

Senate Bill No. 389

CHAPTER 633

An act to amend Section 8051.2 of the Fish and Game Code, relating to sea urchins, and making an appropriation therefor.

[Approved by Governor October 8, 2001. Filed with Secretary of State October 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 389, Alpert. Sea urchins.

(1) Existing law, until March 1, 2001, required an additional landing tax to be paid for each pound, or fraction thereof, of sea urchins landed in this state for commercial purposes and requires the revenue from that landing tax to be used for the Sea Urchin Resources Enhancement Program and for research and management activities to monitor and maintain the sea urchin resource.

This bill would refer to the landing tax as a landing fee and would require the revenue to be used for research, enhancement, and other projects contributing to sustainable fishery management practices. Because existing provisions of law would require the revenue from the fees to be deposited in the Fish and Game Preservation Fund, which is continuously appropriated to the Department of Fish and Game to carry out the Fish and Game Code, the bill would make an appropriation.

The bill would authorize the revenue from the fees to be used to conduct a referendum to form a sea urchin marketing council or commission, if one is authorized by law.

The bill would authorize a nonprofit organization to be responsible for the duties of the department.

(2) Existing law, until January 1, 2002, provides for a 12-person Director's Sea Urchin Advisory Committee to annually submit to the Department of Fish and Game proposed projects and a budget for the existing program for incorporation in its submittal to the Governor's Budget.

This bill would create, until January 1, 2007, a 10-member Sea Urchin Fishery Advisory Committee. The bill would provide for the selection of the members, the chair of the committee, an industry representative to work with the department's coordinator, and other duties of the committee, including submitting proposed projects and a budget to the department.



Because the bill would impose new duties on the department and require funds from the landing fee to be used for different purposes, the bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. The Legislature finds that the landing fee collected pursuant to Section 8051.1, as that section read on December 31, 2001, has accumulated a sizable unexpended reserve even though collection of the fee was terminated on March 1, 2001. The landing fee reserve results from the portion of the landing fee dedicated to enhancement projects, pursuant to Section 8051.2, and this revenue has historically been allocated to projects recommended by the Director's Sea Urchin Advisory Committee. It is the intent of the Legislature that the department continue to expend the landing fee reserve for sea urchin enhancement according to the recommendations of the new Sea Urchin Fishery Advisory Committee for any purpose authorized by Section 8051.2. It is further the intent of the Legislature that the Sea Urchin Fishery Advisory Committee serve to advise the department regarding individual and comprehensive sea urchin fishery management actions, development of a fishery management plan, establishment of marine protected areas as they pertain to the sea urchin fishery, and other possible actions that may impact the sea urchin fishery and the marine ecosystem upon which it depends.

SEC. 2. Section 8051.2 of the Fish and Game Code is amended to read:

8051.2. (a) (1) The landing fee collected pursuant to Section 8051.1, as that section read on December 31, 2001, shall be deposited in the Fish and Game Preservation Fund and shall be used to fund a wide range of projects, activities, and programs based on an ecosystem approach to sea urchin management to ensure a sustainable sea urchin fishery. The funds shall be used for sea urchin fishery research, enhancement, and other projects contributing to sustainable fishery management practices, including, but not limited to, educational materials and forums, industry coordination, and communication, and for the purposes described in paragraph (2). The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

(2) After the approval of the Sea Urchin Fishery Advisory Committee, funds collected pursuant to Section 8051.1, as that section read on December 31, 2001, may be paid to the Department of Food and Agriculture to pay the costs of conducting a referendum vote to establish



a marketing council or commission for the promotion of sea urchins if the establishment of a marketing council or commission is authorized by the Food and Agricultural Code.

(b) The Sea Urchin Fishery Advisory Committee shall annually submit recommendations to the department for expending the fee revenue collected pursuant to Section 8051.1, as that section read on December 31, 2001, on any authorized project or activity. The committee and the department may establish a formal grant program to annually solicit, review, and select projects for funding.

(c) An amount, not to exceed 20 percent of the remaining fee revenues collected pursuant to Section 8051.1 may be used to administer the programs or projects funded from the revenues collected pursuant to Section 8051.1, as that section read on December 31, 2001, and for the reasonable and necessary expenses of the Sea Urchin Fishery Advisory Committee, including, but not limited to, reimbursing members for travel costs to attend committee meetings, retaining an industry representative, and selecting projects for funding.

(d) (1) The director shall appoint a Sea Urchin Fishery Advisory Committee consisting of 10 members, which shall meet not less than three times annually. Members shall serve at the pleasure of the director for a term of not more than two years and may be reappointed. Members shall be selected by the director from nominations submitted by sea urchin fishermen and processors and by associations representing the commercial sea urchin industry of California. Five of the industry members shall represent processors and five of the industry members shall represent divers. Each of the diver representatives shall hold a valid sea urchin diving permit. Two of the diver representatives shall be from northern California, and three of the diver representatives shall be from southern California. One of the diver representatives from southern California shall reside in Santa Barbara County, one in Ventura County, and one in either Los Angeles County or San Diego County. All of the California diver representatives shall reside in different geographical areas of the state. Each diver representative shall select an alternate, approved by the director, who may act in that representative's absence. The alternate is not required to hold a current sea urchin diving permit and may reside in any geographical area in the state.

(2) The Sea Urchin Fishery Advisory Committee shall select a chairperson from its membership. The committee may contract with a person to serve as an industry representative, with the concurrence of the department, to work with the department's liaison in carrying out committee actions and recommendations and preparing for committee meetings.



(3) The department shall assign a staff liaison to coordinate with the chairperson and industry representative to ensure the actions of the committee are communicated to the department when undertaking fishery management activities.

(4) Members of the Sea Urchin Fishery Advisory Committee shall be considered for participation in relevant advisory positions and collaborative efforts established pursuant to Part 1.7 (commencing with Section 7050), and the committee may be consulted, as appropriate, regarding interim management or related fishery issues.

(e) The Sea Urchin Fishery Advisory Committee may annually submit to the department proposed projects and a budget for expending the remaining balance of the fee revenue collected pursuant to Section 8051.1, as that section read on December 31, 2001. The department shall report annually to the committee on all expenditures and accomplishments during the previous year for funds collected pursuant to Section 8051.1.

(f) (1) The department may contract with a nonprofit organization, in existence on the effective date of the act adding this section, which is established for the purpose of supporting and assisting the department, to support and assist the department in carrying out its duties pursuant to this section and may use the remainder of any funds collected pursuant to Section 8051.1 for that contract each fiscal year. The nonprofit organization shall be selected by the department with the advice of the Sea Urchin Fishery Advisory Committee.

(2) If the department enters into that contract, the nonprofit organization shall be responsible for carrying out this section, including coordinating activities with the Sea Urchin Fishery Advisory Committee and administering the expenditure of sea urchin landing fees collected pursuant to Section 8051.1 as that section read on December 31, 2001. The department may not delegate the department's authority to seek and consider the advice of the Sea Urchin Fishery Advisory Committee regarding fishery management and related fishery issues.

(3) A contract awarded by the nonprofit organization for the purposes of this section is exempt from Chapter 1 (commencing with Section 10100) of Part 2 of the Public Contract Code.

(4) The nonprofit organization may, in addition, establish and administer an endowment fund for the purposes of this section. Funds received by the department pursuant to this section, any other funds received from the department, and nonstate funds received for these purposes may be deposited into the endowment fund.

(g) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.



SEC. 3. Notwithstanding subdivision (d) of Section 8051.2 of the Fish and Game Code, the initial members of the Sea Urchin Fishery Advisory Committee shall be the 10 industry representatives from the Director's Sea Urchin Advisory Committee in existence on December 31, 2001. The committee members shall randomly select the length of their initial term on the Sea Urchin Fishery Advisory Committee so that not more than five serve for two years and five serve for one year.

