

AMENDED IN ASSEMBLY APRIL 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1204**

**Introduced by Assembly Member Aroner**

February 23, 2001

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~~An act to amend Section 5652 of the Fish and Game Code, relating to water pollution. An act to amend Section 711.4 of the Fish and Game Code, and to amend Section 10005 of the Public Resources Code, relating to fees, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1204, as amended, Aroner. ~~Water pollution: animal waste~~  
*Filing fees: Department of Fish and Game.*

~~(1) Existing law makes it a crime to deposit, permit to pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high-water mark of the waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.~~

~~This bill would add animal waste to that prohibition.~~

~~The bill would impose a state-mandated local program by creating a new crime.~~

~~(2)–~~

*(1) Existing law requires the Department of Fish and Game to impose and collect filing fees for activities protecting fish and wildlife trust resources identified in reviews pursuant to the California Environmental Quality Act and authorizes a county clerk to charge a documentary handling fee for filings pursuant to that act.*

*This bill would change the fee charged by a county clerk from \$25 to an amount not to exceed the actual handling costs. The bill would also change the procedures for collection of unpaid fees and would restrict the use of the revenue from the fees to managing and protecting fish and wildlife trust resources in proportion to the number and species and the extent of impacts identified in the review conducted. The bill would also require the department to maintain internal accountability to ensure that restrictions on expenditures are met.*

*Because the bill would make projects presently exempt from those fees subject to the fee, which existing law requires to be deposited in the Fish and Game Preservation Fund and continuously appropriated to the department, the bill would make an appropriation by increasing the fees so deposited and by imposing new duties on the department relating to collection of the fees.*

*Because the bill would require the payment of fees for projects presently exempt and because duties relating to collection are performed under existing law by local agencies, the bill would impose a state-mandated local program by increasing the projects subject to those duties.*

*(2) Existing law requires the department to impose and collect a filing fee to defray the costs of identifying streams and providing studies for certain streamflow protection standards.*

*This bill would restrict the use of the revenue from those fees to those purposes and would require the department to maintain internal accountability to ensure restrictions on expenditures are met.*

*Because existing law requires the fees to be deposited in the Fish and Game Preservation Fund, which is continuously appropriated to the department, the bill would make an appropriation by imposing new duties on the department.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

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



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

1     ~~SECTION 1. Section 5652 of the Fish and Game Code is~~  
2     *SECTION 1. Section 711.4 of the Fish and Game Code is*  
3     *amended to read:*  
4     711.4. (a) The department shall impose and collect a filing  
5     fee in the amount prescribed in subdivision ~~(d)~~ (e) to defray the  
6     costs of managing and protecting fish and wildlife trust resources,  
7     including, but not limited to, consulting with other public  
8     agencies, reviewing environmental documents, recommending  
9     mitigation measures, developing monitoring requirements for  
10    purposes of the California Environmental Quality Act (Division  
11    13 (commencing with Section 21000) of the Public Resources  
12    Code), consulting pursuant to Section 21104.2 of the Public  
13    Resources Code, and other activities protecting those trust  
14    resources identified in the review pursuant to the California  
15    Environmental Quality Act.  
16    (b) The filing fees shall be proportional to the cost incurred by  
17    the department *to conduct the activities described in subdivision*  
18    *(a)* and shall be annually reviewed and adjustments recommended  
19    to the Legislature in an amount necessary to pay the full costs of  
20    department programs as specified.  
21    (c) (1) All project applicants and public agencies subject to the  
22    California Environmental Quality Act *or a certified regulatory*  
23    *program* shall pay a filing fee for each proposed project.  
24    (2) Notwithstanding paragraph (1), no filing fee shall be paid  
25    pursuant to this section if the lead or certified regulatory program  
26    agency finds that the project is either of the following:  
27    (A) Categorically exempt from the California Environmental  
28    Quality Act *or the certified regulatory program*.  
29    (B) De minimis in its effect on fish and wildlife.  
30    (3) Notwithstanding paragraph (1), no filing fee shall be paid  
31    pursuant to this section if all the following conditions exist:  
32    (A) The project is being undertaken by the department.  
33    (B) The project costs are payable from any of the following  
34    sources:  
35    (i) The Public Resources Account in the Cigarette and Tobacco  
36    Products Surtax Fund.  
37    (ii) The California Wildlife, Coastal, and Park Land  
38    Conservation Fund of 1988.



1 (iii) The Habitat Conservation Fund.  
2 (iv) The Fisheries Restoration Account in the Fish and Game  
3 Preservation Fund.

4 (v) The Commercial Salmon Stamp Account in the Fish and  
5 Game Preservation Fund.

6 (vi) Striped bass stamp funds collected pursuant to Section  
7 7360.

8 (C) The project is implemented through a contract with either  
9 a nonprofit entity or a local government agency. ~~The~~

10 (d) *The* filing fee shall be paid at the time and in the amount  
11 specified in subdivision ~~(d)~~ (e). Notwithstanding Sections 21080.5  
12 and 21081 of the Public Resources Code, no project shall be  
13 operative, vested, or final until the filing fees required pursuant to  
14 this section are paid.

15 ~~(d)~~

16 (e) The fees shall be in the following amounts:

17 (1) ~~For a project which is found by the lead or certified~~  
18 ~~regulatory agency to be de minimis in its effect on fish and~~  
19 ~~wildlife, no filing fee shall be paid, whether or not a negative~~  
20 ~~declaration or an environmental impact report is prepared pursuant~~  
21 ~~to the California Environmental Quality Act.~~

22 (2) ~~For a project which is statutorily or categorically exempt~~  
23 ~~from the California Environmental Quality Act, including those~~  
24 ~~certified regulatory programs which incorporate statutory and~~  
25 ~~categorical exemptions, no filing fee shall be paid.~~

26 (3) ~~For a project for which a negative declaration is prepared~~  
27 ~~pursuant to subdivision (c) of Section 21080 of the Public~~  
28 ~~Resources Code, the filing fee is one thousand two hundred fifty~~  
29 ~~dollars (\$1,250). The filing fee shall be paid to the county clerk at~~  
30 ~~the time of filing a notice of determination pursuant to Section~~  
31 ~~21152 of that code or to the Office of Planning and Research at the~~  
32 ~~time of filing a notice of determination pursuant to Section 21108~~  
33 ~~of that code, as appropriate.~~

34 ~~(4)~~

35 (2) For a project ~~with~~ *for which* an environmental impact report  
36 *is* prepared pursuant to the California Environmental Quality Act,  
37 the filing fee is eight hundred fifty dollars (\$850). The filing fee  
38 shall be paid to the county clerk at the time of filing a notice of  
39 determination pursuant to Section 21152 of the Public Resources



1 Code or to the Office of Planning and Research at the time of filing  
2 a notice of determination pursuant to Section 21108 of that code.

3 ~~(5)~~

4 (3) For a project ~~which~~ *that* is subject to a certified regulatory  
5 program pursuant to Section 21080.5 of the Public Resources  
6 Code, the filing fee is eight hundred fifty dollars (\$850). The filing  
7 fee shall be paid to the Secretary of the Resources Agency upon  
8 filing of the notice of ~~determination~~ *decision or other similar*  
9 *notice* pursuant to Section 21080.5 of that code. If the filing fee is  
10 to be paid by the state lead agency, the payment shall be made  
11 pursuant to a memorandum of understanding with the department  
12 *that includes a requirement for an annual reconciliation based on*  
13 *the actual number of projects approved.*

14 ~~(e)~~

15 (f) The county clerk may charge a documentary handling fee of  
16 ~~twenty-five dollars (\$25) per~~ *for each filing, in an amount not to*  
17 *exceed the actual handling costs*, in addition to the filing fee  
18 specified in subdivision ~~(d)~~ (e).

19 (1) The county clerk of each county and the Office of Planning  
20 and Research shall maintain a record of all environmental  
21 documents received. The record shall include, for each  
22 environmental document received, the name of each applicant or  
23 lead agency, the document filing number, and the filing date. The  
24 record shall be made available for examination or audit by  
25 authorized personnel of the department during normal business  
26 hours.

27 (2) The filing fee imposed and collected pursuant to  
28 subdivision ~~(d)~~ (e) shall be remitted monthly to the department  
29 within 30 days after the end of each month. The amount of fees due  
30 shall be reported on forms prescribed and provided by the  
31 department.

32 (3) The department shall assess a penalty of 10 percent of the  
33 amount of fees due for any failure *on the part of counties* to remit  
34 *or project applicants to pay, as appropriate*, the amount payable  
35 when due. The department may pursue collection of delinquent  
36 fees through the Controller's office pursuant to Section 12419.5 of  
37 the Government Code.

38 ~~(f)~~

39 (g) Notwithstanding Section 12000, failure to pay the fee under  
40 subdivision ~~(d)~~ (e) is not a misdemeanor. All unpaid fees are a



1 statutory assessment subject to collection under ~~procedures as~~  
2 ~~provided in the Revenue and Taxation Code~~ *any authority*  
3 *established in law and available to the department.*

4 ~~(g)~~

5 (h) Only one filing fee shall be paid for each project unless the  
6 project is tiered or phased, and separate environmental documents  
7 or review by the department is required.

8 ~~(h)~~

9 (i) This section does not preclude or modify the duty of the  
10 department to recommend, require, permit, or engage in  
11 mitigation activities pursuant to the California Environmental  
12 Quality Act.

13 ~~(i)~~

14 (j) The permit process of the California Coastal Commission,  
15 as certified by the Secretary of the Resources Agency, is exempt  
16 from the payment of the filing fees prescribed by paragraph ~~(5)~~ (3)  
17 of subdivision ~~(d)~~ (e) insofar as the permits are issued under any  
18 of the following regulations:

19 (1) Subchapter 4 (commencing with Section 13136) of Chapter  
20 5 of Division 5.5 of Title 14 of the California Code of Regulations.

21 (2) Subchapter 1 (commencing with Section 13200),  
22 Subchapter 3 (commencing with Section 13213), Subchapter 3.5  
23 (commencing with Section 13214), Subchapter 4 (commencing  
24 with Section 13215), Subchapter 4.5 (commencing with Section  
25 13238), Subchapter 5 (commencing with Section 13240),  
26 Subchapter 6 (commencing with Section 13250), and Subchapter  
27 8 (commencing with Section 13255) of Chapter 6 of Division 5.5  
28 of Title 14 of the California Code of Regulations.

29 (k) *The revenue collected pursuant to this section shall be used*  
30 *only for the purposes specified in subdivision (a) and shall be*  
31 *apportioned to categories of wildlife trust resources, including*  
32 *animals, birds, plants, fish, and amphibians, in rough proportion*  
33 *to the number of species and extent of impacts identified in the*  
34 *review conducted pursuant to the California Environmental*  
35 *Quality Act. The department shall maintain internal*  
36 *accountability necessary to ensure that all restrictions on the*  
37 *expenditure of these funds are met.*

38 SEC. 2. Section 10005 of the Public Resources Code is  
39 amended to read:



1 10005. (a) The Department of Fish and Game shall impose  
2 and collect a filing fee of eight hundred fifty dollars (\$850) to  
3 defray the costs of identifying streams and providing studies  
4 pursuant to Division 10 (commencing with Section 10000) of the  
5 Public Resources Code. *The revenue collected shall be used only*  
6 *for these purposes and the Department of Fish and Game shall*  
7 *maintain internal accountability necessary to ensure this*  
8 *restriction is met.*

9 (b) The filing fee shall be proportional to the cost incurred by  
10 the Department of Fish and Game and shall be annually reviewed  
11 and adjustments recommended to the Legislature in an amount  
12 necessary to pay the costs of the Department of Fish and Game as  
13 specified in subdivision (a).

14 (c) Any user of water, including a person or entity holding  
15 riparian or appropriative rights, shall pay the filing fee to the  
16 Department of Fish and Game upon application to the State Water  
17 Resources Control Board for any permit, transfer, extension, or  
18 change of point of diversion, place of use, or purpose of use, if  
19 there is a diversion of water from any waterway where fish reside.  
20 No permit, or other entitlement identified in this section is  
21 effective until the filing fee is paid. The State Water Resources  
22 Control Board shall, every six months, forward all fees collected  
23 to the department and provide the location for each entitlement for  
24 which a filing fee has been collected.

25 (d) The fee imposed by this section shall not be imposed on the  
26 following applications filed with the State Water Resources  
27 Control Board:

28 (1) Small domestic use registrations submitted pursuant to  
29 Article 2.7 (commencing with Section 1228) of Chapter 2 of  
30 Division 2 of the Water Code.

31 (2) The first application for an extension of time for an  
32 individual permit if no change in point of diversion, place of use,  
33 or purpose of use is included in the application.

34 (3) Water applications which, in the opinion of the Department  
35 of Fish and Game, are filed for administrative and technical  
36 clarification purposes only.

37 *SEC. 3. No reimbursement is required by this act pursuant to*  
38 *Section 6 of Article XIII B of the California Constitution because*  
39 *a local agency or school district has the authority to levy service*  
40 *charges, fees, or assessments sufficient to pay for the program or*



1 *level of service mandated by this act, within the meaning of Section*  
2 *17556 of the Government Code.*

3 amended to read:

4 ~~5652. It is unlawful to deposit, permit to pass into, or place~~  
5 ~~where it can pass into the waters of the state, or to abandon, dispose~~  
6 ~~of, or throw away, within 150 feet of the high-water mark of the~~  
7 ~~waters of the state, any cans, bottles, garbage, motor vehicle or~~  
8 ~~parts thereof, or rubbish, the viscera or carcass of any dead~~  
9 ~~mammal, the carcass of any dead bird, or animal waste.~~

10 ~~The abandonment of any motor vehicle in any manner that~~  
11 ~~violates this section shall constitute a rebuttable presumption~~  
12 ~~affecting the burden of producing evidence that the last registered~~  
13 ~~owner of record, not having complied with Section 5900 of the~~  
14 ~~Vehicle Code, is responsible for such abandonment and is thereby~~  
15 ~~liable for the cost of removal and disposition of the vehicle. This~~  
16 ~~section prohibits the placement of a vehicle body on privately~~  
17 ~~owned property along a streambank by the property owner or~~  
18 ~~tenant for the purpose of preventing erosion of the streambank.~~

19 ~~This section does not apply to a refuse disposal site which is~~  
20 ~~authorized by the appropriate local agency having jurisdiction or~~  
21 ~~to the depositing of such materials in a container from which the~~  
22 ~~materials are routinely removed to a legal point of disposal.~~

23 ~~This section shall be enforced by all law enforcement officers~~  
24 ~~of this state.~~

25 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
26 ~~Section 6 of Article XIII B of the California Constitution because~~  
27 ~~the only costs that may be incurred by a local agency or school~~  
28 ~~district will be incurred because this act creates a new crime or~~  
29 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
30 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
31 ~~the Government Code, or changes the definition of a crime within~~  
32 ~~the meaning of Section 6 of Article XIII B of the California~~  
33 ~~Constitution.~~

