800) of Division 3~~
28 ~~Title 2 (commencing with Section 64500) of Part 2 of Division 17~~ of the Fish and
29 ~~Game Wildlife Code.~~

30 (d) The sum of forty five million dollars (\$45,000,000) shall be available for the
31 protection of ranches, farms, and oak woodlands according the following schedule:

32 (1) Grazing land protection pursuant to the California Rangeland, Grazing Land
33 and Grassland Protection Act, commencing with Section 10330 of Division 10.4
34 . . . \$15,000,000.

35 (2) Oak Woodland Preservation pursuant to ~~Article 3.5 (commencing with Section~~
36 ~~1360) of Chapter 4 of Division 2 Chapter 3 (commencing with Section 54900) of~~
37 ~~Title 1 of Part 2 of Division 15~~ of the Fish and ~~Game Wildlife Code~~ . . . \$15,000,000.

38 (3) Agricultural land preservation pursuant to the California Farmland
39 Conservancy Program Act of 1995, Article 1 (commencing with Section 10200) of
40 Division 10.2 . . . \$10,000,000.

41 (4) To the board for grants to assist farmers in integrating agricultural activities
42 with ecosystem restoration and wildlife protection . . . \$5,000,000.

1 **Comment.** Section 75055 is amended to reflect the recodification of the former Fish and Game
2 Code.

3  **Note.** Section 75055 was added to the Public Resources Code in 2006 by an initiative statute,
4 Proposition 84. The Commission believes that the proposed technical revision of that section would
5 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
6 and associated text.

7 **Pub. Res. Code § 75077 (amended).**

8 SEC. _____. Section 75077 of the Public Resources Code is amended to read:

9 75077. Funds provided pursuant to this division, and any appropriation or transfer
10 of those funds, shall not be deemed to be a transfer of funds for the purposes of
11 ~~Chapter 9 (commencing with Section 2780) of Division 3~~ Title 5 (commencing with
12 Section 55800) of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code.

13 **Comment.** Section 75077 is amended to reflect the recodification of the former Fish and Game
14 Code.

15 **Pub. Res. Code § 75101 (amended).**

16 SEC. _____. Section 75101 of the Public Resources Code is amended to read:

17 75101. (a)(1) Costs subsequently recovered from a party responsible for the
18 contamination pursuant to Section 75025 shall be repaid to the state board and
19 deposited in the Groundwater Contamination Cleanup Project Fund, which is hereby
20 created in the State Treasury. Costs recovered shall be separately accounted for
21 within the Groundwater Contamination Cleanup Project Fund.

22 (2) Moneys in the Groundwater Contamination Cleanup Project Fund are
23 available, upon appropriation by the Legislature, to the state board for the purpose
24 of a grant to the grantee that received funds and subsequently recovered costs from
25 a responsible party and repaid those costs to the state in the following priority order:

26 (A) Projects and activities to clean up areas of groundwater contamination within
27 the grantee's jurisdiction where the initial grant awarded pursuant to Section 75025
28 is insufficient to pay for the full costs of the cleanup.

29 (B) Projects and activities to clean up additional areas of groundwater
30 contamination within the grantee's jurisdiction.

31 (3)(A) The total amount of the grant awarded pursuant to Section 75025 and the
32 amount awarded pursuant to this subdivision shall not exceed the grantee's total
33 costs to clean up contaminated groundwater or prevent the contamination of
34 groundwater.

35 (B) If costs recovered by the grantee and deposited in the Groundwater
36 Contamination Cleanup Project Fund exceed the amount that may be awarded as a
37 grant pursuant to the limit in subparagraph (A), the excess moneys shall be available
38 to the state board, upon appropriation by the Legislature, for expenditure on orphan
39 groundwater contamination cleanup projects. The state board shall consult with the
40 Department of Toxic Substances Control when considering expenditures on orphan
41 groundwater contamination cleanup projects.

1 (4) The grantee shall use an amount awarded pursuant to this subdivision for
2 groundwater contamination cleanup activities for groundwater that is a primary
3 source of drinking water, including, but not limited to, ongoing treatment and
4 remediation activities in accordance with the purposes of Section 75025.

5 (5) When seeking grant funds pursuant to paragraph (2), a grantee shall submit an
6 expenditure plan to the state board for projects consistent with this subdivision. The
7 state board shall review the submitted expenditure plan and consult with the
8 Department of Toxic Substances Control for sites where the Department of Toxic
9 Substances Control is the lead state agency. The state board shall notify the grantee
10 if the expenditure plan is approved, and if approved, the state board shall disburse
11 the funds.

12 (6) Grants awarded pursuant to this subdivision may be used for capital costs and
13 treatment and remediation activities.

14 (7) Commencing no later than July 1, 2015, and annually thereafter until the
15 grantee's funds are expended, a grantee of funds awarded pursuant to this
16 subdivision shall provide public notice, by posting a list on the grantee's Internet
17 Web site, of projects and activities that receive grant funds pursuant to this
18 subdivision and the amount of those funds.

19 (8) As used in this subdivision, "costs subsequently recovered from a party
20 responsible for the contamination" means the amount of any judgment or settlement
21 received by a grantee of funds received pursuant to Section 75025 from a
22 responsible party that is attributable to costs funded by the grant received pursuant
23 to Section 75025, less all reasonable and necessary costs of response incurred by
24 the grantee of funds received pursuant to Section 75025 to recover these funds.
25 Attorney's fees may be considered reasonable and necessary costs of response if the
26 attorney's efforts are for identifying potentially responsible parties, but not if
27 incurred in pursuit of litigation, consistent with the Comprehensive Environmental
28 Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec.
29 9601 et seq.), and *Key Tronic Corp. v. U.S.* (511 U.S. 809 (1994)).

30 (9) The state board may use moneys in the Groundwater Contamination Cleanup
31 Project Fund, upon appropriation by the Legislature, for the costs of administering
32 this subdivision.

33 (b) The state board may directly recover moneys from a party responsible for
34 contamination addressed by a loan or grant pursuant to Section 75025 in accordance
35 with the procedures described in subdivision (c) of Section 13304 of the Water
36 Code. The state board, upon appropriation by the Legislature, may use moneys in
37 the Groundwater Contamination Cleanup Project Fund for this purpose. If moneys
38 from the Groundwater Contamination Cleanup Project Fund are used for legal costs
39 pursuant to this subdivision, moneys recovered by a judgment in favor of the state
40 board shall be deposited in that fund.

41 (c) For the purposes of implementing subdivision (a) of Section 75050, the
42 Department of Fish and Wildlife, when funding a natural community conservation
43 plan, shall fund only the development of a natural community conservation plan that

1 is consistent with the Natural Community Conservation Planning Act (~~Chapter 10~~
2 ~~(commencing with Section 2800)~~ of ~~Division 3~~ Title 2 (commencing with Section
3 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code).

4 (d) The San Francisco Bay Area Conservancy may use the funds made available
5 pursuant to subdivision (c) of Section 75060 to restore the salt ponds in the south
6 San Francisco Bay and to create trails and visitor facilities for public use in that
7 area.

8 **Comment.** Subdivision (c) of Section 75101 is amended to reflect the recodification of the
9 former Fish and Game Code.

10 **Pub. Res. Code § 80028 (amended).**

11 SEC. ____ . Section 80028 of the Public Resources Code is amended to read:

12 80028. Funds provided pursuant to this division, and any appropriation or transfer
13 of those funds, shall not be deemed to be a transfer of funds for the purposes of
14 ~~Chapter 9 (commencing with Section 2780)~~ of ~~Division 3~~ Title 5 (commencing with
15 Section 55800) of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code.

16 **Comment.** Section 80028 is amended to reflect the recodification of the former Fish and Game
17 Code.

18 **Pub. Res. Code § 80111 (amended).**

19 SEC. ____ . Section 80111 of the Public Resources Code is amended to read:

20 80111. The amount available to the Wildlife Conservation Board pursuant to
21 subdivision (c) of Section 80110 is allocated as follows:

22 (a) Five million dollars (\$5,000,000) shall be available for the development of
23 regional conservation investment strategies that are not otherwise funded pursuant
24 to Section 800 of the Streets and Highways Code or any other law.

25 (b) At least fifty-two million dollars (\$52,000,000) shall be available for the
26 acquisition, development, rehabilitation, restoration, protection, and expansion of
27 habitat that furthers the implementation of natural community conservation plans
28 adopted pursuant to the Natural Community Conservation Planning Act (~~Chapter~~
29 ~~10 (commencing with Section 2800)~~ of ~~Division 3~~ Title 2 (commencing with
30 Section 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code) to
31 help resolve resource conflicts by balancing communitywide conservation,
32 planning, and economic activities or other large-scale habitat conservation plans that
33 resolve resource conflicts with provisions for conservation, planning, and economic
34 activities. Funding pursuant to this paragraph shall not be used to offset mitigation
35 obligations otherwise required, but may be used as part of a funding partnership to
36 enhance, expand, or augment conservation efforts required by mitigation.

37 (c) Up to ten million dollars (\$10,000,000) may be granted to the University of
38 California Natural Reserve System for matching grants for acquisition of land,
39 construction and development of research facilities to improve the management of
40 natural lands, for preservation of California's wildlife resources, and to further

1 research related to climate change. The Wildlife Conservation Board shall establish
2 a matching grant requirement for grants awarded pursuant to this subdivision.

3 (d) The remainder of the amount available shall be available to the Wildlife
4 Conservation Board to provide funding for the following projects:

5 (1) Projects to protect and enhance national recreation areas serving heavily
6 urbanized areas or, in coordination with the State Lands Commission, to acquire an
7 interest in federal public lands that may be proposed for sale or disposal.

8 (2) Projects according to the Wildlife Conservation Board's governing statutes for
9 its specified purposes.

10 **Comment.** Section 80111 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Pub. Res. Code § 80132 (amended).**

13 SEC. ____ . Section 80132 of the Public Resources Code is amended to read:

14 80132. (a) Of the amount made available pursuant to Section 80130, eighteen
15 million dollars (\$18,000,000) shall be available to the Wildlife Conservation Board
16 for direct expenditures pursuant to the Wildlife Conservation Law of 1947 (~~Chapter~~
17 ~~4 (commencing with Section 1300) of Division 2 Title 1 (commencing with Section~~
18 54700) of Part 2 of Division 15 of the Fish and ~~Game~~ Wildlife Code) and for grants
19 for any of the following:

20 (1) Projects for the acquisition, development, rehabilitation, restoration,
21 protection, and expansion of wildlife corridors and open space, including projects
22 to improve connectivity and reduce barriers between habitat areas. In awarding
23 grants pursuant to this paragraph, the Wildlife Conservation Board shall give
24 priority to projects that protect wildlife corridors, including wildlife corridors
25 threatened by urban development.

26 (2) Projects for the acquisition, development, rehabilitation, restoration,
27 protection, and expansion of habitat that promote the recovery of threatened and
28 endangered species.

29 (3) Projects to improve climate adaptation and resilience of natural systems.

30 (4) Projects to protect and improve existing open-space corridors and trail
31 linkages related to utility, transportation, or water infrastructure that provide habitat
32 connectivity and public access or trails.

33 (5) Projects for wildlife rehabilitation facilities after consultation with the
34 Department of Fish and Wildlife.

35 (6) Projects to control invasive plants or insects that degrade wildlife corridors or
36 habitat linkages, inhibit the recovery of threatened or endangered species, or reduce
37 the climate resilience of a natural system.

38 (7) Projects to enhance wildlife habitat, recognizing the highly variable habitat
39 needs required by fish and wildlife. Eligible projects include acquisition of water or
40 water rights from willing sellers, acquisition of land that includes water rights or
41 contractual rights to water, short- or long-term water transfers and leases, projects

1 that provide water for fish and wildlife, projects that improve aquatic or riparian
2 habitat conditions, or projects to benefit salmon and steelhead.

3 (8) Implementation of conservation actions and habitat enhancement actions that
4 measurably advance the conservation objectives of regional conservation
5 investment strategies approved pursuant to ~~Chapter 9 (commencing with Section~~
6 ~~1850) of Division 2 Title 3 (commencing with Section 64700) of Part 2 of Division~~
7 17 the Fish and Game Wildlife Code.

8 (9) Provision of hunting and other wildlife-dependent recreational opportunities
9 to the public through voluntary agreement with private landowners, including
10 opportunities pursuant to Section ~~4572~~ 56225, 56230, or 56240 of the Fish and
11 Game Wildlife Code.

12 (b) In implementing this section, the Wildlife Conservation Board may provide
13 matching grants for incentives to landowners for conservation actions on private
14 lands or use of voluntary habitat credit exchange mechanisms. A matching grant
15 shall not exceed 50 percent of the total cost of the incentive program.

16 (c) Of the amount made available pursuant to Section 80130, thirty million dollars
17 (\$30,000,000) shall be available for the acquisition, development, rehabilitation,
18 restoration, protection, and expansion of wildlife corridors and open space to
19 improve connectivity and reduce barriers between habitat areas and to protect and
20 restore habitat associated with the Pacific Flyway. In awarding grants pursuant to
21 this subdivision, priority may be given to projects that protect wildlife corridors. Of
22 the amount described in this subdivision, ten million dollars (\$10,000,000) shall be
23 available for the California Waterfowl Habitat Program.

24 (d) Of the amount made available pursuant to Section 80130, not less than twenty-
25 five million dollars (\$25,000,000) shall be available to the Department of Fish and
26 Wildlife for projects to restore rivers and streams in support of fisheries and wildlife,
27 including, but not limited to, reconnection of rivers with their flood plains, riparian
28 and side-channel habitat restoration activities described in subdivision (b) of Section
29 79737 of the Water Code, and restoration and protection of upper watershed forests
30 and meadow systems that are important for fish and wildlife resources. Subdivision
31 (f) of Section 79738 of the Water Code applies to this subdivision. Of the amount
32 available pursuant to this subdivision, at least five million dollars (\$5,000,000) shall
33 be available for restoration projects in the Klamath-Trinity watershed for the benefit
34 of salmon and steelhead. Priority shall be given to projects supported by
35 multistakeholder public or private partnerships, or both, using a science-based
36 approach and measurable objectives to guide identification, design, and
37 implementation of regional actions to benefit salmon and steelhead.

38 (e)(1) Of the amount made available pursuant to Section 80130, not less than sixty
39 million dollars (\$60,000,000) shall be available to the Wildlife Conservation Board
40 for construction, repair, modification, or removal of transportation or water
41 resources infrastructure to improve wildlife or fish passage.

1 (2) Of the amount subject to paragraph (1), at least thirty million dollars
2 (\$30,000,000) shall be available to the Department of Fish and Wildlife for
3 restoration of Southern California Steelhead habitat consistent with the Department
4 of Fish and Wildlife’s Steelhead Restoration and Management Plan and the National
5 Marine Fisheries Service’s Southern California Steelhead Recovery Plan. Projects
6 that remove significant barriers to steelhead migration and include other habitat
7 restoration and associated infrastructure improvements shall be the highest priority.

8 (f) Of the amount made available pursuant to Section 80130, not less than sixty
9 million dollars (\$60,000,000) shall be available to the Wildlife Conservation Board
10 for the protection, restoration, and improvement of upper watershed lands in the
11 Sierra Nevada and Cascade Mountains, including forest lands, meadows, wetlands,
12 chaparral, and riparian habitat, in order to protect and improve water supply and
13 water quality, improve forest health, reduce wildfire danger, mitigate the effects of
14 wildfires on water quality and supply, increase flood protection, or to protect or
15 restore riparian or aquatic resources.

16 (g) Of the amount made available pursuant to Section 80130, at least thirty million
17 dollars (\$30,000,000) shall be available to the Department of Fish and Wildlife to
18 improve conditions for fish and wildlife in streams, rivers, wildlife refuges, wetland
19 habitat areas, and estuaries. Eligible projects include acquisition of water from
20 willing sellers, acquisition of land that includes water rights or contractual rights to
21 water, short- or long-term water transfers or leases, provision of water for fish and
22 wildlife, or improvement of aquatic or riparian habitat conditions. In implementing
23 this section, the Department of Fish and Wildlife may provide grants under the
24 Fisheries Restoration Grant Program with priority given to coastal waters.

25 (h) The Wildlife Conservation Board shall update its strategic master plan that
26 identifies priorities and specific criteria for selecting projects pursuant to
27 subdivision (a).

28 (i) Activities funded pursuant to this section shall be consistent with the state’s
29 climate adaptation strategy, as provided in Section 71153, and the statewide
30 objectives provided in Section 71154.

31 **Comment.** Subdivision (a) of Section 80132 is amended to reflect the recodification of the
32 former Fish and Game Code.

33  **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code 1572,
34 which is cross-referenced in the section above, have been continued in several different sections of
35 the proposed Fish and Wildlife Code.

36 **The Commission requests public comment on the proposed conforming revision of the**
37 **cross-reference to Section 1572 in the section above.**

38 PUBLIC UTILITIES CODE

39 **Pub. Util. Code § 7718 (amended).**

40 SEC. _____. Section 7718 of the Public Utilities Code is amended to read:

1 7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is
2 hereby created in the California Environmental Protection Agency. The force shall
3 be responsible for providing immediate onsite response capability in the event of
4 large-scale releases of toxic materials resulting from surface transportation
5 accidents and for implementing the state hazardous materials incident prevention
6 and immediate deployment plan. This force shall act cooperatively and in concert
7 with existing local emergency response units. The force shall consist of
8 representatives of all of the following:

- 9 (1) Department of Fish and ~~Game~~ Wildlife.
- 10 (2) California Environmental Protection Agency.
- 11 (3) State Air Resources Board.
- 12 (4) California Integrated Waste Management Board.
- 13 (5) California regional water quality control boards.
- 14 (6) Department of Toxic Substances Control.
- 15 (7) Department of Pesticide Regulation.
- 16 (8) Office of Environmental Health Hazard Assessment.
- 17 (9) State Department of Public Health.
- 18 (10) Department of the California Highway Patrol.
- 19 (11) Department of Food and Agriculture.
- 20 (12) Department of Forestry and Fire Protection.
- 21 (13) Department of Parks and Recreation.
- 22 (14) Public Utilities Commission.
- 23 (15) Any other potentially affected state, local, or federal agency.
- 24 (16) Office of Emergency Services.

25 (b) The California Environmental Protection Agency shall develop a state railroad
26 accident prevention and immediate deployment plan in cooperation with the State
27 Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to
28 (17), inclusive, of subdivision (a).

29 (c) The plan specified in subdivision (b) shall be a comprehensive set of policies
30 and directions that every potentially affected state agency and business shall follow
31 if there is a railroad accident to minimize the potential damage to the public health
32 and safety, property, and the environment that might result from accidents involving
33 railroad activities in the state.

34 **Comment.** Section 7718 is amended to update a reference to the former Department of Fish and
35 Game. See Fish & Wildlife Code § 1500.

36 REVENUE AND TAXATION CODE

37 **Rev. & Tax. Code § 421 (amended).**

38 SEC. _____. Section 421 of the Revenue and Taxation Code is amended to read:

39 421. For the purposes of this article:

1 (a) “Agricultural preserve” means an agricultural preserve created pursuant to the
2 California Land Conservation Act of 1965 (Williamson Act) (Chapter 7
3 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the
4 Government Code).

5 (b) “Contract” means a contract executed pursuant to the California Land
6 Conservation Act.

7 (c) “Agreement” means an agreement executed pursuant to the California Land
8 Conservation Act prior to the 61st day following the final adjournment of the 1969
9 Regular Session of the Legislature and that, taken as a whole, provides restrictions,
10 terms and conditions that are substantially similar or more restrictive than those
11 required by statute for a contract.

12 (d) “Scenic restriction” means any interest or right in real property acquired by a
13 city or county pursuant to Chapter 12 (commencing with Section 6950) of Division
14 7 of Title 1 of the Government Code, where the deed or other instrument granting
15 such right or interest imposes restrictions that, through limitation of their future use,
16 will effectively preserve for public use and enjoyment, the character of open spaces
17 and areas as defined in Section 6954 of the Government Code.

18 A scenic restriction shall be for an initial term of 10 years or more, and shall
19 provide for either of the following:

20 (1) A method whereby the term may be extended by mutual agreement of the
21 parties.

22 (2) That the initial term shall be subject to annual automatic one-year extensions
23 as provided for contracts in Sections 51244, 51244.5, and 51246 of the Government
24 Code, unless notice of nonrenewal is given as provided in Section 51245 of the
25 Government Code.

26 A scenic restriction may not be terminated prior to the expiration of the initial
27 term, and any extension thereof, except as provided for cancellation of contracts in
28 Sections 51281, 51282, 51283 and 51283.3 of the Government Code, and subject to
29 the provisions therein for payment of the cancellation fee.

30 (e) “Open-space easement” means an open-space easement granted to a county or
31 city pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division
32 1 of Title 5 of the Government Code if the easement is acquired prior to January 1,
33 1975, or an open-space easement granted to a county, city, or nonprofit organization
34 pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1
35 of Title 5 of the Government Code if the easement is acquired after January 1, 1975,
36 or an open-space easement granted to a regional park district, regional park and
37 open-space district, or regional open-space district under Article 3 (commencing
38 with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code.

39 (f) “Wildlife habitat contract” means any contract or amended contract or
40 covenant involving, except as provided in Section 423.8, 150 acres or more of land
41 entered into by a landowner with any agency or political subdivision of the federal
42 or state government limiting the use of lands for a period of 10 or more years by the
43 landowner to habitat for native or migratory wildlife and native pasture. These lands

1 shall, by contract, be eligible to receive water for waterfowl or waterfowl
2 management purposes from the federal government.

3 (g) “Open-space land” means any of the following:

4 (1) Land within an agricultural preserve and subject to a contract or an agreement.

5 (2) Land subject to a scenic restriction.

6 (3) Land subject to an open-space easement.

7 (4) Land that has been restricted by a political subdivision or an entity of the state
8 or federal government, acting within the scope of its regulatory or other legal
9 authority, for the benefit of wildlife, endangered species, or their habitats.

10 (h) “Typical rotation period” means a period of years during which different crops
11 are grown as part of a plant cultural program. Typical rotation period does not mean
12 the rotation period of timber.

13 (i) “Wildlife” means waterfowl of every kind and any other undomesticated
14 mammal, fish, or bird, or any reptile, amphibian, insect, or plant.

15 (j) “Endangered species” means any species or subcategory thereof, as defined in
16 the California Endangered Species Act (~~Chapter 1.5 (commencing with Section~~
17 ~~2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17~~ of the
18 Fish and Game Wildlife Code) or the federal Endangered Species Act (16 U.S.C.
19 Sec. 1531 et seq.), that has been classified and protected as an endangered,
20 threatened, rare, or candidate species by any entity of the state or federal
21 government.

22 **Comment.** Subdivision (j) of Section 421 is amended to reflect the recodification of the former
23 Fish and Game Code.

24 **Rev. & Tax. Code § 18741 (amended).**

25 SEC. ____ . Section 18741 of the Revenue and Taxation Code is amended to read:

26 18741. (a) Any individual may designate on the tax return, under the space labeled
27 “Rare and Endangered Species Preservation Voluntary Tax Contribution Program,”
28 that a contribution in excess of the tax liability, if any, be made to the Endangered
29 and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account
30 established in the Fish and Game Preservation Fund pursuant to Section ~~4770~~ 56100
31 of the Fish and Game Wildlife Code.

32 (b) The contribution shall be in full dollar amounts and may be made individually
33 by each signatory on a joint return.

34 (c) A designation under subdivision (a) shall be made for any taxable year on the
35 original return for that taxable year, and once made shall be irrevocable.

36 (d) The Franchise Tax Board shall revise the form of the return to include a space
37 labeled “Rare and Endangered Species Preservation Voluntary Tax Contribution
38 Program” to allow for the designation permitted under subdivision (a).

39 (e) A deduction shall be allowed under Article 6 (commencing with Section
40 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision
41 (a).

1 **Comment.** Section 18741 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Rev. & Tax. Code § 18742 (amended).**

4 SEC. ____ . Section 18742 of the Revenue and Taxation Code is amended to read:
5 18742. (a) The Franchise Tax Board shall notify the Controller of both the amount
6 of moneys paid by taxpayers in excess of their tax liability and the amount of refund
7 moneys that taxpayers have designated pursuant to Section 18741 to be transferred
8 to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
9 Enhancement Account. The Controller shall transfer from the Personal Income Tax
10 Fund to that account, an amount not in excess of the sum of the amounts reported to
11 the Controller by the Franchise Tax Board that have been designated by individuals
12 pursuant to Section 18741 for payment into that account.

13 (b) Notwithstanding Section 13340 of the Government Code, all moneys
14 transferred to the account shall be continuously appropriated and allocated as
15 follows:

16 (1) To the Franchise Tax Board and the Controller for the reimbursement of all
17 actual and direct costs incurred by the Franchise Tax Board and the Controller in
18 connection with the collection and administration of funds under this article.

19 (2) To the Department of Fish and Wildlife for the purposes specified in Section
20 ~~1771~~ 56105 of the Fish and ~~Game~~ Wildlife Code.

21 (c) The Department of Fish and Wildlife shall comply with the Internet Web site
22 reporting requirements described in Section 18873.

23 **Comment.** Section 18742 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 **Rev. & Tax. Code § 18749.2 (amended).**

26 SEC. ____ . Section 18749.2 of the Revenue and Taxation Code is amended to read:
27 18749.2. (a) Notwithstanding Section 13340 of the Government Code, all moneys
28 transferred to the Native California Wildlife Rehabilitation Voluntary Tax
29 Contribution Fund shall be continuously appropriated and allocated as follows:

30 (1) To the Franchise Tax Board and the Controller for reimbursement of all costs
31 incurred by the Franchise Tax Board and the Controller in connection with their
32 duties under this article.

33 (2) The revenues remaining, after allocation pursuant to paragraph (1), to the
34 Department of Fish and Wildlife for the purposes specified in ~~Article 5~~
35 ~~(commencing with Section 1773)~~ of ~~Chapter 7.5~~ of ~~Division 2~~ Chapter 5
36 (commencing with Section 56150) of Title 6 of Part 2 of Division 15 the Fish and
37 ~~Game~~ Wildlife Code.

38 (b) The Department of Fish and Wildlife shall comply with the Internet Web site
39 reporting requirements described in Section 18873.

40 **Comment.** Section 18749.2 is amended to reflect the recodification of the former Fish and Game
41 Code.

1 **Rev. & Tax. Code § 34019 (amended).**

2 SEC. ____ . Section 34019 of the Revenue and Taxation Code is amended to read:

3 34019. (a) Beginning with the 2017–18 fiscal year, the Department of Finance
4 shall estimate revenues to be received pursuant to Sections 34011 and 34012 and
5 provide those estimates to the Controller no later than June 15 of each year. The
6 Controller shall use these estimates when disbursing funds pursuant to this section.
7 Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this
8 section, the Controller shall disburse from the Tax Fund to the appropriate account,
9 without regard to fiscal year, the following:

10 (1) Reasonable costs incurred by the board for administering and collecting the
11 taxes imposed by this part; provided, however, such costs shall not exceed 4 percent
12 of tax revenues received.

13 (2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs,
14 the Department of Food and Agriculture, and the State Department of Public Health
15 for implementing, administering, and enforcing Division 10 (commencing with
16 Section 26000) of the Business and Professions Code to the extent those costs are
17 not reimbursed pursuant to Section 26180 of the Business and Professions Code.
18 This paragraph shall remain operative through the 2022–23 fiscal year.

19 (3) Reasonable costs incurred by the Department of Fish and Wildlife, the State
20 Water Resources Control Board, and the Department of Pesticide Regulation for
21 carrying out their respective duties under Division 10 (commencing with Section
22 26000) of the Business and Professions Code to the extent those costs are not
23 otherwise reimbursed.

24 (4) Reasonable costs incurred by the Controller for performing duties imposed by
25 the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit
26 required by Section 34020.

27 (5) Reasonable costs incurred by the Department of Finance for conducting the
28 performance audit pursuant to Section 26191 of the Business and Professions Code.

29 (6) Reasonable costs incurred by the Legislative Analyst’s Office for performing
30 duties imposed by Section 34017.

31 (7) Sufficient funds to reimburse the Division of Labor Standards Enforcement
32 and the Division of Occupational Safety and Health within the Department of
33 Industrial Relations and the Employment Development Department for the costs of
34 applying and enforcing state labor laws to licensees under Division 10 (commencing
35 with Section 26000) of the Business and Professions Code.

36 (b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000)
37 to a public university or universities in California annually beginning with the 2018–
38 19 fiscal year until the 2028–29 fiscal year to research and evaluate the
39 implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana
40 Act, and shall, if appropriate, make recommendations to the Legislature and
41 Governor regarding possible amendments to the Control, Regulate and Tax Adult
42 Use of Marijuana Act. The recipients of these funds shall publish reports on their

1 findings at a minimum of every two years and shall make the reports available to
2 the public. The bureau shall select the universities to be funded. The research funded
3 pursuant to this subdivision shall include but not necessarily be limited to:

4 (1) Impacts on public health, including health costs associated with cannabis use,
5 as well as whether cannabis use is associated with an increase or decrease in use of
6 alcohol or other drugs.

7 (2) The impact of treatment for maladaptive cannabis use and the effectiveness of
8 different treatment programs.

9 (3) Public safety issues related to cannabis use, including studying the
10 effectiveness of the packaging and labeling requirements and advertising and
11 marketing restrictions contained in the act at preventing underage access to and use
12 of cannabis and cannabis products, and studying the health-related effects among
13 users of varying potency levels of cannabis and cannabis products.

14 (4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis
15 rates of cannabis-related substance use disorders.

16 (5) Cannabis market prices, illicit market prices, tax structures and rates, including
17 an evaluation of how to best tax cannabis based on potency, and the structure and
18 function of licensed cannabis businesses.

19 (6) Whether additional protections are needed to prevent unlawful monopolies or
20 anti-competitive behavior from occurring in the adult-use cannabis industry and, if
21 so, recommendations as to the most effective measures for preventing such
22 behavior.

23 (7) The economic impacts in the private and public sectors, including, but not
24 necessarily limited to, job creation, workplace safety, revenues, taxes generated for
25 state and local budgets, and criminal justice impacts, including, but not necessarily
26 limited to, impacts on law enforcement and public resources, short and long term
27 consequences of involvement in the criminal justice system, and state and local
28 government agency administrative costs and revenue.

29 (8) Whether the regulatory agencies tasked with implementing and enforcing the
30 Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with
31 the purposes of the act, and whether different agencies might do so more effectively.

32 (9) Environmental issues related to cannabis production and the criminal
33 prohibition of cannabis production.

34 (10) The geographic location, structure, and function of licensed cannabis
35 businesses, and demographic data, including race, ethnicity, and gender, of license
36 holders.

37 (11) The outcomes achieved by the changes in criminal penalties made under the
38 Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related
39 offenses, and the outcomes of the juvenile justice system, in particular, probation-
40 based treatments and the frequency of up-charging illegal possession of cannabis or
41 cannabis products to a more serious offense.

42 (c) The Controller shall next disburse the sum of three million dollars
43 (\$3,000,000) annually to the Department of the California Highway Patrol

1 beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and
2 adopt protocols to determine whether a driver is operating a vehicle while impaired,
3 including impairment by the use of cannabis or cannabis products, and to establish
4 and adopt protocols setting forth best practices to assist law enforcement agencies.
5 The department may hire personnel to establish the protocols specified in this
6 subdivision. In addition, the department may make grants to public and private
7 research institutions for the purpose of developing technology for determining when
8 a driver is operating a vehicle while impaired, including impairment by the use of
9 cannabis or cannabis products.

10 (d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000)
11 beginning with the 2018–19 fiscal year and increasing ten million dollars
12 (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time
13 the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to
14 the Governor’s Office of Business and Economic Development, in consultation with
15 the Labor and Workforce Development Agency and the State Department of Social
16 Services, to administer a community reinvestments grants program to local health
17 departments and at least 50 percent to qualified community-based nonprofit
18 organizations to support job placement, mental health treatment, substance use
19 disorder treatment, system navigation services, legal services to address barriers to
20 reentry, and linkages to medical care for communities disproportionately affected
21 by past federal and state drug policies. The office shall solicit input from
22 community-based job skills, job placement, and legal service providers with
23 relevant expertise as to the administration of the grants program. In addition, the
24 office shall periodically evaluate the programs it is funding to determine the
25 effectiveness of the programs, shall not spend more than 4 percent for administrative
26 costs related to implementation, evaluation, and oversight of the programs, and shall
27 award grants annually, beginning no later than January 1, 2020.

28 (e) The Controller shall next disburse the sum of two million dollars (\$2,000,000)
29 annually to the University of California San Diego Center for Medicinal Cannabis
30 Research to further the objectives of the center, including the enhanced
31 understanding of the efficacy and adverse effects of cannabis as a pharmacological
32 agent.

33 (f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the
34 Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and
35 (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-
36 trust accounts, which are hereby created, as follows:

37 (1) Sixty percent shall be deposited in the Youth Education, Prevention, Early
38 Intervention and Treatment Account, and disbursed by the Controller to the State
39 Department of Health Care Services for programs for youth that are designed to
40 educate about and to prevent substance use disorders and to prevent harm from
41 substance use. The State Department of Health Care Services shall enter into
42 interagency agreements with the State Department of Public Health and the State

1 Department of Education to implement and administer these programs. The
2 programs shall emphasize accurate education, effective prevention, early
3 intervention, school retention, and timely treatment services for youth, their families
4 and caregivers. The programs may include, but are not limited to, the following
5 components:

6 (A) Prevention and early intervention services including outreach, risk survey and
7 education to youth, families, caregivers, schools, primary care health providers,
8 behavioral health and substance use disorder service providers, community and
9 faith-based organizations, fostercare providers, juvenile and family courts, and
10 others to recognize and reduce risks related to substance use, and the early signs of
11 problematic use and of substance use disorders.

12 (B) Grants to schools to develop and support student assistance programs, or other
13 similar programs, designed to prevent and reduce substance use, and improve school
14 retention and performance, by supporting students who are at risk of dropping out
15 of school and promoting alternatives to suspension or expulsion that focus on school
16 retention, remediation, and professional care. Schools with higher than average
17 dropout rates should be prioritized for grants.

18 (C) Grants to programs for outreach, education, and treatment for homeless youth
19 and out-of-school youth with substance use disorders.

20 (D) Access and linkage to care provided by county behavioral health programs
21 for youth, and their families and caregivers, who have a substance use disorder or
22 who are at risk for developing a substance use disorder.

23 (E) Youth-focused substance use disorder treatment programs that are culturally
24 and gender competent, trauma-informed, evidence-based and provide a continuum
25 of care that includes screening and assessment (substance use disorder as well as
26 mental health), early intervention, active treatment, family involvement, case
27 management, overdose prevention, prevention of communicable diseases related to
28 substance use, relapse management for substance use and other cooccurring
29 behavioral health disorders, vocational services, literacy services, parenting classes,
30 family therapy and counseling services, medication-assisted treatments, psychiatric
31 medication and psychotherapy. When indicated, referrals must be made to other
32 providers.

33 (F) To the extent permitted by law and where indicated, interventions shall utilize
34 a two-generation approach to addressing substance use disorders with the capacity
35 to treat youth and adults together. This would include supporting the development
36 of family-based interventions that address substance use disorders and related
37 problems within the context of families, including parents, foster parents, caregivers
38 and all their children.

39 (G) Programs to assist individuals, as well as families and friends of drug using
40 young people, to reduce the stigma associated with substance use including being
41 diagnosed with a substance use disorder or seeking substance use disorder services.
42 This includes peer-run outreach and education to reduce stigma, anti-stigma
43 campaigns, and community recovery networks.

1 (H) Workforce training and wage structures that increase the hiring pool of
2 behavioral health staff with substance use disorder prevention and treatment
3 expertise. Provide ongoing education and coaching that increases substance use
4 treatment providers' core competencies and trains providers on promising and
5 evidenced-based practices.

6 (I) Construction of community-based youth treatment facilities.

7 (J) The departments may contract with each county behavioral health program for
8 the provision of services.

9 (K) Funds shall be allocated to counties based on demonstrated need, including
10 the number of youth in the county, the prevalence of substance use disorders among
11 adults, and confirmed through statistical data, validated assessments, or submitted
12 reports prepared by the applicable county to demonstrate and validate need.

13 (L) The departments shall periodically evaluate the programs they are funding to
14 determine the effectiveness of the programs.

15 (M) The departments may use up to 4 percent of the moneys allocated to the Youth
16 Education, Prevention, Early Intervention and Treatment Account for
17 administrative costs related to implementation, evaluation, and oversight of the
18 programs.

19 (N) If the Department of Finance ever determines that funding pursuant to
20 cannabis taxation exceeds demand for youth prevention and treatment services in
21 the state, the departments shall provide a plan to the Department of Finance to
22 provide treatment services to adults as well as youth using these funds.

23 (O) The departments shall solicit input from volunteer health organizations,
24 physicians who treat addiction, treatment researchers, family therapy and
25 counseling providers, and professional education associations with relevant
26 expertise as to the administration of any grants made pursuant to this paragraph.

27 (2) Twenty percent shall be deposited in the Environmental Restoration and
28 Protection Account, and disbursed by the Controller as follows:

29 (A) To the Department of Fish and Wildlife and the Department of Parks and
30 Recreation for the cleanup, remediation, and restoration of environmental damage
31 in watersheds affected by cannabis cultivation and related activities including, but
32 not limited to, damage that occurred prior to enactment of this part, and to support
33 local partnerships for this purpose. The Department of Fish and Wildlife and the
34 Department of Parks and Recreation may distribute a portion of the funds they
35 receive from the Environmental Restoration and Protection Account through grants
36 for purposes specified in this paragraph.

37 (B) To the Department of Fish and Wildlife and the Department of Parks and
38 Recreation for the stewardship and operation of state-owned wildlife habitat areas
39 and state park units in a manner that discourages and prevents the illegal cultivation,
40 production, sale, and use of cannabis and cannabis products on public lands, and to
41 facilitate the investigation, enforcement, and prosecution of illegal cultivation,
42 production, sale, and use of cannabis or cannabis products on public lands.

1 (C) To the Department of Fish and Wildlife to assist in funding the watershed
2 enforcement program and multiagency taskforce established pursuant to
3 ~~subdivisions (b) and (c) of Section 12029~~ Sections 72205 and 72210 of the Fish and
4 ~~Game~~ Wildlife Code to facilitate the investigation, enforcement, and prosecution of
5 these offenses and to ensure the reduction of adverse impacts of cannabis
6 cultivation, production, sale, and use on fish and wildlife habitats throughout the
7 state.

8 (D) For purposes of this paragraph, the Secretary of the Natural Resources Agency
9 shall determine the allocation of revenues between the departments. During the first
10 five years of implementation, first consideration should be given to funding
11 purposes specified in subparagraph (A).

12 (E) Funds allocated pursuant to this paragraph shall be used to increase and
13 enhance activities described in subparagraphs (A), (B), and (C), and not replace
14 allocation of other funding for these purposes. Accordingly, annual General Fund
15 appropriations to the Department of Fish and Wildlife and the Department of Parks
16 and Recreation shall not be reduced below the levels provided in the Budget Act of
17 2014 (Chapter 25 of the Statutes of 2014).

18 (3) Twenty percent shall be deposited into the State and Local Government Law
19 Enforcement Account and disbursed by the Controller as follows:

20 (A) To the Department of the California Highway Patrol for conducting training
21 programs for detecting, testing and enforcing laws against driving under the
22 influence of alcohol and other drugs, including driving under the influence of
23 cannabis. The department may hire personnel to conduct the training programs
24 specified in this subparagraph.

25 (B) To the Department of the California Highway Patrol to fund internal
26 California Highway Patrol programs and grants to qualified nonprofit organizations
27 and local governments for education, prevention, and enforcement of laws related
28 to driving under the influence of alcohol and other drugs, including cannabis;
29 programs that help enforce traffic laws, educate the public in traffic safety, provide
30 varied and effective means of reducing fatalities, injuries, and economic losses from
31 collisions; and for the purchase of equipment related to enforcement of laws related
32 to driving under the influence of alcohol and other drugs, including cannabis.

33 (C) To the Board of State and Community Corrections for making grants to local
34 governments to assist with law enforcement, fire protection, or other local programs
35 addressing public health and safety associated with the implementation of the
36 Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make
37 any grants to local governments which have banned the cultivation, including
38 personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of
39 the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant
40 to Section 26200 of the Business and Professions Code or as otherwise provided by
41 law.

42 (D) For purposes of this paragraph, the Department of Finance shall determine the
43 allocation of revenues between the agencies; provided, however, beginning in the

1 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be
2 less than ten million dollars (\$10,000,000) annually and the amount allocated
3 pursuant to subparagraph (B) shall not be less than forty million dollars
4 (\$40,000,000) annually. In determining the amount to be allocated before the 2022–
5 23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial
6 priority to subparagraph (A).

7 (g) Funds allocated pursuant to subdivision (f) shall be used to increase the
8 funding of programs and purposes identified and shall not be used to replace
9 allocation of other funding for these purposes.

10 (h) Effective July 1, 2028, the Legislature may amend this section by majority
11 vote to further the purposes of the Control, Regulate and Tax Adult Use of
12 Marijuana Act, including allocating funds to programs other than those specified in
13 subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result
14 in a reduction of funds to accounts established pursuant to subdivisions (d) and (f)
15 in any subsequent year from the amount allocated to each account in the 2027–28
16 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to
17 programs specified in subdivisions (d) and (f).

18 **Comment.** Subparagraph (C) of paragraph (2) of subdivision (f) of Section 34019 is amended
19 to reflect the recodification of the former Fish and Game Code.

20  **Note.** Section 5907 was added to the Revenue and Taxation Code in 2016 by an initiative
21 statute, Proposition 64. The Commission believes that the proposed technical revision of that
22 section would not be an impermissible amendment. See discussion of initiative statutes *supra* at
23 notes 5 and 6, and associated text.

24 **Rev. & Tax. Code § 46618 (amended).**

25 SEC. _____. Section 46618 of the Revenue and Taxation Code is amended to read:
26 46618. The board shall, in cooperation with the Department of Fish and ~~Game~~
27 Wildlife, the Taxpayers’ Rights Advocate, and other interested feepayer-oriented
28 groups, develop a plan to reduce the time required to resolve petitions for
29 redetermination and claims for refunds. The plan shall include determination of
30 standard timeframes and special review of cases that take more time than the
31 appropriate standard timeframe.

32 **Comment.** Section 46618 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Rev. & Tax. Code § 46751 (amended).**

35 SEC. _____. Section 46751 of the Revenue and Taxation Code is amended to read:
36 46751. (a) The board shall provide any and all information obtained under this
37 part to the Department of Fish and ~~Game~~ Wildlife.

38 (b) The Department of Fish and ~~Game~~ Wildlife and the board may utilize any
39 information obtained pursuant to this part to develop data on oil spill prevention,
40 abatement, and removal within the state. Notwithstanding any other provision of

1 this section, the Department of Fish and ~~Game~~ Wildlife may make oil spill
2 prevention, abatement, and removal public.

3 (c) It shall be unlawful for the board, or any person having an administrative duty
4 under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the
5 Government Code or Division 7.8 (commencing with Section 8750) of the Public
6 Resources Code to make known, in any manner whatever, the business affairs,
7 operations, or any other information pertaining to a fee payer which was submitted
8 to the board in a report or return required by this part, or to permit any report or
9 copy thereof or any book containing any abstract or particulars thereof to be seen or
10 examined by any person not expressly authorized by subdivision (a), subdivision
11 (d), and this subdivision. However, the Governor may, by general or special order,
12 authorize examination of the records maintained by the board under this part by
13 other state officers, by officers of another state, by the federal government, if a
14 reciprocal arrangement exists, or by any other person. The information so obtained
15 pursuant to the order of the Governor shall not be made public except to the extent
16 and in the manner that the order may authorize that it be made public.

17 (d) The board may furnish to any state or federal agency investigating violations
18 of or enforcing any state or federal law related to crude oil and petroleum products
19 any crude oil and petroleum products information in the possession of the board that
20 is deemed necessary for the enforcement of those laws.

21 (e) Notwithstanding subdivision (c), the successors, receivers, trustees, executors,
22 administrators, assignees, and guarantors, if directly interested, may be given
23 information regarding the determination of any unpaid fee or the amount of fees,
24 interest, or penalties required to be collected or assessed.

25 (f) Nothing in this section shall be construed as limiting or increasing the public's
26 access to information on any aspect of oil spill prevention, abatement, and removal
27 collected pursuant to other state or local laws, regulations, or ordinances.

28 **Comment.** Section 46751 is amended to update references to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30 STREETS AND HIGHWAY CODE

31 **Sts. & Hy. Code § 91.8 (amended).**

32 SEC. _____. Section 91.8 of the Streets and Highway Code is amended to read:

33 91.8. (a) The department shall, within its maintenance program, establish
34 procedures for the removal and disposal of animal carcasses on state highways.

35 (b) Notwithstanding any other provision of law, including, but not limited to,
36 prohibitions on the possession and transportation of endangered or protected
37 species, or the property rights associated with livestock and other commercially
38 valuable animals, the department may remove or relocate an animal carcass from a
39 state highway for safety purposes.

1 (c) The department shall dispose of animal carcasses in an environmentally
2 appropriate manner considering both of the following:

3 (1) The animal's probable legal status, whether as domestic or commercial
4 property, wild, feral, protected, or endangered, as follows:

5 (A) When practicable, an owner of a domestic animal shall be notified of the
6 location or disposition of the animal carcass. Unless returned to the owner, license
7 tags, nameplates, or other identification shall be retained by the department for 30
8 days.

9 (B) A branded livestock carcass shall be removed from the roadway but not
10 otherwise transported until the owner is contacted. If the owner cannot be identified,
11 the department shall notify the regional brand inspector.

12 (C) In the case of wild, feral, protected, or endangered animals, disposal shall be
13 accomplished in accordance with applicable provisions of the Fish and ~~Game~~
14 Wildlife Code.

15 (2) If disposal technologies including, but not limited to, natural decomposition,
16 burial, incineration, donation, rendering, or composting are not available or
17 practicable, the department may use any nontraditional or novel technology that
18 may be appropriate under the circumstances.

19 (d) Animal carcasses shall not be relocated to or disposed of within 150 feet of
20 waterways or drainageways that lead directly to waterways, or buried within five
21 feet of groundwater.

22 (e) The department shall maintain a record of designated disposal sites used for
23 consolidation of animal carcasses.

24 **Comment.** Section 91.8 is amended to update a cross-reference to the former Fish and Game
25 Code.

26 **Sts. & Hy. Code § 156.3 (amended).**

27 SEC. _____. Section 156.3 of the Streets and Highway Code is amended to read:

28 156.3. For any project using state or federal transportation funds programmed
29 after January 1, 2006, the department shall ensure that, if the project affects a stream
30 crossing on a stream where anadromous fish are, or historically were, found, an
31 assessment of potential barriers to fish passage is done prior to commencing project
32 design. The department shall submit the assessment to the Department of Fish and
33 ~~Game~~ Wildlife and add it to the CALFISH database. If any structural barrier to
34 passage exists, remediation of the problem shall be designed into the project by the
35 implementing agency. New projects shall be constructed so that they do not present
36 a barrier to fish passage. When barriers to fish passage are being addressed, plans
37 and projects shall be developed in consultation with the Department of Fish and
38 ~~Game~~ Wildlife.

39 **Comment.** Section 156.3 is amended to update references to the former Department of Fish and
40 Game. See Fish & Wildlife Code § 1500.

1 **Sts. & Hy. Code § 156.4 (amended).**

2 SEC. _____. Section 156.4 of the Streets and Highway Code is amended to read:

3 156.4. For any repair or construction project using state or federal transportation
4 funds that affects a stream crossing on a stream where anadromous fish are, or
5 historically were, found, the department shall perform an assessment of the site for
6 potential barriers to fish passage and submit the assessment to the Department of
7 Fish and ~~Game~~ Wildlife.

8 **Comment.** Section 156.4 is amended to update a reference to the former Department of Fish and
9 Game. See Fish & Wildlife Code § 1500.

10 **Sts. & Hy. Code § 800 (amended).**

11 SEC. _____. Section 800 of the Streets and Highway Code is amended to read:

12 800. (a) The Advance Mitigation Program is hereby created in the department to
13 enhance communications between the department and stakeholders to protect
14 natural resources through project mitigation, to meet or exceed applicable
15 environmental requirements, to accelerate project delivery, and to mitigate, to the
16 maximum extent required by law, environmental impacts from transportation
17 infrastructure projects. The department shall consult on all activities pursuant to this
18 article with the Department of Fish and Wildlife, including activities pursuant to
19 ~~Chapter 9 (commencing with Section 1850) of Division 2~~ Title 3 (commencing with
20 Section 64700) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

21 (b) Commencing with the 2017–18 fiscal year, and for a period of four years, the
22 department shall set aside no less than thirty million dollars (\$30,000,000) annually
23 for the Advance Mitigation Program from the annual appropriations for the State
24 Highway Operation and Protection Program and the State Transportation
25 Improvement Program for the planning and implementation of projects in the
26 Advance Mitigation Program. Mitigation credits or values generated or obtained
27 with these funds may be used only for transportation improvements in the State
28 Transportation Improvement Program or the State Highway Operation and
29 Protection Program, and may be transferred to another agency, but only upon full
30 reimbursement of the department pursuant to subdivision (b) of Section 800.6.

31 (c) Upon the order of the Director of Finance, the Controller shall transfer the
32 amount identified for the Advance Mitigation Program in subdivision (b), as
33 determined by the department and the Department of Finance, to the Advance
34 Mitigation Account in the State Transportation Fund.

35 (d) The annual Budget Act and subsequent legislation may establish additional
36 provisions and requirements for the program.

37 **Comment.** Section 800 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Sts. & Hy. Code § 800.5 (amended).**

40 SEC. _____. Section 800.5 of the Streets and Highway Code is amended to read:

1 800.5. For purposes of this article, the following terms have the following
2 meanings:

3 (a) “Acquire” and “acquisition” mean, with respect to land or a waterway,
4 acquisition of fee title or purchase of a conservation easement that protects
5 conservation and mitigation values on the land or waterway in perpetuity.

6 (b) “Administrative draft natural community conservation plan” means a
7 substantially complete draft of a natural community conservation plan that is
8 released after January 1, 2016, to the general public, plan participants, and the
9 department.

10 (c) “Advance mitigation” means mitigation implemented before, and in
11 anticipation of, environmental effects of planned transportation improvements.

12 (d) “Commission” means the California Transportation Commission.

13 (e) “Conservation easement” means a perpetual conservation easement that
14 complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of
15 Division 2 of the Civil Code.

16 (f) “Department” means the Department of Transportation.

17 (g) “Mitigation credit agreement” means a mitigation credit agreement pursuant
18 to ~~Chapter 9 (commencing with Section 1850) of Division 2~~ Title 3 (commencing
19 with Section 64700) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

20 (h) “Natural Communities Conservation Plan” means a plan developed pursuant
21 to ~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
22 with Section 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

23 (i) “Planned transportation improvement” means a transportation project that a
24 transportation agency has identified in a regional transportation plan, an
25 interregional transportation plan, a capital improvement program, or other approved
26 transportation planning document, excluding any project that is associated with or
27 interacting with the high-speed rail program. A planned transportation improvement
28 may include, but is not limited to, a transportation project that has been planned,
29 programmed, proposed for approval, or that has been approved.

30 (j) “Program” means the Advance Mitigation Program implemented pursuant to
31 this article.

32 (k) “Regional conservation investment strategy” means a regional conservation
33 investment strategy approved by the Department of Fish and Wildlife pursuant to
34 ~~Chapter 9 (commencing with Section 1850) of Division 2~~ Title 3 (commencing with
35 Section 64700) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

36 (l) “Regulatory agency” means a state or federal natural resource protection
37 agency with regulatory authority over planned transportation improvements. A
38 regulatory agency includes, but is not limited to, the Natural Resources Agency, the
39 Department of Fish and Wildlife, California regional water quality control boards,
40 the United States Fish and Wildlife Service, the National Marine Fisheries Service,
41 the United States Environmental Protection Agency, and the United States Army
42 Corps of Engineers.

1 (m) “Transportation agency” means the department, a metropolitan planning
2 organization, a regional transportation planning agency, or another public agency
3 that implements transportation improvements.

4 (n) “Transportation improvement” means a transportation capital improvement
5 project.

6 **Comment.** Section 800.5 is amended to reflect the recodification of the former Fish and Game
7 Code.

8 **Sts. & Hy. Code § 800.6 (amended).**

9 SEC. ____ . Section 800.6 of the Streets and Highway Code is amended to read:

10 800.6. (a) The funds in the Advance Mitigation Account created in Section 800.7
11 shall be used only to do the following:

12 (1) Purchase, or fund the purchase of, credits from mitigation banks, conservation
13 banks, or in-lieu fee programs approved by one or more regulatory agencies. The
14 department may also establish mitigation banks, conservation banks, or in-lieu fee
15 programs, or fund the establishment of mitigation banks, conservation banks, or in-
16 lieu fee programs, in accordance with applicable state and federal standards, if the
17 department determines that those banks or in-lieu fee programs would provide
18 appropriate mitigation of the anticipated potential impacts of planned transportation
19 improvements identified pursuant to Section 800.8.

20 (2) Pay, or fund the payment of, mitigation fees or other costs or payments
21 associated with coverage for the department’s or other transportation agency’s
22 projects under natural community conservation plans approved pursuant to ~~Chapter~~
23 ~~10 (commencing with Section 2800) of Division 3 Title 2 (commencing with~~
24 Section 64500) of Part 2 of Division 17 of the Fish and ~~Game~~ Wildlife Code, or
25 habitat conservation plans approved in accordance with the federal Endangered
26 Species Act. The department shall, upon commencement of a regional conservation
27 investment strategy pursuant to paragraph (3), provide written notification thereof
28 to the executive administrative officer of any administrative draft natural
29 community conservation plan, approved natural community conservation plan, or
30 approved regional federal habitat conservation plan that overlaps the proposed area
31 of the regional conservation investment strategy.

32 (3) Prepare, or fund the preparation of, regional conservation assessments and
33 regional conservation investment strategies. Where a regional conservation
34 investment strategy has been approved by the Department of Fish and Wildlife, the
35 department may do either of the following:

36 (A) Enter into, or fund the preparation of, mitigation credit agreements with the
37 Department of Fish and Wildlife; purchase credits from an established mitigation
38 credit agreement; or implement, or fund the implementation of, conservation actions
39 and habitat enhancement actions as needed to generate mitigation credits pursuant
40 to those mitigation credit agreements.

41 (B) Acquire, restore, manage, monitor, enhance, and preserve lands, waterways,
42 aquatic resources, or fisheries, or fund the acquisition, restoration, management,

1 monitoring, enhancement, and preservation of lands, waterways, aquatic resources,
2 or fisheries that would measurably advance a conservation objective in the regional
3 conservation investment strategy if the department concludes that the action or
4 actions could conserve or create environmental values that are appropriate to
5 mitigate the anticipated potential impacts of planned transportation improvements.

6 (4) Where the advance mitigation mechanisms in paragraphs (1) to (3), inclusive,
7 are not practicable, the department may implement advance mitigation, or fund the
8 implementation of advance mitigation, in accordance with a programmatic
9 mitigation plan pursuant to Section 800.9. No more than 25 percent of the funds in
10 the Advance Mitigation Account may be allocated for this purpose over a four-year
11 period.

12 (b) The department may use, or allow other transportation agencies to use,
13 mitigation credits or values generated or obtained under the program to fulfill the
14 mitigation requirements of planned transportation improvements if the applicable
15 transportation agency reimburses the program for all costs of purchasing or creating
16 the mitigation credits or values, as determined by the department. Those costs shall
17 be calculated using total cost accounting and shall include, as applicable, land
18 acquisition or conservation easement costs, monitoring and enforcement costs,
19 restoration costs, transaction costs, administrative costs, contingency costs, and land
20 management, monitoring, and protection costs.

21 (c) The department shall track all implemented advance mitigation projects to use
22 as credits for environmental mitigation.

23 (d) Projects or plans prepared pursuant to this section that overlap with any
24 approved natural community conservation plan or approved regional federal habitat
25 conservation plan, shall be consistent with that plan and shall include an explanation
26 of whether and to what extent they are consistent with any overlapping state or
27 federal recovery plan, or other state-approved or federal-approved conservation
28 strategy.

29 (e) Mitigation credits created pursuant to this section may be used for covered
30 activities under an approved natural community conservation plan only in
31 accordance with the requirements of the plan. Individuals and entities eligible for
32 coverage as a participating special entity under an approved natural community
33 conservation plan may use mitigation credits created pursuant to this section only if
34 the plan's implementing entity declines to extend coverage to the covered activity
35 proposed by the eligible individual or entity.

36 (f) By July 1, 2019, and biennially thereafter, the department, pursuant to Section
37 9795 of the Government Code, and notwithstanding Section 10231.5 of the
38 Government Code, shall submit to the Legislature a report that describes to what
39 extent the Advance Mitigation Program has accelerated the delivery of
40 transportation projects. At a minimum, the report shall include the following:

41 (1) An accounting of the Advance Mitigation Account funds.

1 (2) Identification of expected state and federal resource and regulatory agency
2 mitigation requirements for transportation projects utilizing the Advance Mitigation
3 Program.

4 (3) A discussion of the extent to which those requirements are satisfied using
5 advance mitigation credits.

6 (4) The use of funds to prepare, or to fund the preparation of, regional
7 conservation assessments and regional conservation investment strategies.

8 (5) Recommendations for maximizing the ability of the Advance Mitigation
9 Program to satisfy state and federal mitigation requirements.

10 (g) By July 1, 2018, or one year after the initial Advance Mitigation Program
11 investments have begun, whichever is earlier, and biennially thereafter, the
12 Department of Fish and Wildlife shall, pursuant to Section 9795 of the Government
13 Code, and notwithstanding Section 10231.5 of the Government Code, submit a
14 report to the Legislature that describes the extent to which the Advance Mitigation
15 Program has improved the quality and effectiveness of habitat mitigation provided
16 by the department for transportation projects and makes related recommendations
17 on how to maximize these attributes. The report shall also include recommendations
18 on how to maximize the quality and effectiveness of habitat mitigation developed
19 pursuant to the Advance Mitigation Program.

20 (h) Nothing in this article shall be construed to impose any restrictions or
21 requirements on the department for activities that do not involve the utilization of
22 Advance Mitigation Account funds. Nothing in this article shall be construed to
23 require the department to use the Advance Mitigation Program.

24 (i) Prior to making any expenditure from the Advance Mitigation Account, the
25 Director of Transportation shall make a determination and justification that the
26 proposed expenditure is likely to accelerate project delivery of specific projects.

27 (j) Any state water or transportation infrastructure agency that requests approval
28 of a regional conservation investment strategy pursuant to ~~subdivision (a) of Section~~
29 1852 Section 64935 of the Fish and ~~Game~~ Wildlife Code that may be used to
30 facilitate mitigation for an infrastructure project shall not be subject to the limitation
31 on the number of regional conservation investment strategies set in Section ~~1861~~
32 64810 of the Fish and ~~Game~~ Wildlife Code.

33 **Comment.** Section 800.6(a)(2) and (j) are amended to reflect the recodification of the former
34 Fish and Game Code.

35 VEHICLE CODE

36 Veh. Code § 21117 (amended).

37 SEC. ____ . Section 21117 of the Vehicle Code is amended to read:

38 21117. (a) Local authorities may, notwithstanding Section 21101 or 21101.6, by
39 written agreement approved by their legislative bodies, transfer among themselves
40 the responsibility for maintaining, operating, or controlling public access to any

1 highway under their respective jurisdictions located in or adjacent to an ecological
2 reserve or an environmentally sensitive area within their respective jurisdictions.

3 (b) An agreement entered into pursuant to subdivision (a) may authorize the local
4 authority having responsibility for the highway under the agreement to do all of the
5 following:

6 (1) Limit access by motor vehicles to the highway during certain hours of the day
7 or certain days of the week.

8 (2) Prohibit access by motor vehicles during certain hours of the day or certain
9 days of the week.

10 (3) Provide for the construction or erection of barricades or other devices designed
11 or intended to separate pedestrians from vehicles or motor vehicles.

12 (4) Establish and operate a program by which vehicular access is permitted only
13 in conjunction with specified educational programs or for disabled persons, or both.

14 (5) Issue temporary permits for special events valid for less than one day.

15 (c) As used in this section, the term “ecological reserve” has the same meaning as
16 defined in Section ~~1584~~ 60755 of the Fish and ~~Game~~ Wildlife Code, and
17 “environmentally sensitive area” has the same meaning as defined in Section
18 30107.5 of the Public Resources Code.

19 **Comment.** Section 21117 is amended to reflect the recodification of the former Fish and Game
20 Code.

21 WATER CODE

22 **Water Code § 139.4 (amended).**

23 SEC. ____ . Section 139.4 of the Water Code is amended to read:

24 139.4. (a) The department and the Department of Fish and ~~Game~~ Wildlife shall
25 determine the principal options for the delta.

26 (b) The department shall evaluate and comparatively rate each option determined
27 in subdivision (a) for its ability to do the following:

28 (1) Prevent the disruption of water supplies derived from the Sacramento-San
29 Joaquin Delta.

30 (2) Improve the quality of drinking water supplies derived from the delta.

31 (3) Reduce the amount of salts contained in delta water and delivered to, and often
32 retained in, our agricultural areas.

33 (4) Maintain delta water quality for delta users.

34 (5) Assist in preserving delta lands.

35 (6) Protect water rights of the “area of origin” and protect the environments of the
36 Sacramento-San Joaquin river systems.

37 (7) Protect highways, utility facilities, and other infrastructure located within the
38 delta.

39 (8) Preserve, protect, and improve delta levees.

1 (c) The Department of Fish and ~~Game~~ Wildlife shall evaluate and comparatively
2 rate each option determined in subdivision (a) for its ability to restore salmon and
3 other fisheries that use the San Francisco Bay/Sacramento-San Joaquin Delta
4 Estuary.

5 (d) On or before January 1, 2008, the department and the Department of Fish and
6 ~~Game~~ Wildlife shall jointly report to the Legislature and Governor, in writing, with
7 regard to the results of the evaluation required by Section 139.2 and the comparative
8 ratings required by subdivisions (b) and (c).

9 **Comment.** Section 139.4 is amended to update references to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Water Code § 233 (amended).**

12 SEC. _____. Section 233 of the Water Code is amended to read:

13 233. No plans or proposal for authorization of a project for construction or
14 operation by the State shall be submitted to the Legislature by the Department of
15 Water Resources unless the plans or proposal includes (1) the comments and
16 recommendations, if any, of the Department of Fish and ~~Game~~ Wildlife and (2)
17 provision for any water or facilities necessary for public recreation and the
18 preservation and enhancement of fish and wildlife resources that the Department of
19 Water Resources determines to be justifiable in terms of statewide interest, and
20 feasible, as a nonreimbursable cost of the project.

21 **Comment.** Section 233 is amended to update a reference to the former Department of Fish and
22 Game. See Fish & Wildlife Code § 1500.

23 **Water Code § 345 (amended).**

24 SEC. _____. Section 345 of the Water Code is amended to read:

25 345. The Department of Water Resources shall (a) plan recreation development
26 associated with state-constructed water projects in consultation with local public
27 agencies and affected state and federal agencies, (b) thereafter acquire land
28 necessary to implement and execute plans for such development pursuant to specific
29 legislative authorization. Such authorization shall specify to what extent, if any, the
30 power of eminent domain may be used.

31 It is hereby declared to be the intention of the Legislature, in enacting this section,
32 that no water resources development funds will be appropriated for the purpose of
33 acquiring land for recreation development associated with state-constructed water
34 projects, exclusive of land required for storage and conservation of water for such
35 projects.

36 In carrying out its duties under this section, the Department of Water Resources
37 may enter into contracts, leases, and agreements with other state agencies, the
38 federal government, local public agencies, and persons; and the Department of Fish
39 and ~~Game~~ Wildlife, the Department of Parks and Recreation and all other affected
40 state and local agencies shall cooperate with the Department of Water Resources to
41 that end.

1 **Comment.** Section 345 is amended to update a reference to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Water Code § 359 (amended).**

4 SEC. _____. Section 359 of the Water Code is amended to read:

5 359. (a) Notwithstanding any other provision of law that requires an election for
6 the purpose of authorizing a contract with the United States, or for incurring the
7 obligation to repay loans from the United States, and except as otherwise limited or
8 prohibited by the California Constitution, a public water agency, as an alternative
9 procedure to submitting the proposal to an election, upon affirmative vote of four-
10 fifths of the members of the governing body thereof, may apply for, accept, provide
11 for the repayment together with interest thereon, and use funds made available by
12 the federal government pursuant to Public Law 95-18, pursuant to any other federal
13 act subsequently enacted during 1977 that specifically provides emergency drought
14 relief financing, or pursuant to existing federal relief programs receiving budget
15 augmentations in 1977 for drought assistance, and may enter into contracts that are
16 required to obtain those federal funds pursuant to the provisions of those federal acts
17 if the following conditions exist:

18 (1) The project is undertaken by a state, regional, or local governmental agency.

19 (2) As a result of the severe drought now existing in many parts of the state, the
20 agency has insufficient water supply needed to meet necessary agricultural,
21 domestic, industrial, recreational, and fish and wildlife needs within the service area
22 or area of jurisdiction of the agency.

23 (3) The project will develop or conserve water before October 31, 1978, and will
24 assist in mitigating the impacts of the drought.

25 (4) The agency affirms that it will comply, if applicable, with Sections ~~1602, 1603,~~
26 ~~and 1605~~ Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the
27 Fish and ~~Game~~ Wildlife Code.

28 (5) The project will be completed on or before the completion date, if any,
29 required under the federal act providing the funding, but not later than March 1,
30 1978.

31 (b) Any obligation to repay loans shall be expressly limited to revenues of the
32 system improved by the proceeds of the contract.

33 (c) No application for federal funds pursuant to this section shall be made on or
34 after March 1, 1978.

35 (d) Notwithstanding the provisions of this section, a public agency shall not be
36 exempt from any provision of law that requires the submission of a proposal to an
37 election if a petition requesting such an election signed by 10 percent of the
38 registered voters within the public agency is presented to the governing board within
39 30 days following the submission of an application for federal funds.

40 (e) Notwithstanding the provisions of this section, a public water agency that
41 applied for federal funds for a project before January 1, 1978, may make application
42 to the Director of the Drought Emergency Task Force for extension of the required

1 completion date specified in paragraph (5) of subdivision (b). Following receipt of
2 an application for extension, the Director of the Drought Emergency Task Force
3 may extend the required completion date specified in paragraph (5) of subdivision
4 (b) to a date not later than September 30, 1978, if the director finds that the project
5 has been delayed by factors not controllable by the public water agency. If the
6 Drought Emergency Task Force is dissolved, the Director of Water Resources shall
7 exercise the authority vested in the Director of the Drought Emergency Task Force
8 pursuant to this section.

9 (f) For the purposes of this section, “public water agency” means a city, district,
10 agency, authority, or any other political subdivision of the state, except the state,
11 that distributes water to the inhabitants thereof, is otherwise authorized by law to
12 enter into contracts or agreements with the federal government for a water supply
13 or for financing facilities for a water supply, and is otherwise required by law to
14 submit those agreements or contracts or any other project involving long-term debt
15 to an election within that public water agency.

16 **Comment.** Paragraph (4) of subdivision (a) of Section 359 is amended to reflect the
17 recodification of the former Fish and Game Code.

18  **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued
19 in proposed Sections 69710, 69750, 69785, 70155, and 70165; Section 1603 would be continued
20 in proposed Sections 69795, 69805, 69810, and 70050 through 70070; Section 1605 would be
21 continued as proposed Sections 69850 through 69880. The proposed cross-reference revision above
22 would refer to the title that contains all of those sections, rather than referring to the sections
23 individually. That seems unproblematic, because the entire title relates to the substance of the
24 referenced provisions.

25 **The Commission requests public comment on whether that simplified reference would**
26 **cause any problems.**

27 **Water Code § 1013 (amended).**

28 SEC. ____ . Section 1013 of the Water Code is amended to read:

29 1013. (a) The Imperial Irrigation District, acting under a contract with the United
30 States for diversion and use of Colorado River water or pursuant to the California
31 Constitution or to this chapter, or complying with an order of the Secretary of the
32 Interior, a court, or the board, to reduce through conservation measures, the volume
33 of the flow of water directly or indirectly into the Salton Sea, shall not be held liable
34 for any effects to the Salton Sea or its bordering area resulting from the conservation
35 measures.

36 (b) For the purposes of this section, and during the term of the Quantification
37 Settlement Agreement as defined in subdivision (a) of Chapter 617 of the Statutes
38 of 2002, “land fallowing conservation measures” means the generation of water to
39 be made available for transfer or for environmental mitigation purposes by
40 fallowing land or removing land from agricultural production regardless of whether
41 the fallowing or removal from agricultural production is temporary or long term,
42 and regardless of whether it occurs in the course of normal and customary
43 agricultural production, if both of the following apply:

1 (1) The measure is part of a land fallowing conservation plan that includes
2 mitigation provisions adopted by the Board of Directors of the Imperial Irrigation
3 District.

4 (2) Before the Imperial Irrigation District adopts a land fallowing conservation
5 plan, the district shall consult with the Board of Supervisors of the County of
6 Imperial and obtain the board's assessment of whether the proposed land fallowing
7 conservation plan includes adequate measures to avoid or mitigate unreasonable
8 economic or environmental impacts in the County of Imperial.

9 (c) In order to minimize impacts on the environment, during the term of the
10 Quantification Settlement Agreement and for six years thereafter, in any evaluation
11 or assessment of the Imperial Irrigation District's use of water, it shall be
12 conclusively presumed that any water conserved, or used for mitigation purposes,
13 through land fallowing conservation measures has been conserved in the same
14 volume as if conserved by efficiency improvements, such as by reducing canal
15 seepage, canal spills, or surface or subsurface runoff from irrigation fields.

16 (d) If a party to the Quantification Settlement Agreement engages in water
17 efficiency conservation measures or land fallowing conservation measures to carry
18 out a Quantification Settlement Agreement transfer or to mitigate the environmental
19 impacts of a Quantification Settlement Agreement transfer, there may be no
20 forfeiture, diminution, or impairment of the right of that party to use of the water
21 conserved.

22 (e) During the period that the Quantification Settlement Agreement is in effect
23 and the Imperial Irrigation District is meeting its water delivery obligations under
24 the Quantification Settlement Agreement and its water delivery obligations under
25 ~~subdivision (c) of Section 2081.7~~ subdivision (b) of Section 63305 of the Fish and
26 ~~Game Wildlife~~ Code, no person or local agency, as defined in Section 21062 of the
27 Public Resources Code, may seek to obtain additional conserved Colorado River
28 water from the district, voluntarily or involuntarily, until the district has adopted a
29 resolution offering to make conserved Colorado River water available.

30 (f) During the initial term in which the Quantification Settlement Agreement is in
31 effect, any water transferred by the Imperial Irrigation District shall be subject to an
32 ecosystem restoration fee established by the Department of Fish and ~~Game Wildlife~~,
33 in consultation with the board, to cover the proportional impacts to the Salton Sea
34 of the additional water transfer. The fee shall not exceed 10 percent of the amount
35 of any compensation received for the transfer of the water. The fee shall be
36 deposited in the Salton Sea Restoration Fund. This fee shall not apply to the
37 following transfers:

38 (1) Transfers to meet water delivery obligations under the Quantification
39 Settlement Agreement and related agreements, as defined in that agreement.

40 (2) Transfers to comply with ~~subdivision (c) of Section 2081.7~~ subdivision (b) of
41 Section 63305 of the Fish and ~~Game Wildlife~~ Code.

1 (3) Transfers pursuant to a Defensive Transfer Agreement as defined in the
2 Agreement for Acquisition of Conserved Water between the Imperial Irrigation
3 District and the Metropolitan Water District of Southern California.

4 (g) Subdivisions (c), (d), (e), and (f) shall not become operative unless the parties
5 have executed the Quantification Settlement Agreement on or before October 12,
6 2003.

7 (h) This section may not be construed to exempt the Imperial Irrigation District
8 from any requirement established under the California Environmental Quality Act
9 (Division 13 (commencing with Section 21000) of the Public Resources Code).

10 **Comment.** Subdivisions (e) and (f) of Section 1013 are amended to reflect the recodification of
11 the former Fish and Game Code. The section is also amended to update a reference to the former
12 Department of Fish and Game. See Fish & Wildlife Code § 1500.

13 **Water Code § 1275 (amended).**

14 SEC. ____ . Section 1275 of the Water Code is amended to read:

15 1275. After an application has been perfected, the board may request additional
16 information reasonably necessary to clarify, amplify, correct, or otherwise
17 supplement the information required to be submitted under Article 2 (commencing
18 with Section 1260) or Article 3 (commencing with Section 1270). The board shall
19 provide a reasonable period for submitting the information. The additional
20 information may include, but is not limited to, any of the following:

21 (a) Information needed to demonstrate that unappropriated water is available for
22 appropriation.

23 (b) Information needed to comply, or demonstrate compliance with, any
24 applicable requirements of the Fish and ~~Game~~ Wildlife Code or the federal
25 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

26 (c) Information needed to comply with Division 13 (commencing with Section
27 21000) of the Public Resources Code.

28 **Comment.** Section 1275 is amended to reflect the recodification of the former Fish and Game
29 Code.

30 **Water Code § 1701.3 (amended).**

31 SEC. ____ . Section 1701.3 of the Water Code is amended to read:

32 1701.3. (a) After a petition is filed, the board may request additional information
33 reasonably necessary to clarify, amplify, correct, or otherwise supplement the
34 information required to be submitted under this chapter. The board shall provide a
35 reasonable period for submitting the information.

36 (b) The additional information may include, but need not be limited to, any of the
37 following:

38 (1) Information needed to demonstrate that the change will not injure any other
39 legal user of water.

1 (2) Information needed to demonstrate that the change will comply with any
2 applicable requirements of the Fish and ~~Game~~ Wildlife Code or the federal
3 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

4 (3) Information needed to comply with Division 13 (commencing with Section
5 21000) of the Public Resources Code.

6 **Comment.** Section 1701.3 is amended to reflect the recodification of the former Fish and Game
7 Code.

8 **Water Code § 6500 (amended).**

9 SEC. _____. Section 6500 of the Water Code is amended to read:

10 6500. Whenever an application for approval of plans and specifications for a new
11 dam, or for the enlargement of any dam, in any stream in this ~~State~~ state, is filed
12 pursuant to Part 1 of this division, a copy of the application shall be filed with the
13 Fish and Game Commission as required by the Fish and ~~Game~~ Wildlife Code.

14 **Comment.** Section 6500 is amended to reflect the recodification of the former Fish and Game
15 Code. The section is also amended to make a technical correction.

16 **Water Code § 6501 (amended).**

17 SEC. _____. Section 6501 of the Water Code is amended to read:

18 6501. The provisions for the installation of fishways over or around dams and for
19 the protection and preservation of fish in streams obstructed by dams are contained
20 in ~~Chapter 3 (commencing with Section 5900), Part 1, Division 6 Title 1~~
21 (commencing with Section 68000) and Chapter 1 (commencing with Section 69500)
22 of Title 2 of Part 4 of Division 17 of the Fish and ~~Game~~ Wildlife Code.

23 **Comment.** Section 6501 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 **Water Code § 8539 (amended).**

26 SEC. _____. Section 8539 of the Water Code is amended to read:

27 8539. The Legislature hereby finds and declares that there is an urgent need for
28 channel clearing and desnagging in many California waterways, and that these snags
29 pose a severe danger and cause unnecessary erosion of banks.

30 The board, other state agencies, cities, counties, and districts are hereby
31 authorized to cooperate with one another and with agencies of the United States in
32 the performance of channel clearing and desnagging work within the Sacramento
33 and San Joaquin Rivers and their tributaries, and may furnish money, services,
34 equipment, and other property to that end. The board, as appropriate, shall consult
35 with the Department of Water Resources, the State Lands Commission, and the
36 Department of Fish and ~~Game~~ Wildlife in carrying out its responsibilities pursuant
37 to this section.

38 **Comment.** Section 8539 is amended to update a reference to the former Department of Fish and
39 Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 8610 (amended).**

2 SEC. ____ . Section 8610 of the Water Code is amended to read:

3 8610. The board shall offer to lease to the Department of Fish and ~~Game~~ Wildlife,
4 or to an appropriate public resource protection or public conservation agency or
5 organization approved by the Department of Fish and ~~Game~~ Wildlife and the board,
6 any lands it acquires as replacement habitat as mitigation for adverse environmental
7 impacts of its projects. The lease agreement shall ensure that these lands are
8 managed to provide the mitigation for which they were acquired and shall include,
9 but not be limited to, provisions for funding management of those lands. Funds for
10 management of those lands may include, but are not limited to, funds appropriated
11 by the Legislature to the Department of Water Resources, the Reclamation Board,
12 or the Department of Fish and ~~Game~~ Wildlife, and funds available from local
13 entities. The lease agreement shall reserve the authority of the board to carry out
14 necessary flood control activities and mitigate adverse environmental impacts.

15 **Comment.** Section 8610 is amended to update references to the former Department of Fish and
16 Game. See Fish & Wildlife Code § 1500.

17 **Water Code § 8611 (amended).**

18 SEC. ____ . Section 8611 of the Water Code is amended to read:

19 8611. (a) Except as provided in subdivision (b), prior to construction at a site of a
20 flood control, channel clearance, or bank stabilization project, the board, in
21 consultation with the Department of Fish and ~~Game~~ Wildlife, shall prepare and
22 adopt a mitigation plan which shall be implemented as part of the project. A
23 mitigation plan shall include, but not be limited to, all of the following:

24 (1) A description of the actions that the board proposes to take to ensure that the
25 project will meet all mitigation standards required by law with the objective of
26 ensuring that the project causes no net loss of riparian, fishery, or wildlife habitat.

27 (2) A designation of the agency or agencies responsible for implementing and
28 maintaining each mitigation element of the plan.

29 (3) A schedule for implementation of the mitigation ensuring that the mitigation
30 measures will be accomplished prior to, or concurrent with, construction of the
31 project, unless the board determines that to do so would be impracticable.

32 (4) A financing plan for the mitigation identifying the source or sources of funds
33 for the mitigation, the share of mitigation costs attributable to each source, and a
34 schedule of when the funds are to be provided.

35 The plan may take into consideration the environmental benefits of restoring,
36 maintaining, or increasing the sustainable diversity of native species and habitat
37 which may result from the project, if these benefits have been approved by the
38 Department of Fish and ~~Game~~ Wildlife. The Department of Fish and ~~Game~~ Wildlife
39 may submit a review of the plan and its recommendations to the board for inclusion
40 in the plan.

41 (b) No mitigation plan is required when the board is responding to an emergency
42 where no mitigation is required.

1 (c) For any project authorized pursuant to Section 12668, the agreement set forth
2 in subdivision (a) shall provide for the mitigation of the project with the objective
3 of providing a net long-term enhancement of the riparian habitat and fishery in the
4 project area. The degree of net enhancement required for each phase or part of the
5 project shall not be so great as to cause the project to be infeasible.

6 **Comment.** Section 8611 is amended to update references to the former Department of Fish and
7 Game. See Fish & Wildlife Code § 1500.

8 **Water Code § 11901 (amended).**

9 SEC. ____ . Section 11901 of the Water Code is amended to read:

10 11901. (a) It is the purpose of this chapter to provide for the planning and
11 construction of water storage, conservation, and regulation facilities and associated
12 fish and wildlife and recreation features consistent with this declaration and to make
13 provision for funds therefor on a continuing basis, and to provide for the operation
14 and maintenance of such fish and wildlife and recreation features.

15 (b) In enacting this chapter, however, it is not the intent of the Legislature to
16 diminish any existing powers of the Department of Water Resources, the
17 Department of Parks and Recreation, or the Department of Fish and ~~Game~~ Wildlife,
18 but rather to provide specifically for the preservation and enhancement of fish and
19 wildlife resources and for a system of public recreation facilities at state water
20 projects as part of a coordinated plan for multipurpose use of these projects.

21 **Comment.** Section 11901 is amended to update a reference to the former Department of Fish
22 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
23 designations.

24 **Water Code § 11910 (amended).**

25 SEC. ____ . Section 11910 of the Water Code is amended to read:

26 11910. There shall be incorporated in the planning and construction of each
27 project those features (including, but not limited to, additional storage capacity) that
28 the department, after giving full consideration to any recommendations which may
29 be made by the Department of Fish and ~~Game~~ Wildlife, the Department of Parks
30 and Recreation, any federal agency, and any local governmental agency with
31 jurisdiction over the area involved, determines necessary or desirable for the
32 preservation of fish and wildlife, and necessary or desirable to permit, on a year-
33 round basis, full utilization of the project for the enhancement of fish and wildlife
34 and for recreational purposes to the extent that those features are consistent with
35 other uses of the project, if any. It is the intent of the Legislature that there shall be
36 full and close coordination of all planning for the preservation and enhancement of
37 fish and wildlife and for recreation in connection with state water projects by and
38 between the Department of Water Resources, the Department of Parks and
39 Recreation, the Department of Fish and Wildlife, and all appropriate federal and
40 local agencies.

1 **Comment.** Section 11910 is amended to update a reference to the former Department of Fish
2 and Game. See Fish & Wildlife Code § 1500.

3 **Water Code § 11915.5 (amended).**

4 SEC. _____. Section 11915.5 of the Water Code is amended to read:

5 11915.5. (a) For the purpose of furthering recreation in any project of the
6 department, the department may exchange any real property it has acquired for
7 property in the state owned by the United States which is of substantially equal
8 value, whether or not such real property of the United States is adjacent to or needed
9 for any project of the department. Such title or rights as the department deems
10 necessary for the proper operation and maintenance of the water conservation, flood
11 control or power features of any water project shall not be included in any exchange
12 consummated under this section.

13 (b) Any such exchange involving real property acquired by the department solely
14 for recreation shall be concurred in by the Department of Parks and Recreation. Any
15 such exchange involving property acquired by the department solely for fish and
16 wildlife purposes shall be concurred in by the Department of Fish and ~~Game~~
17 Wildlife. Any such exchange involving property acquired solely for fish, wildlife
18 and recreational purposes shall be concurred in by the Department of Fish and ~~Game~~
19 Wildlife and the Department of Parks and Recreation. Real property of the United
20 States not necessary for a project of the department shall be acquired by the
21 department by exchange under this section only if another agency of state
22 government has agreed to acquire such real property from the department for the
23 actual cost to the department of the real property which is to be given in exchange
24 therefor; provided, that any amount appropriated to the department to reimburse it
25 for prior expenditures for acquisition of such land shall be deducted from the actual
26 cost.

27 **Comment.** Section 11915.5 is amended to update references to the former Department of Fish
28 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
29 designations.

30 **Water Code § 11917 (amended).**

31 SEC. _____. Section 11917 of the Water Code is amended to read:

32 11917. The Department of Fish and ~~Game~~ Wildlife shall manage fish and wildlife
33 resources at state water projects, including any such additional resources as are
34 created by such projects, in a manner compatible with the other uses of such
35 projects.

36 **Comment.** Section 11917 is amended to update a reference to the former Department of Fish
37 and Game. See Fish & Wildlife Code § 1500.

38 **Water Code § 12307 (amended).**

39 SEC. _____. Section 12307 of the Water Code is amended to read:

40 12307. (a) The Resources Agency, the department, the Reclamation Board, and
41 the Department of Fish and ~~Game~~ Wildlife shall enter into a memorandum of

1 understanding to coordinate the implementation of the programs subject to this
2 chapter.

3 (b) The memorandum of understanding shall provide that the Department of Fish
4 and ~~Game~~ Wildlife shall enforce any mitigation requirements involving programs
5 subject to this chapter.

6 **Comment.** Section 12307 is amended to update references to the former Department of Fish and
7 Game. See Fish & Wildlife Code § 1500.

8 **Water Code § 12314 (amended).**

9 SEC. ____ . Section 12314 of the Water Code is amended to read:

10 12314. (a) Guided by the approved priority list developed pursuant to Section
11 12313, the department shall develop project plans to accomplish the needed flood
12 protection work in cooperation with the local public agency, the public beneficiary,
13 and the Department of Fish and ~~Game~~ Wildlife.

14 (b) The plans shall be subject to the approval of the appropriate local public
15 agency or agencies and subject to any cost-sharing agreement the department may
16 have entered into under Section 12312. Project plans may include, or be a
17 combination of, the improvement, rehabilitation, or modification of existing levees,
18 and the conveyance of interests in land to limit or to modify land management
19 practices which have a negative impact on flood control facilities.

20 (c) Project plans shall include provision for the protection of fish and wildlife
21 habitat determined to be necessary by the Department of Fish and ~~Game~~ Wildlife
22 and not injurious to the integrity of flood control works. The Department of Fish
23 and ~~Game~~ Wildlife shall consider the value of the riparian and fisheries habitat and
24 the need to provide greater flood protection in preparing its requirements, and shall
25 not approve any plan which calls for the use of channel islands or berms with
26 significant riparian communities as borrow sites for levee repair materials, unless
27 fully mitigated, or any plans that will result in a net long-term loss of riparian,
28 fisheries, or wildlife habitat.

29 (d) After the memorandum of understanding required pursuant to Section 12307
30 is amended as required by Section 78543, the Department of Fish and ~~Game~~
31 Wildlife shall also make a written determination as part of its review and approval
32 of a plan or project pursuant to this section and Section 12987 that the proposed
33 expenditures are consistent with a net long-term habitat improvement program and
34 have a net benefit for aquatic species in the delta. The memorandum of
35 understanding in effect prior to the amendments required by Section 78543 shall
36 remain in effect with regard to levee projects and plans until the memorandum of
37 understanding is amended.

38 **Comment.** Section 12314 is amended to update references to the former Department of Fish and
39 Game. See Fish & Wildlife Code § 1500.

40 **Water Code § 12511 (amended).**

41 SEC. ____ . Section 12511 of the Water Code is amended to read:

1 12511. The board consists of eight members appointed by the Governor as
2 provided in this chapter, two of whom shall be public members appointed by the
3 Governor, and the Director of Water Resources and the Director of Fish and ~~Game~~
4 Wildlife or their designees.

5 **Comment.** Section 12511 is amended to update a reference to the Director of the former
6 Department of Fish and Game. See Fish & Wildlife Code § 1500.

7 **Water Code § 12525 (amended).**

8 SEC. _____. Section 12525 of the Water Code is amended to read:

9 12525. The board shall elect from among its members, other than the Director of
10 Water Resources or the Director of Fish and ~~Game~~ Wildlife or their designees, a
11 ~~chairman~~ chair who is ex officio the “Colorado River Commissioner.” The ~~chairman~~
12 chair shall serve at the pleasure of the board.

13 **Comment.** Section 12525 is amended to update a reference to the Director of the former
14 Department of Fish and Game. See Fish & Wildlife Code § 1500. The section is also amended to
15 make the text gender neutral.

16 **Water Code § 12565 (amended).**

17 SEC. _____. Section 12565 of the Water Code is amended to read:

18 12565. The two hundred million dollars (\$200,000,000) made available to the
19 director pursuant to subdivision (a) of Section 12562 may be expended solely for
20 the lining of the All American Canal and the Coachella Branch of the All American
21 Canal and only if all of the following requirements have been met:

22 (a) The Salton Sea Authority commissions a study of seepage and subsurface
23 inflows to the Salton Sea from the All American Canal and the Coachella Branch of
24 the All American Canal, and that study is completed. The study shall determine the
25 nature of subsurface and drainage canal water movements from the unlined canals
26 to the Salton Sea and to existing adjacent wetlands, and shall quantify the amount
27 of water that may be lost to the Salton Sea and to those wetlands due to the canal
28 lining projects. The Salton Sea Science Subcommittee shall review the requests for
29 proposals for the study and shall be consulted in selecting the contractor responsible
30 for conducting the study.

31 (b) Environmental documentation and permits required by the California
32 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
33 Public Resources Code), the National Environmental Policy Act of 1969 (42
34 U.S.C.A. Sec. 4321 et seq.), and any other applicable state and federal
35 environmental laws are approved and certified for the All American Canal Lining
36 Project or the Coachella Branch Lining Project.

37 (c) Pursuant to its responsibilities as a trustee agency under the California
38 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
39 Public Resources Code), the Director of Fish and ~~Game~~ Wildlife makes a finding
40 that a canal lining project that is the subject of a request for funding pursuant to this
41 chapter will avoid or mitigate all significant effects of the project on fisheries and

1 other wildlife. The finding shall be accompanied by a statement from the United
2 States Secretary of the Interior certifying that measures for the replacement of
3 incidental fish and wildlife values adjacent to the All American Canal and the
4 Coachella Branch of the All American Canal foregone as a result of the lining of the
5 canal, or the mitigation of resulting impacts on fish and wildlife resources from the
6 construction of a new canal, or a portion thereof, meet the statutory requirements of
7 Section 203(a)(2) of Public Law 100-675. These mitigation measures shall be on an
8 acre-for-acre basis, based on ecological equivalency, and shall be implemented
9 concurrent with the construction of the canal lining project.

10 **Comment.** Subdivision (c) of Section 12565 is amended to update a reference to the Director of
11 the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

12 **Water Code § 12582 (amended).**

13 SEC. _____. Section 12582 of the Water Code is amended to read:

14 12582. Fish and wildlife values, both economic and recreational, shall be given
15 consideration in any flood control or water conservation program. In the design,
16 construction, and operation of projects, when engineering and economic features of
17 the project make it practicable, adequate provisions shall be made for the protection
18 of migratory fishes, and the designs for structures and facilities required for such
19 protection shall be prepared in cooperation with the United States Fish and Wildlife
20 Service and the California Department of Fish and ~~Game~~ Wildlife.

21 **Comment.** Section 12582 is amended to update a reference to the former Department of Fish
22 and Game. See Fish & Wildlife Code § 1500.

23 **Water Code § 12608 (amended).**

24 SEC. _____. Section 12608 of the Water Code is amended to read:

25 12608. At any hearing by or on behalf of the department any county, city, state
26 agency, including the Department of Fish and ~~Game~~ Wildlife, public district,
27 association, or any person affected by or interested in the control, storage, and use
28 of water resources, involved in the hearing may appear and present any petition,
29 evidence, testimony, plan, data, information, or opinion bearing on the subject
30 matter of the hearing including an evaluation of loss and damage to fish and other
31 natural resources.

32 **Comment.** Section 12608 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Water Code § 12846 (amended).**

35 SEC. _____. Section 12846 of the Water Code is amended to read:

36 12846. The Department of Fish and ~~Game~~ Wildlife shall be responsible for the
37 management of all fish and wildlife resources at any project subject to the provisions
38 of this chapter.

39 **Comment.** Section 12846 is amended to update a reference to the former Department of Fish
40 and Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 12882.4 (amended).**

2 SEC. _____. Section 12882.4 of the Water Code is amended to read:

3 12882.4. A copy of each application, except applications for loans for the
4 preparation of proposed feasibility reports, shall be transmitted by the department
5 to the Department of Parks and Recreation and to the Department of Fish and ~~Game~~
6 Wildlife.

7 **Comment.** Section 12882.4 is amended to update a reference to the former Department of Fish
8 and Game. See Fish & Wildlife Code § 1500.

9 **Water Code § 12929.40 (amended).**

10 SEC. _____. Section 12929.40 of the Water Code is amended to read:

11 12929.40. In developing its recommendations for the appropriation of funds
12 pursuant to this chapter, the department shall consult with the Department of Fish
13 and ~~Game~~ Wildlife and other appropriate local, state, and federal agencies and
14 interested private groups and members of the public.

15 **Comment.** Section 12929.40 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Water Code § 12987 (amended).**

18 SEC. _____. Section 12987 of the Water Code is amended to read:

19 12987. (a) Local agencies maintaining project or nonproject levees shall be
20 eligible for reimbursement pursuant to this part upon submission to and approval by
21 the board of plans for the maintenance and improvement of the project or nonproject
22 levees, including plans for the annual routine maintenance of the levees, in
23 accordance with the criteria adopted by the board.

24 (b) The nonproject plans shall also be compatible with the plan for improvement
25 of the delta levees as set forth in Bulletin No. 192-82 of the department, dated
26 December 1982, and as approved in Section 12225. Both project and nonproject
27 plans shall include provisions to acquire easements along levees that allow for the
28 control and reversal of subsidence in areas where the department determines that
29 such an easement is desirable to maintain structural stability of the levee. The
30 easement shall (1) restrict the use of the land to open-space uses, nontillable crops,
31 the propagation of wildlife habitat, and other compatible uses, (2) provide full
32 access to the local agency for levee maintenance and improvement purposes, and
33 (3) allow the owner to retain reasonable rights of ingress and egress as well as
34 reasonable rights of access to the waterways for water supply and drainage. The
35 local agency cost of acquisition of the easements shall be reimbursable by the
36 department from moneys appropriated pursuant to paragraph (1) of subdivision (b)
37 of Section 12300, or any other sources appropriated by the Legislature for purposes
38 of this part.

39 (c) The plans shall also include provision for protection of the fish and wildlife
40 habitat determined to be necessary by the Department of Fish and ~~Game~~ Wildlife
41 and not injurious to the integrity of the levee. The Department of Fish and ~~Game~~

1 Wildlife shall consider the value of the riparian and fisheries habitat and the need to
2 provide safe levees in preparing its requirements. The Department of Fish and Game
3 Wildlife shall not approve any plan which calls for the use of channel islands or
4 berms with significant riparian communities as borrow sites for levee repair
5 material, unless fully mitigated, or any plans which will result in a net long-term
6 loss of riparian, fisheries, or wildlife habitat.

7 (d) After the memorandum of understanding required pursuant to Section 12307
8 is amended as required by Section 78543, the Department of Fish and Game
9 Wildlife shall also make a written determination as part of its review and approval
10 of a plan or project pursuant to Section 12314 and this section that the proposed
11 expenditures are consistent with a net long-term habitat improvement program and
12 have a net benefit for aquatic species in the delta. The memorandum of
13 understanding in effect prior to the amendments required by Section 78543 shall
14 remain in effect with regard to levee projects and plans until the memorandum of
15 understanding is amended.

16 (e) The plans shall also take into account the most recently updated Delta Master
17 Recreation Plan prepared by the Resources Agency.

18 (f) Upon approval of the plans by the board, the local agencies shall enter into an
19 agreement with the board to perform the maintenance and improvement work,
20 including the annual routine maintenance work, specified in the plans. If
21 applications for state funding in any year exceed the state funds available, the board
22 shall apportion the funds among those levees or levee segments that are identified
23 by the department as most critical and beneficial, considering the needs of flood
24 control, water quality, recreation, navigation, habitat improvements, and fish and
25 wildlife.

26 **Comment.** Section 12987 is amended to update references to the former Department of Fish and
27 Game. See Fish & Wildlife Code § 1500.

28 **Water Code § 12994 (amended).**

29 SEC. ____ . Section 12994 of the Water Code is amended to read:

30 12994. (a) The Legislature finds and declares all of the following:

31 (1) The CALFED Bay-Delta Program has identified as a core action the need for
32 emergency levee management planning for delta levees to improve system
33 reliability.

34 (2) Even with active levee maintenance, the threat of delta levee failures from
35 earthquake, flood, or poor levee foundation, will continue to exist.

36 (3) Because of this threat of failure, and the potential need to mobilize people and
37 equipment in an emergency to protect delta levees and public benefits, the
38 department needs authority that will enable it to act quickly.

39 (b) The department may do all of the following:

40 (1) In an emergency, as defined by Section 21060.3 of the Public Resources Code,
41 that requires immediate levee work to protect public benefits in the delta, the

1 department may use funds pursuant to this part without prior approval of a plan by
2 the board or the Department of Fish and Wildlife, in which case the requirements of
3 Sections 12314 and 12987, and the memorandum of understanding pursuant to
4 Section 12307, shall be carried out as soon as possible.

5 (A) The amount of funds that may be expended each year on emergency levee
6 work under this section shall not be greater than two hundred thousand dollars
7 (\$200,000) and the amount that may be expended per emergency levee site shall not
8 be greater than fifty thousand dollars (\$50,000). The local agency shall fund 25
9 percent of the total costs of the emergency repair at a site or shall fund an appropriate
10 share of the costs as approved by the board and based upon information of the local
11 agency's ability to pay for the repairs.

12 (B) Department contracts executed for emergency levee work under this section
13 shall be exempted from Department of General Services approval required under
14 the Public Contract Code.

15 (C) As soon as feasible after the emergency repair, the department shall submit a
16 report to the board describing the levee work, costs incurred, and plans for future
17 work at the site, including any necessary mitigation.

18 (D) This section is intended to supplement emergency services provided by the
19 state or the United States. Nothing in this section overrides or supersedes the
20 authority of the Director of Emergency Services under the California Emergency
21 Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2
22 of the Government Code) or the Disaster Assistance Act (Chapter 7.5 (commencing
23 with Section 8680) of Division 1 of Title 2 of the Government Code).

24 (2) Prepare and submit to the board for adoption a delta emergency response plan
25 for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may
27 include recommendations of the multiagency response team established pursuant to
28 paragraph (3) and may include, but not be limited to, the following:

29 (A) Standardized contracts for emergency levee work to be executed by the
30 department, local agencies, or other appropriate entities.

31 (B) Criteria for eligible emergency levee work.

32 (C) Definition of an emergency levee site.

33 (D) Documentation requirements.

34 (E) Proposals for complying with the federal Endangered Species Act of 1973 (16
35 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (~~Chapter 1.5~~
36 ~~(commencing with Section 2050) of Division 3 Part 1 (commencing with Section~~
37 62000) of Division 17 of the Fish and Game Wildlife Code) in an emergency.

38 (F) Stages of emergency response that may occur in various situations.

39 (3) Establish a multiagency emergency response team, consisting of
40 representatives from the department, the board, the Department of Fish and
41 Wildlife, the California Conservation Corps, the Office of Emergency Services, the
42 Federal Emergency Management Agency, the United States Army Corps of

1 Engineers, and the United States Fish and Wildlife Service to advise on methods to
2 ensure that levee emergencies will be resolved as quickly and safely as possible.

3 **Comment.** Paragraph (2) of subdivision (b) of Section 12994 is amended to reflect the
4 recodification of the former Fish and Game Code.

5 **Water Code § 12999 (amended).**

6 SEC. _____. Section 12999 of the Water Code is amended to read:

7 12999. (a) The department, in collaboration with the Department of Food and
8 Agriculture, the Department of Fish and ~~Game~~ Wildlife, and the Colorado River
9 Board of California may cooperate with the federal government, the other Colorado
10 River Basin states, and other entities for the purpose of preparing a plan to control
11 or eradicate tamarisk in the Colorado River watershed. The department, the
12 Department of Food and Agriculture, the Department of Fish and ~~Game~~ Wildlife,
13 and the Colorado River Board of California shall seek to collaborate with affected
14 California water agencies and other appropriate entities in that preparation. The plan
15 shall include the reestablishment of native vegetation and the identification of
16 potential federal and nonfederal funding sources for implementation pursuant to
17 subdivision (b).

18 (b) The department, in collaboration with the Department of Food and
19 Agriculture, the Department of Fish and ~~Game~~ Wildlife, the Colorado River Board
20 of California, and appropriate federal agencies, shall implement the plan within
21 California upon the appropriation of funds for that purpose. The department, the
22 Department of Food and Agriculture, the Department of Fish and ~~Game~~ Wildlife,
23 and the Colorado River Board of California shall seek to collaborate with affected
24 California water agencies and other appropriate entities in the implementation of the
25 plan.

26 (c) This section does not preclude the department or any other entity from
27 expending bond funds or nonstate funds for the control or eradication of tamarisk in
28 the Colorado River watershed.

29 **Comment.** Section 12999 is amended to update references to the former Department of Fish and
30 Game. See Fish & Wildlife Code § 1500.

31 **Water Code § 14901 (amended).**

32 SEC. _____. Section 14901 of the Water Code is amended to read:

33 14901. The Legislature finds and declares as follows:

34 (a) A report on the San Joaquin Valley Drainage Program entitled, “A
35 Management Plan for Agricultural Subsurface Drainage and Related Problems on
36 the Westside San Joaquin Valley,” has identified 75,000 acres of irrigated
37 agricultural lands that should be retired by the year 2040 primarily due to
38 characteristics of low productivity, poor drainability, and high levels of selenium in
39 shallow groundwater.

40 (b) Federal, state, and local water organizations and officials should consider the
41 management plan and adopt those parts appropriate for their long-term strategy of

1 contributing to the management or solution of the drainage problems of the west
2 side of the San Joaquin Valley.

3 (c) The United States Department of the Interior and the State of California should
4 jointly develop a technical assistance program to ameliorate the drainage problems.

5 (d) The people of the state are concerned with the continued leaching of harmful
6 elements from these lands.

7 (e) Continued irrigation of these lands could create significant drainage and
8 environmental problems.

9 (f) Implementing solutions to the drainage and environmental problems
10 associated with these lands will be very costly.

11 (g) The department is responsible for water planning and development activities
12 throughout the state, has participated in the development of the plan for the
13 management of subsurface drainage problems, and shall take an active leadership
14 role in implementing the plan, including the land retirement element of the plan.

15 (h) Local agencies have decisionmaking authority, and are subject to court
16 judgments, and statutory and contractual obligations, relating to water use and
17 distribution. The department shall coordinate its activities under this chapter with
18 those local agencies.

19 (i) The federal government has ongoing statutory and contractual obligations to
20 provide drainage service to the lands within the San Luis Unit of the Central Valley
21 Project. The department shall recognize those obligations and shall coordinate land
22 retirement activities with appropriate federal agencies.

23 (j) The Department of Fish and ~~Game~~ Wildlife is responsible for the stewardship
24 of the state's fish and wildlife resources and the habitat on which they depend, and
25 can offer its considerable expertise to the department on matters relating to the
26 management of lands in accordance with this chapter and shall be consulted
27 concerning the management of the lands acquired pursuant to this chapter and
28 managed as fish and wildlife habitat.

29 (k) The Department of Conservation is responsible for administering programs to
30 conserve the state's agricultural lands and has information on the state's soil and
31 farmlands and shall be consulted for the purpose of identifying agricultural lands
32 that may be acquired pursuant to this chapter.

33 **Comment.** Subdivision (j) of Section 14901 is amended to update a reference to the former
34 Department of Fish and Game. See Fish & Wildlife Code § 1500.

35 **Water Code § 14903 (amended).**

36 SEC. ____ . Section 14903 of the Water Code is amended to read:

37 14903. (a) The San Joaquin Valley Drainage Relief Program is hereby established
38 in the department.

39 (b) The department shall carry out the program and may develop, in consultation
40 with the state board, the Department of Conservation, and the Department of Fish
41 and ~~Game~~ Wildlife, a land retirement demonstration program.

42 (c) The department may adopt regulations to carry out the program.

1 (d) The purpose of the program is to encourage the cessation of irrigation of
2 retirement land and to otherwise assist in the resolution of the agricultural
3 subsurface drainage problems in the San Joaquin Valley through the coordinated
4 efforts of federal, state, and local agencies, nonprofit organizations, and private
5 landowners who elect to participate in the program.

6 **Comment.** Section 14903 is amended to update a reference to the former Department of Fish
7 and Game. See Fish & Wildlife Code § 1500.

8 **Water Code § 14905 (amended).**

9 SEC. _____. Section 14905 of the Water Code is amended to read:

10 14905. The department may enter into agreements with the state board, the
11 Department of Fish and ~~Game~~ Wildlife, the Department of Conservation, possessors
12 of water rights, and other appropriate public agencies and nonprofit organizations
13 to provide for the purchase and management of retirement land and water pursuant
14 to this chapter.

15 **Comment.** Section 14905 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Water Code § 14906 (amended).**

18 SEC. _____. Section 14906 of the Water Code is amended to read:

19 14906. Property acquired pursuant to this chapter shall be managed as upland
20 habitat, wetlands, riparian habitat, or nonirrigated agricultural land, as appropriate.
21 The department shall coordinate with the Department of Fish and ~~Game~~ Wildlife to
22 ensure that adequate funding is available for management of the retirement land and
23 use of water for environmental purposes.

24 **Comment.** Section 14906 is amended to update a reference to the former Department of Fish
25 and Game. See Fish & Wildlife Code § 1500.

26 **Water Code § 14953 (amended).**

27 SEC. _____. Section 14953 of the Water Code is amended to read:

28 14953. (a) If a commercial shellfish growing area is threatened by point or
29 nonpoint source pollution, as specified in Section 14954, the regional board shall
30 form a technical advisory committee, within 90 days of the effective date of this act,
31 devoted solely to the threatened area. A technical advisory committee shall be
32 formed for any subsequently threatened area within 90 days of the date the threat is
33 identified pursuant to Section 14954. The technical advisory committee shall advise
34 and assist that board in developing a strategy for appropriate investigation and
35 remediation pursuant to Sections 14955 and 14956 to reduce pollution affecting that
36 area. The regional board shall give public notice of the formation of the technical
37 advisory committee. All meetings of the technical advisory committee shall be
38 public.

39 (b) For the purpose of subdivision (a), the technical advisory committee shall
40 include both of the following:

1 (1) One commercial shellfish grower from the threatened area, one representative
2 from the State Department of Health Services, one representative from the
3 Department of Fish and ~~Game~~ Wildlife, one representative from the California
4 Coastal Commission, one representative from each category of potential pollution
5 source, one representative from a local environmental group, and one representative
6 from the local health department.

7 (2) Additional members and a chairperson appointed by the regional board.

8 (c) Members of the technical advisory committee established pursuant to
9 subdivision (a) shall not receive a per diem or other compensation, and shall not be
10 reimbursed for any expenses.

11 **Comment.** Section 14953 is amended to update a reference to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13 **Water Code § 14954 (amended).**

14 SEC. _____. Section 14954 of the Water Code is amended to read:

15 14954. For the purpose of Section 14953, a commercial shellfish growing area is
16 threatened if any of the following applies:

17 (a) The State Department of Health Services downgrades the classification
18 applicable to the commercial shellfish growing area.

19 (b) The commercial shellfish growing area is subjected to harvest closure for more
20 than 30 days per calendar year during the previous three years.

21 (c) The State Department of Health Services classifies the commercial shellfish
22 growing area as restricted.

23 (d) The regional board, the Department of Fish and ~~Game~~ Wildlife, or the
24 California Coastal Commission determines that the commercial shellfish growing
25 area is threatened.

26 **Comment.** Section 14954 is amended to update a reference to the former Department of Fish
27 and Game. See Fish & Wildlife Code § 1500.

28 **Water Code § 31162 (amended).**

29 SEC. _____. Section 31162 of the Water Code is amended to read:

30 31162. The operation of all facilities and appliances permitted by Section 31161
31 shall be in accordance with rules and regulations applicable thereto adopted by the
32 board subject to the provisions of Section ~~531~~ 68315 of the Fish and ~~Game~~ Wildlife
33 Code.

34 **Comment.** Section 31162 is amended to reflect the recodification of the former Fish and Game
35 Code.

36  **Note.** Section 31162 refers to Fish and Game Code Section 531. There is no such provision.
37 However, Section 31162 was enacted in 1949. See 1949 Cal. Stat. ch. 274. At that time, the
38 referenced provision did exist. It read: “The owner of a dam shall accord to the public for the
39 purpose of fishing, the right of access to the waters impounded by the dam during the open season
40 for the taking of fish in such stream or river, subject to the rules and regulations of the commission.”
41 See 1933 Cal. Stat. ch. 73.

1 That language was continued in Fish and Game Code Section 5943. However, Section 5943 was
2 amended in 1996 to provide that the fishing access rule “does not apply to any impoundment of
3 water by a dam that is wholly located on privately owned land that is primarily agricultural or
4 residential in nature if the impounded waters are from a stream or river that is not naturally
5 frequented by fish and if the dam does not prevent the free passage of fish over or around the dam.
6 The Legislature finds and declares that this subdivision is intended to be declaratory of existing
7 law.” See 1996 Cal. Stat. ch. 273, § 1.

8 Section 31162 would be revised to refer to the rule as amended in 1996.

9 **The Commission requests public comment on whether that approach would cause any**
10 **problems.**

11 **Water Code § 78501 (amended).**

12 SEC. ____ . Section 78501 of the Water Code is amended to read:

13 78501. Unless the context otherwise requires, the following definitions govern the
14 construction of this division:

15 (a) “Bay-delta” means the San Francisco Bay/Sacramento-San Joaquin Delta
16 Estuary.

17 (b) “Board” means the State Water Resources Control Board.

18 (c) “CALFED” refers to a consortium of five state agencies, including the
19 Resources Agency, the department, the Department of Fish and ~~Game~~ Wildlife, the
20 California Environmental Protection Agency, and the board, and five federal
21 agencies, including the United States Department of Interior, the United States
22 Bureau of Reclamation, the United States Fish and Wildlife Service, the
23 Environmental Protection Agency, and the National Marine Fisheries Service, with
24 management and regulatory responsibilities in the bay-delta.

25 (d) “Clean Water Act” means the federal Clean Water Act (33 U.S.C.A. Sec. 1251
26 et seq.) and includes any amendments thereto.

27 (e) “Committee” means the Safe, Clean, Reliable Water Supply Finance
28 Committee created pursuant to Section 78693.

29 (f) “Delta” means the Sacramento-San Joaquin Delta.

30 (g) “Department” means the Department of Water Resources.

31 (h) “Fund” means the Safe, Clean, Reliable Water Supply Fund created pursuant
32 to Section 78505.

33 **Comment.** Section 78501 is amended to update a reference to the former Department of Fish
34 and Game. See Fish & Wildlife Code § 1500.

35 **Water Code § 78531 (amended).**

36 SEC. ____ . Section 78531 of the Water Code is amended to read:

37 78531. (a) Notwithstanding Section 13340 of the Government Code, the money
38 in the subaccount is hereby continuously appropriated, without regard to fiscal
39 years, to the Controller, to be allocated to pay the state’s share of the costs for fish
40 and wildlife restoration measures required by Section 3406 of the Central Valley
41 Project Improvement Act (P.L. 102-575), in accordance with subdivisions (b) and
42 (c).

1 (b) Funds appropriated pursuant to subdivision (a) shall be allocated to the
2 Department of Fish and ~~Game~~ Wildlife or the department for expenditure pursuant
3 to the terms of the cost-sharing agreement between the United States and the State
4 of California as required by subsection (h) of Section 3406 of the Central Valley
5 Project Improvement Act, or any agreements supplemental thereto, for the payment
6 of costs allocated to the state for the protection and restoration of fish and wildlife
7 resources and habitat pursuant to Section 3406 of that federal act.

8 (c) The money in the subaccount may be used for both of the following purposes:

9 (1) To pay for the state's cost-sharing allocations or for actions directly
10 undertaken by the department or the Department of Fish and ~~Game~~ Wildlife relating
11 to fish and wildlife restoration actions required by Section 3406 of the Central
12 Valley Project Improvement Act (P.L. 102-575). For purposes of this paragraph,
13 and consistent with Attachment C of the "Principles for Agreement on Bay-Delta
14 standards between the State of California and the Federal Government," dated
15 December 15, 1994, preference for the screening of diversions shall be given to
16 projects, and projects within programs, identified in the Central Valley Project
17 Improvement Act (P.L. 102-575) for which deadlines have been established by state
18 or federal agencies, or by a state or federal court. Any preference established under
19 this paragraph shall be revised if the deadlines are extended or eliminated.

20 (2) To pay for administrative costs incurred in connection with the
21 implementation of this section by the department and the Department of Fish and
22 ~~Game~~ Wildlife related to fish and wildlife restoration measures undertaken pursuant
23 to Section 3406 of the Central Valley Project Improvement Act (P.L. 102-575), as
24 follows:

25 (A) Not more than 3 percent of the total amount deposited in the subaccount for
26 the use of the department may be used to pay the costs incurred in connection with
27 the administration of this article by the department.

28 (B) Not more than 3 percent of the total amount deposited in the subaccount for
29 the use of the Department of Fish and ~~Game~~ Wildlife may be used to pay the costs
30 incurred in connection with the administration of this article by the Department of
31 Fish and ~~Game~~ Wildlife.

32 **Comment.** Section 78531 is amended to update references to the former Department of Fish and
33 Game. See Fish & Wildlife Code § 1500.

34 **Water Code § 78543 (amended).**

35 SEC. ____ . Section 78543 of the Water Code is amended to read:

36 78543. (a) No expenditure of funds may be made under this article unless the
37 Department of Fish and ~~Game~~ Wildlife makes a written determination as part of its
38 review and approval of a plan or project pursuant to Section 12314 or 12987 that
39 the proposed expenditures are consistent with a net long-term habitat improvement
40 program, and have a net benefit for aquatic species in the delta. The Department of
41 Fish and ~~Game~~ Wildlife shall make its determination in a reasonable and timely
42 manner following the submission of the project or plan to that department. For the

1 purposes of this article, an expenditure may include more than one levee project or
2 plan.

3 (b) The memorandum of understanding entered into pursuant to Section 12307
4 shall be amended to require, in accordance with this section, that projects or plans
5 be consistent with a net long-term habitat improvement program in the delta. The
6 memorandum of understanding shall define the term “net long-term habitat
7 improvement program in the delta” for purposes of this section. The memorandum
8 of understanding in effect prior to the amendment required by this section shall
9 continue to apply to levee projects and plans until the memorandum of
10 understanding is amended.

11 **Comment.** Section 78543 is amended to update references to the former Department of Fish and
12 Game. See Fish & Wildlife Code § 1500.

13 **Water Code § 78551 (amended).**

14 SEC. _____. Section 78551 of the Water Code is amended to read:

15 78551. (a) Notwithstanding Section 13340 of the Government Code, the money
16 in the subaccount is hereby continuously appropriated, without regard to fiscal
17 years, to the department, to pay the costs incurred by the department that are not
18 attributable to the State Water Project’s or the Central Valley Project’s share of costs
19 for the South Delta Barriers Program, and for the administration of this article.

20 (b) The costs identified in subdivision (a) include costs incurred for the purpose
21 of mitigating non-State Water Project or non-Central Valley Project impacts and for
22 the purpose of environmental enhancement in the delta.

23 (c) No funds shall be expended under this article unless the Department of Fish
24 and ~~Game~~ Wildlife determines, in writing, that a net habitat benefit will result.

25 **Comment.** Section 78551 is amended to update a reference to the former Department of Fish
26 and Game. See Fish & Wildlife Code § 1500.

27 **Water Code § 78647.2 (amended).**

28 SEC. _____. Section 78647.2 of the Water Code is amended to read:

29 78647.2. (a) The board shall administer a program under which a county, or a joint
30 powers authority in which a county is a participant, may submit an application to
31 the board for an eligible project requesting financial or technical assistance for the
32 purpose of developing a voluntary, incentive-based watershed rehabilitation project.
33 The board shall consult with other federal and state resource agencies, including,
34 but not limited to, the Department of Fish and ~~Game~~ Wildlife and the Department
35 of Forestry and Fire Protection, in the administration of the program. The Resources
36 Agency shall make a written recommendation to the board regarding each
37 application. The board shall consider the recommendations of the Resources
38 Agency and include, when appropriate, the recommendation in the board’s final
39 decision.

40 (b) Notwithstanding subdivision (a), if a county, or a joint powers authority in
41 which a county is a participant, after a request to do so by a local public agency,

1 declines to submit an application for an eligible project for a watershed that is all or
2 in part within the boundaries of the county, a local public agency other than the
3 county or that joint powers agency may submit an application in accordance with
4 subdivision (a).

5 **Comment.** Section 78647.2 is amended to update a reference to the former Department of Fish
6 and Game. See Fish & Wildlife Code § 1500.

7 **Water Code § 78682.2 (amended).**

8 SEC. _____. Section 78682.2 of the Water Code is amended to read:

9 78682.2. The money in the subaccount shall be made available, upon
10 appropriation by the Legislature, for the acquisition and restoration of riparian
11 habitat, riverine aquatic habitat, and other lands in close proximity to rivers and
12 streams and for river and stream trail projects undertaken in accordance with any of
13 the following provisions:

14 (a) ~~Chapter 4 (commencing with Section 1300) Title 1 (commencing with Section~~
15 ~~54700) of Part 2 of Division 15 and Chapter 4.1 (commencing with Section 1385)~~
16 ~~of Division 2 Title 12 (commencing with Section 57700) Part 2 of Division 15 of~~
17 ~~the Fish and Game Wildlife Code.~~

18 (b) Chapter 5 (commencing with Section 31200), Chapter 6 (commencing with
19 Section 31251), and Chapter 9 (commencing with Section 31400), of Division 21
20 of the Public Resources Code.

21 (c) Division 22.5 (commencing with Section 32500) of the Public Resources
22 Code.

23 (d) Urban river park acquisition and restoration projects undertaken pursuant to
24 Division 23 (commencing with Section 33000) of the Public Resources Code.

25 (e) River parkway projects undertaken by a state agency, city, county, city and
26 county, or pursuant to a joint powers agreement between two or more of these
27 entities.

28 **Comment.** Section 78682.2 is amended to reflect the recodification of the former Fish and Game
29 Code.

30 **Water Code § 79038 (amended).**

31 SEC. _____. Section 79038 of the Water Code is amended to read:

32 79038. (a) For the purposes of this article, the department shall give highest
33 priority to projects that include either of the following:

34 (1) Projects that have been assigned high priority for completion by the
35 department for flood protection purposes and by the Department of Conservation
36 for purposes of preserving agricultural land in accordance with the Agricultural
37 Land Stewardship Program Act of 1995 (Division 10.2 (commencing with Section
38 10200) of the Public Resources Code).

39 (2) Projects that have been assigned high priority for completion by the
40 department for flood protection purposes and by the Department of Fish and ~~Game~~
41 Wildlife for wildlife habitat protection or restoration purposes.

1 (b) For restoration, enhancement, and protection projects, the services of the
2 California Conservation Corps or community conservation corps shall be used
3 whenever feasible.

4 **Comment.** Section 79038 is amended to update a reference to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500.

6 **Water Code § 79050 (amended).**

7 SEC. ____ . Section 79050 of the Water Code is amended to read:

8 79050. (a) No expenditure of funds may be made under this article unless the
9 Department of Fish and ~~Game~~ Wildlife makes a written determination as part of its
10 review and approval of a plan or project pursuant to Section 12314 or 12987. The
11 Department of Fish and ~~Game~~ Wildlife shall make its determination in a reasonable
12 and timely manner following the submission of the project or plan to that
13 department.

14 (b) For the purposes of this article, an expenditure may include more than one
15 levee project or plan.

16 **Comment.** Section 79050 is amended to update references to the former Department of Fish and
17 Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
18 designations.

19 **Water Code § 79068.8 (amended).**

20 SEC. ____ . Section 79068.8 of the Water Code is amended to read:

21 79068.8. No expenditures of state funds may be made under this article until the
22 department or the Reclamation Board determines that all of the following
23 requirements have been met:

24 (a) There is a final environmental document prepared pursuant to the California
25 Environmental Quality Act (commencing with Section 21000 of the Public
26 Resources Code).

27 (b) The project is in compliance with the California Endangered Species Act
28 (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing~~
29 ~~with Section 62000) of Division 17~~ of the Fish and ~~Game~~ Wildlife Code), as
30 demonstrated by documentation such as comments received from the Department
31 of Fish and ~~Game~~ Wildlife, a permit obtained from the Department of Fish and
32 ~~Game~~ Wildlife, or other appropriate evidence.

33 (c) The local project proponent agrees to pay at least that portion of the nonfederal
34 capital costs of the project required by Section 12585.5.

35 (d) The local project proponent agrees to operate and maintain the completed
36 project.

37 (e) The local project proponent enters into an agreement indemnifying and
38 holding the state, its agencies, officers and employees free and harmless from any
39 and all liability arising out of the design, construction, operation and maintenance
40 of the project.

1 (f) The project is recommended for implementation by the department or the
2 Reclamation Board.

3 **Comment.** Section 79068.8 is amended to reflect the recodification of the former Fish and Game
4 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
5 Code § 1500. The section is also amended to make a technical correction.

6 **Water Code § 79068.14 (amended).**

7 SEC. _____. Section 79068.14 of the Water Code is amended to read:

8 79068.14. (a) Twenty million dollars (\$20,000,000) in the subaccount, upon
9 appropriation to the Department of Fish and ~~Game~~ Wildlife, may be used by that
10 department, if it determines that any flood control project undertaken pursuant to
11 this article would result in a reduction of, or damage to, fish, wildlife, or riparian
12 habitat, to protect, improve, restore, create, or enhance fish, wildlife, and riparian
13 habitat of a comparable type to that which was reduced or damaged.

14 (b) Any land acquired pursuant to this section shall be acquired from willing
15 sellers.

16 **Comment.** Section 79068.14 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500.

18 **Water Code § 79104.204 (amended).**

19 SEC. _____. Section 79104.204 of the Water Code is amended to read:

20 79104.204. The money in the subaccount, upon appropriation by the Legislature
21 to the Department of Fish and ~~Game~~ Wildlife, shall be used by the Department of
22 Fish and ~~Game~~ Wildlife for direct expenditure and for grants to public agencies and
23 nonprofit organizations to protect, restore, acquire, and enhance habitat for salmon.
24 These funds may be used to match federal funding available for those purposes.

25 **Comment.** Section 79104.204 is amended to update references to the former Department of Fish
26 and Game. See Fish & Wildlife Code § 1500.

27 **Water Code § 79563.5 (amended).**

28 SEC. _____. Section 79563.5 of the Water Code is amended to read:

29 79563.5. (a) The board, to the extent that funds are appropriated pursuant to
30 Section 79563 of the Water Code for purposes that are consistent with this section,
31 shall fund the development of one or more integrated coastal watershed
32 management plans.

33 (b) The plans shall be designed to allow for the integration of projects funded by
34 the State Coastal Conservancy pursuant to Chapter 5.5 (commencing with Section
35 31220) of Division 21 of the Public Resources Code, and projects funded by the
36 board pursuant to Chapter 3 (commencing with Section 30915) and Article 5
37 (commencing with Section 30945) of Chapter 4, of Division 20.4 of the Public
38 Resources Code, within one or more coastal regions.

39 (c) The planning areas shall be selected by the board in consultation with the State
40 Coastal Conservancy and the Department of Fish and ~~Game~~ Wildlife and shall

1 include coastal watersheds that influence water quality in areas of special biological
2 significance.

3 (d) The board may only expend funds for the purposes of this section to the extent
4 the board determines that the expenditures are consistent with the requirements of
5 this chapter.

6 **Comment.** Section 79563.5 is amended to update a reference to the former Department of Fish
7 and Game. See Fish & Wildlife Code § 1500.

8 **Water Code § 79736 (amended).**

9 SEC. _____. Section 79736 of the Water Code is amended to read:

10 79736. Of the funds authorized by Section 79730, four hundred seventy-five
11 million dollars (\$475,000,000) shall be available to the Natural Resources Agency
12 to support projects that fulfill the obligations of the State of California in complying
13 with the terms of any of the following:

14 (a) Subsection (d) of Section 3406 of the Central Valley Project Improvement Act
15 (Title 34 of Public Law 102-575).

16 (b) Interstate compacts set forth in Section 66801 of the Government Code
17 pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

18 (c) Intrastate or multiparty water quantification settlement agreement provisions,
19 including ecosystem restoration projects, as set forth in Chapters 611, 612, 613, and
20 614 of the Statutes of 2003.

21 (d) The settlement agreement referenced in Section ~~2080.2~~ 63350 of the Fish and
22 Game Wildlife Code.

23 (e) Any intrastate or multiparty settlement agreement related to water acted upon
24 or before December 31, 2013. Priority shall be given to projects that meet one or
25 more of the following criteria:

26 (1) The project is of statewide significance.

27 (2) The project restores natural aquatic or riparian functions, or wetlands habitat
28 for birds and aquatic species.

29 (3) The project protects or promotes the restoration of endangered or threatened
30 species.

31 (4) The project enhances the reliability of water supplies on a regional or
32 interregional basis.

33 (5) The project provides significant regional or statewide economic benefits.

34 **Comment.** Section 79736 is amended to reflect the recodification of the former Fish and Game
35 Code.

36 **Water Code § 85032 (amended).**

37 SEC. _____. Section 85032 of the Water Code is amended to read:

38 85032. This division does not affect any of the following:

39 (a) The Natural Community Conservation Planning Act (~~Chapter 10~~
40 ~~(commencing with Section 2800) of Division 3 Title 2 (commencing with Section~~
41 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code).

1 (b) The California Endangered Species Act (~~Chapter 1.5 (commencing with~~
2 ~~Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division~~
3 17 of the Fish and Game Wildlife Code).

4 (c) The Fish and Game Wildlife Code.

5 (d) The Porter-Cologne Water Quality Control Act (Division 7 (commencing with
6 Section 13000)).

7 (e) Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

8 (f) The California Environmental Quality Act (Division 13 (commencing with
9 Section 21000) of the Public Resources Code).

10 (g) Section 1702.

11 (h) The application of the public trust doctrine.

12 (i) Any water right.

13 (j) The liability of the state for flood protection in the Delta or its watershed.

14 **Comment.** Section 85032 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Water Code § 85034 (amended).**

17 SEC. ____ . Section 85034 of the Water Code is amended to read:

18 85034. (a) (1) The council shall administer all contracts, grants, easements, and
19 agreements made or entered into by the California Bay-Delta Authority under
20 Division 26.4 (commencing with Section 79400), as that division read on December
21 31, 2009.

22 (2) The exercise of the authority described in paragraph (1) is not subject to review
23 or approval by the Department of General Services.

24 (3) A contract, lease, license, or any other agreement to which the California Bay-
25 Delta Authority is a party is not void or voidable as a result of the implementation
26 of this subdivision, but shall continue in full force and effect until the end of its
27 term.

28 (b) The council shall be the successor to and shall assume from the California
29 Bay-Delta Authority all of the administrative rights, abilities, obligations, and duties
30 of that authority.

31 (c) The council shall have possession and control of all records, papers,
32 equipment, supplies, contracts, leases, agreements, and other property, real or
33 personal, connected with the administration of Division 26.4 (commencing with
34 Section 79400), as that division read on December 31, 2009, or held for the benefit
35 or use of the California Bay-Delta Authority.

36 (d) The council shall assume from the California Bay-Delta Authority all
37 responsibility to manage, in accordance with Chapter 5 (commencing with Section
38 85280) of Part 3, the science program element that was required to be undertaken
39 by Division 26.4 (commencing with Section 79400), as that division read on
40 December 31, 2009.

41 (e) Consistent with the responsibilities and duties assumed by the council pursuant
42 to this section, all staff, resources, and funding within the Natural Resources Agency

1 and the Department of Forestry and Fire Protection for the support of the CALFED
2 Bay-Delta Program are hereby transferred to, and may be expended for the purposes
3 of, the council. The executive officer of the council shall confer with the Director
4 of Fish and ~~Game~~ Wildlife, the director of the department, and the executive director
5 of the board regarding possible reallocation of the staff and resources. The status,
6 position, and rights of any officer or employee shall not be affected by this transfer
7 and all officers and employees shall be retained pursuant to the State Civil Service
8 Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the
9 Government Code).

10 **Comment.** Subdivision (e) of Section 85034 is amended to update a reference to the Director of
11 the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

12 **Water Code § 85084.5 (amended).**

13 SEC. _____. Section 85084.5 of the Water Code is amended to read:

14 85084.5. The Department of Fish and ~~Game~~ Wildlife, in consultation with the
15 United States Fish and Wildlife Service and the National Marine Fisheries Service
16 and based on the best available science, shall develop and recommend to the board
17 Delta flow criteria and quantifiable biological objectives for aquatic and terrestrial
18 species of concern dependent on the Delta. The recommendations shall be
19 developed no later than 12 months after the date of enactment of this division.

20 **Comment.** Section 85084.5 is amended to update a reference to the former Department of Fish
21 and Game. See Fish & Wildlife Code § 1500.

22 **Water Code § 85085 (amended).**

23 SEC. _____. Section 85085 of the Water Code is amended to read:

24 85085. The department shall do all of the following:

25 (a) Coordinate with the Department of Fish and ~~Game~~ Wildlife, the board, the
26 California regional water quality control boards, and the State Lands Commission
27 efforts to cooperate with the United States Bureau of Reclamation to construct and
28 implement the Two-Gates Fish Protection Demonstration Project by December 1,
29 2010.

30 (b) Evaluate the effectiveness of the Three Mile Slough Barrier project.

31 (c) Expeditiously move ahead with other near term actions as identified in the
32 Strategic Plan.

33 (d) Assist in implementing early action ecosystem restoration projects, including,
34 but not limited to, Dutch Slough tidal marsh restoration and Meins Island tidal
35 marsh restoration.

36 **Comment.** Section 85085 is amended to update a reference to the former Department of Fish
37 and Game. See Fish & Wildlife Code § 1500.

38 **Water Code § 85087 (amended).**

39 SEC. _____. Section 85087 of the Water Code is amended to read:

1 85087. The board, by December 31, 2010, shall submit to the Legislature a
2 prioritized schedule and estimate of costs to complete instream flow studies for the
3 Delta and for high priority rivers and streams in the Delta watershed, not otherwise
4 covered by Section 85086, by 2012, and for all major rivers and streams outside the
5 Sacramento River watershed by 2018. In developing this schedule, the board shall
6 consult with the Department of Fish and ~~Game~~ Wildlife as to the timing of its
7 submission of recommendations for instream flow needs.

8 **Comment.** Section 85087 is amended to update a reference to the former Department of Fish
9 and Game. See Fish & Wildlife Code § 1500.

10 **Water Code § 85320 (amended).**

11 SEC. ____. Section 85320 of the Water Code is amended to read:

12 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be considered for
13 inclusion in the Delta Plan in accordance with this chapter.

14 (b) The BDCP shall not be incorporated into the Delta Plan and the public benefits
15 associated with the BDCP shall not be eligible for state funding, unless the BDCP
16 does all of the following:

17 (1) Complies with ~~Chapter 10 (commencing with Section 2800) of Division 3~~
18 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and
19 ~~Game~~ Wildlife Code.

20 (2) Complies with Division 13 (commencing with Section 21000) of the Public
21 Resources Code, including a comprehensive review and analysis of all of the
22 following:

23 (A) A reasonable range of flow criteria, rates of diversion, and other operational
24 criteria required to satisfy the criteria for approval of a natural community
25 conservation plan as provided in ~~subdivision (a) of Section 2820~~ 64580 of the Fish
26 and ~~Game~~ Wildlife Code, and other operational requirements and flows necessary
27 for recovering the Delta ecosystem and restoring fisheries under a reasonable range
28 of hydrologic conditions, which will identify the remaining water available for
29 export and other beneficial uses.

30 (B) A reasonable range of Delta conveyance alternatives, including through-
31 Delta, dual conveyance, and isolated conveyance alternatives and including further
32 capacity and design options of a lined canal, an unlined canal, and pipelines.

33 (C) The potential effects of climate change, possible sea level rise up to 55 inches,
34 and possible changes in total precipitation and runoff patterns on the conveyance
35 alternatives and habitat restoration activities considered in the environmental impact
36 report.

37 (D) The potential effects on migratory fish and aquatic resources.

38 (E) The potential effects on Sacramento River and San Joaquin River flood
39 management.

40 (F) The resilience and recovery of Delta conveyance alternatives in the event of
41 catastrophic loss caused by earthquake or flood or other natural disaster.

1 (G) The potential effects of each Delta conveyance alternative on Delta water
2 quality.

3 (c) The department shall consult with the council and the Delta Independent
4 Science Board during the development of the BDCP. The council shall be a
5 responsible agency in the development of the environmental impact report. The
6 Delta Independent Science Board shall review the draft environmental impact report
7 and submit its comments to the council and the Department of Fish and ~~Game~~
8 Wildlife.

9 (d) If the Department of Fish and ~~Game~~ Wildlife approves the BDCP as a natural
10 community conservation plan pursuant to ~~Chapter 10 (commencing with Section~~
11 ~~2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division~~
12 17 of the Fish and ~~Game~~ Wildlife Code, the council shall have at least one public
13 hearing concerning the incorporation of the BDCP into the Delta Plan.

14 (e) If the Department of Fish and ~~Game~~ Wildlife approves the BDCP as a natural
15 community conservation plan pursuant to ~~Chapter 10 (commencing with Section~~
16 ~~2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division~~
17 17 of the Fish and ~~Game~~ Wildlife Code and determines that the BDCP meets the
18 requirements of this section, and the BDCP has been approved as a habitat
19 conservation plan pursuant to the federal Endangered Species Act (16 U.S.C.
20 Section 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan.
21 The Department of Fish and ~~Game's~~ Wildlife's determination that the BDCP has
22 met the requirements of this section may be appealed to the council.

23 (f) The department, in coordination with the Department of Fish and ~~Game~~
24 Wildlife, or any successor agencies charged with BDCP implementation, shall
25 report to the council on the implementation of the BDCP at least once a year,
26 including the status of monitoring programs and adaptive management.

27 (g) The council may make recommendations to BDCP implementing agencies
28 regarding the implementation of the BDCP. BDCP implementing agencies shall
29 consult with the council on these recommendations. These recommendations shall
30 not change the terms and conditions of the permits issued by state and federal
31 regulatory agencies.

32 **Comment.** Section 85320 is amended to reflect the recodification of the former Fish and Game
33 Code. The section is also amended to update references to the former Department of Fish and Game.
34 See Fish & Wildlife Code § 1500.

35 **Water Code § 85322 (amended).**

36 SEC. ____ . Section 85322 of the Water Code is amended to read:

37 85322. This chapter does not amend, or create any additional legal obligation or
38 cause of action under, ~~Chapter 10 (commencing with Section 2800) of Division 3~~
39 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and
40 ~~Game~~ Wildlife Code or Division 13 (commencing with Section 21000) of the Public
41 Resources Code.

1 **Comment.** Section 85322 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 WELFARE AND INSTITUTIONS CODE

4 **Welf. & Inst. Code § 256 (amended).**

5 SEC. _____. Section 256 of the Welfare and Institutions Code is amended to read:
6 256. Subject to the orders of the juvenile court, a juvenile hearing officer may
7 hear and dispose of any case in which a minor under the age of 18 years as of the
8 date of the alleged offense is charged with (1) any violation of the Vehicle Code,
9 except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a
10 felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a
11 violation of the Fish and ~~Game~~ Wildlife Code not declared to be a felony, (4) a
12 violation of any of the equipment provisions of the Harbors and Navigation Code
13 or the vessel registration provisions of the Vehicle Code, (5) a violation of any
14 provision of state or local law relating to traffic offenses, loitering or curfew, or
15 evasion of fares on a public transportation system, as defined by Section 99211 of
16 the Public Utilities Code, (6) a violation of Section 27176 of the Streets and
17 Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a
18 violation of the rules and regulations established pursuant to Sections 5003 and 5008
19 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public
20 Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the
21 Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of
22 the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code,
23 involving defacing property with paint or any other liquid, (13) a violation of
24 subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of
25 subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction,
26 (16) any misdemeanor for which the minor is cited to appear by a probation officer
27 pursuant to subdivision (f) of Section 660.5, or (17) a violation of subdivision (b) of
28 Section 601 that is due to having four or more truancies, as described in Section
29 48260 of the Education Code, within one school year.

30 **Comment.** Section 256 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Welf. & Inst. Code § 258 (amended).**

33 SEC. _____. Section 258 of the Welfare and Institutions Code is amended to read:
34 258. (a) Upon a hearing conducted in accordance with Section 257, and upon
35 either an admission by the minor of the commission of a violation charged, or a
36 finding that the minor did in fact commit the violation, the judge, referee, or juvenile
37 hearing officer may do any of the following:

- 38 (1) Reprimand the minor and take no further action.

1 (2) Direct that the probation officer undertake a program of supervision of the
2 minor for a period not to exceed six months, in addition to or in place of the
3 following orders.

4 (3) Order that the minor pay a fine up to the amount that an adult would pay for
5 the same violation, unless the violation is otherwise specified within this section, in
6 which case the fine shall not exceed two hundred fifty dollars (\$250). This fine may
7 be levied in addition to or in place of the following orders and the court may waive
8 any or all of this fine, if the minor is unable to pay. In determining the minor's ability
9 to pay, the court shall not consider the ability of the minor's family to pay.

10 (4) Subject to the minor's right to a restitution hearing, order that the minor pay
11 restitution to the victim, in lieu of all or a portion of the fine specified in paragraph
12 (3). The total dollar amount of the fine, restitution, and any program fees ordered
13 pursuant to paragraph (9) shall not exceed the maximum amount which may be
14 ordered pursuant to paragraph (3). This paragraph shall not be construed to limit the
15 right to recover damages, less any amount actually paid in restitution, in a civil
16 action.

17 (5) Order that the driving privileges of the minor be suspended or restricted as
18 provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle
19 Code or any other provision of law, when the Vehicle Code does not provide for the
20 suspension or restriction of driving privileges, that, in addition to any other order,
21 the driving privileges of the minor be suspended or restricted for a period of not to
22 exceed 30 days.

23 (6) In the case of a traffic related offense, order the minor to attend a licensed
24 traffic school, or other court approved program of traffic school instruction pursuant
25 to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code,
26 to be completed by the juvenile within 60 days of the court order.

27 (7) Order that the minor produce satisfactory evidence that the vehicle or its
28 equipment has been made to conform with the requirements of the Vehicle Code
29 pursuant to Section 40150 of the Vehicle Code if the violation involved an
30 equipment violation.

31 (8) Order that the minor perform community service work in a public entity or
32 any private nonprofit entity, for not more than 50 hours over a period of 60 days,
33 during times other than his or her hours of school attendance or employment. Work
34 performed pursuant to this paragraph shall not exceed 30 hours during any 30-day
35 period. The timeframes established by this paragraph shall not be modified except
36 in unusual cases where the interests of justice would best be served. When the order
37 to work is made by a referee or a juvenile hearing officer, it shall be approved by a
38 judge of the juvenile court.

39 For purposes of this paragraph, a judge, referee, or juvenile hearing officer shall
40 not, without the consent of the minor, order the minor to perform work with a private
41 nonprofit entity that is affiliated with any religion.

1 (9) In the case of a misdemeanor, order that the minor participate in and complete
2 a counseling or educational program, or, if the offense involved a violation of a
3 controlled substance law, a drug treatment program, if those programs are available.
4 Fees for participation shall be subject to the right to a hearing as the minor's ability
5 to pay and shall not, together with any fine or restitution order, exceed the maximum
6 amount that may be ordered pursuant to paragraph (3).

7 (10) Require that the minor attend a school program without unexcused absence.

8 (11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m.,
9 require that the minor be at his or her legal residence at hours to be specified by the
10 juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a
11 medical or other emergency, unless the minor is accompanied by his or her parent,
12 guardian, or other person in charge of the minor. The maximum length of an order
13 made pursuant to this paragraph shall be six months from the effective date of the
14 order.

15 (12) Make any or all of the following orders with respect to a violation of the Fish
16 and ~~Game~~ Wildlife Code which is not charged as a felony:

17 (A) That the fishing or hunting license involved be suspended or restricted.

18 (B) That the minor work in a park or conservation area for a total of not to exceed
19 20 hours over a period not to exceed 30 days, during times other than his or her
20 hours of school attendance or employment.

21 (C) That the minor forfeit, pursuant to Section ~~12157~~ 4570 of the Fish and ~~Game~~
22 Wildlife Code, any device or apparatus designed to be, and capable of being, used
23 to take birds, mammals, fish, reptiles, or amphibia and that was used in committing
24 the violation charged. The judge, referee, or juvenile hearing officer shall, if the
25 minor committed an offense that is punishable under Section ~~12008 or 12008.1~~
26 5320, 5400, 5600, 5900, 5950, 6202, or 6204 of the Fish and ~~Game~~ Wildlife Code,
27 order the device or apparatus forfeited pursuant to Section ~~12157~~ 4570 of the Fish
28 and ~~Game~~ Wildlife Code.

29 (13) If the violation charged is of an ordinance of a city, county, or local agency
30 relating to loitering, curfew, or fare evasion on a public transportation system, as
31 defined by Section 99211 of the Public Utilities Code, or is a violation of Section
32 640 or 640a of the Penal Code, make the order that the minor shall perform
33 community service for a total time not to exceed 20 hours over a period not to exceed
34 30 days, during times other than his or her hours of school attendance or
35 employment.

36 (b) If the minor is before the court on the basis of truancy, as described in
37 subdivision (b) of Section 601, all of the following procedures and limitations shall
38 apply:

39 (1) The judge, referee, or juvenile hearing officer shall not proceed with a hearing
40 unless both of the following have been provided to the court:

41 (A) Evidence that the minor's school has undertaken the actions specified in
42 subdivisions (a), (b), and (c) of Section 48264.5 of the Education Code. If the school
43 district does not have an attendance review board, as described in Section 48321 of

1 the Education Code, the minor’s school is not required to provide evidence to the
2 court of any actions the school has undertaken that demonstrate the intervention of
3 a school attendance review board.

4 (B) The available record of previous attempts to address the minor’s truancy.

5 (2) The court is encouraged to set the hearing outside of school hours, so as to
6 avoid causing the minor to miss additional school time.

7 (3) Pursuant to paragraph (1) of subdivision (a) of Section 257, the minor and his
8 or her parents shall be advised of the minor’s right to refuse consent to a hearing
9 conducted upon a written notice to appear.

10 (4) The minor’s parents shall be permitted to participate in the hearing.

11 (5) The judge, referee, or juvenile hearing officer may continue the hearing to
12 allow the minor the opportunity to demonstrate improved attendance before
13 imposing any of the orders specified in paragraph (6). Upon demonstration of
14 improved attendance, the court may dismiss the case.

15 (6) Upon a finding that the minor violated subdivision (b) of Section 601, the
16 judge, referee, or juvenile hearing officer shall direct his or her orders at improving
17 the minor’s school attendance. The judge, referee, or juvenile hearing officer may
18 do any of the following:

19 (A) Order the minor to perform community service work, as described in Section
20 48264.5 of the Education Code, which may be performed at the minor’s school.

21 (B) Order the payment of a fine by the minor of not more than fifty dollars (\$50),
22 for which a parent or legal guardian of the minor may be jointly liable. The fine
23 described in this subparagraph shall not be subject to Section 1464 of the Penal Code
24 or additional penalty pursuant to any other law. The minor, at his or her discretion,
25 may perform community service, as described in subparagraph (A), in lieu of any
26 fine imposed under this subparagraph.

27 (C) Order a combination of community service work described in subparagraph
28 (A) and payment of a portion of the fine described in subparagraph (B).

29 (D) Restrict driving privileges in the manner set forth in paragraph (5) of
30 subdivision (a). The minor may request removal of the driving restrictions if he or
31 she provides proof of school attendance, high school graduation, GED completion,
32 or enrollment in adult education, a community college, or a trade program. Any
33 driving restriction shall be removed at the time the minor attains 18 years of age.

34 (c)(1) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the
35 case until all orders made under this section have been fully complied with.

36 (2) If a minor is before the judge, referee, or juvenile hearing officer on the basis
37 of truancy, jurisdiction shall be terminated upon the minor attaining 18 years of age.

38 **Comment.** Paragraph (12) of subdivision (a) of Section 258 is amended to reflect the
39 recodification of the former Fish and Game Code.

40  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
41 sections cross-referenced in paragraph (12) of subdivision (a) of the section above have been

1 continued in several different sections of the proposed Fish and Wildlife Code.

2 **The Commission requests public comment on the proposed conforming revision of those**
3 **provisions in the section above.**

4 **Welf. & Inst. Code § 1760.5 (amended).**

5 SEC. ____ . Section 1760.5 of the Welfare and Institutions Code is amended to
6 read:

7 1760.5. (a) The director may require persons committed to the authority to
8 perform work necessary and proper to be done by the Department of Forestry and
9 Fire Protection, the Department of Water Resources, the Department of Parks and
10 Recreation, and the Department of Fish and ~~Game~~ Wildlife, by the Division of State
11 Lands, by the United States Department of Agriculture, and by the federal officials
12 and departments in charge of national forests and parks within this state.

13 (b) For the purposes of this section, the director, with the approval of the
14 Department of General Services, may enter into contracts with federal and state
15 officials and departments. All moneys received by the director pursuant to any of
16 those contracts shall be paid into the State Treasury to the credit and in augmentation
17 of the current appropriation for the support of the authority. The director may
18 provide, from those moneys, for the payment of wages to the wards for work they
19 do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund
20 created pursuant to Section 13967 of the Government Code, or to the parents or
21 dependents of the ward, or to the ward in the manner and in those proportions as the
22 Department of the Youth Authority directs.

23 **Comment.** Section 1760.5 is amended to update a reference to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
25 designations.