ASSEMBLY BILL   No. 424

Introduced by Assembly Member Gaines

February 16, 2007

An act to add Article 2 (commencing with Section 1855) to Chapter 9 of Division 2 of the Fish and Game Code, *and to add Section 65854.5 to the Government Code,* relating to wetlands.

LEGISLATIVE COUNSEL'S DIGEST

AB 424, as amended, Gaines. Wetlands*:* mitigation banking: notice.
~~The~~

(1) The Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993 authorizes the Department of Fish and Game, until January 1, 2010, to qualify wetland mitigation bank sites, as defined, in the Sacramento-San Joaquin Valley, to create wetlands in areas where wetlands are removed or filled, or where there are discharges into wetlands, under specified federal permits. Other existing law requires the department to establish a database of all existing and operating wetlands mitigation banks that sell credits to the public in the state and to provide a report to the Legislature with a description and the status of each existing wetlands mitigation bank site.

This bill would prohibit the department from approving a wetlands mitigation bank, unless the memorandum of understanding or other agreement for the bank site requires the department to send notice, within 60 days of the date of agreement, to specified local governmental

entities, if the mitigation takes place in the entity's approved sphere of influence.

(2) Existing law governing the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities requires a planning commission to hold a public hearing on a proposed zoning ordinance or amendment to a zoning ordinance, after specified notice.

This bill would require a local agency to notify the Department of Fish and Game of the local agency's approval of a proposed zoning ordinance or other land use change that may affect wetlands habitat located in the agency's sphere of influence. The bill, by imposing a new responsibility on local agencies, would impose a state-mandated local program.

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Article 2 (commencing with Section 1855) is
2 added to Chapter 9 of Division 2 of the Fish and Game Code, to
3 read:
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5 Article 2. Mitigation Banks
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7 1855. The department shall not approve a wetlands mitigation
8 bank, including, but not limited to, determining a bank site to be
9 qualified under Chapter 7.8 (commencing with Section 1775),
10 unless the memorandum of understanding or other agreement for
11 a bank site requires the department, within 60 days of the date of
12 agreement, to send a notice to each city, county, or city and county,
13 if the mitigation takes place in the entity's approved sphere of
14 influence.

1   *SEC. 2. Section 65854.5 is added to the Government Code, to*
2 *read:*
3   *65854.5. In addition to the notice required by Sections 65090*
4 *and 65854, a local agency shall notify the Department of Fish and*
5 *Game of the local agency's approval of a proposed zoning*
6 *ordinance or other land use change that may affect wetlands*
7 *habitat located in the agency's sphere of influence.*
8   *SEC. 3. If the Commission on State Mandates determines that*
9 *this act contains costs mandated by the state, reimbursement to*
10 *local agencies and school districts for those costs shall be made*
11 *pursuant to Part 7 (commencing with Section 17500) of Division*
12 *4 of Title 2 of the Government Code.*

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