

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1806

Introduced by Assembly Member Wolk

January 16, 2008

An act to add Chapter 4.5 (commencing with Section 1450) to Division 2 of the Fish and Game Code, *and to add Chapter 1.5 (commencing with Section 12210) to Part 4.5 of Division 6 of the Water Code*, relating to fish and wildlife resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1806, as amended, Wolk. Fish and wildlife: rescue or relocation: emergency contingency plans.

(1) Existing law authorizes the Department of Fish and Game to enter into various agreements with public and private entities for the protection, conservation, and management of fish and wildlife resources. The Natural Community Conservation Planning Act authorizes the department to enter into agreements with any person or public entity for the purpose of preparing a natural community conservation plan, to provide comprehensive management and conservation of multiple wildlife species. The act requires a plan to identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses. Other existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake designated by the department, without first notifying the department

of that activity, and entering into a lake or streambed alteration agreement, if required by the department to protect fish and wildlife resources.

This bill would prohibit a ~~state or local~~ public land management entity from implementing any action ~~or project~~ on land ~~within its jurisdiction or waters under its control within the boundaries of the Sacramento-San Joaquin Delta~~ that will significantly and adversely affect identified fish ~~and wildlife fishery~~ resources unless the entity develops and implements, in consultation with the department and other relevant state and federal agencies, an emergency contingency plan ~~to facilitate rapid response actions to rescue or relocate the identified fish and wildlife fishery resources.~~ ~~The bill would also require a state or local public land management entity that has identified unique or isolated populations of fish or wildlife species known to be at imminent risk in the event of a natural or manmade disaster, to develop an emergency contingency plan to facilitate the rescue or relocation of the identified populations.~~ The bill would require the department to require the development of an emergency contingency plan as a precondition for issuing a permit for a project determined to significantly and adversely affect fish and wildlife resources. The bill would require the department to expedite approval of any permit required from the department for implementation of fish and wildlife rescue efforts. The bill, ~~by imposing to the extent it would establish~~ new requirements on local public land management entities, would impose a state-mandated local program.

(2) Under existing federal law, the United States Bureau of Reclamation operates the Central Valley Project and appropriates water for the beneficial uses of that project pursuant to permits granted by the State Water Resources Control Board and subject to specified state laws. The Department of Water Resources operates the State Resources Development System and appropriates water for that system pursuant to permits granted by the state board.

This bill would require the state board, on or before January 1, 2010, to review a specified mass fish death incident in connection with a bureau levee repair project, determine appropriate actions to mitigate the destruction of fish in that incident, and impose terms and conditions on the permits of the bureau to implement those identified actions. The bill would require the state board to impose terms and conditions on permits for the state system and the federal project with regard to the delta that provide reasonable mitigation for both direct and indirect adverse impacts on delta fishery resources arising from the operation

of the water export facilities of the state system and the federal project since the construction of those facilities.

(2)

(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: yes.

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

1 SECTION 1. Chapter 4.5 (commencing with Section 1450) is
2 added to Division 2 of the Fish and Game Code, to read:

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CHAPTER 4.5. EMERGENCY CONTINGENCY PLANS

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~~1450. (a) A state or local public land management entity shall not implement any action or project on land within its jurisdiction that will significantly and adversely affect identified fish and wildlife resources unless the entity develops and implements, in consultation with the department and other relevant state and federal agencies, an emergency contingency plan to facilitate rapid response actions to rescue or relocate the identified fish and wildlife resources.~~

~~(b) A state or local public land management entity that has identified any unique or isolated populations of fish or wildlife species known to be at imminent risk in the event of a natural or manmade disaster shall develop an emergency contingency plan to facilitate the rescue or relocation of the identified populations.~~

1450. A public land management entity shall not implement any action on land or waters under its control within the boundaries of the Sacramento-San Joaquin Delta that will significantly and adversely affect identified fishery resources unless the entity develops and implements, in consultation with the department and other relevant state and federal agencies, an

1 *emergency contingency plan to rescue or relocate the identified*
2 *fishery resources.*

3 1451. An emergency contingency plan pursuant to this chapter
4 shall include all of the following:

5 (a) Provisions for the participation and training of volunteers
6 to assist, *as appropriate*, in rescue efforts pursuant to the plan.

7 (b) Coordination with and notification of local government
8 agencies in the development and implementation of the plan.

9 (c) Opportunity for public comment on the plan.

10 1452. The department shall consult with state and local public
11 land management entities on the development of plans pursuant
12 to this chapter.

13 1453. The department shall require the development of an
14 emergency contingency plan pursuant to this chapter as a
15 precondition for issuing any required permit from the department
16 for a project determined to significantly and adversely affect fish
17 and wildlife resources.

18 1454. If there is an emergency that threatens fish and wildlife
19 resources on public lands, the department shall expedite approval
20 of any permit required from the department for implementation of
21 fish and wildlife rescue efforts.

22 1455. *On or before January 1, 2010, the State Water Resources*
23 *Control Board shall do all of the following:*

24 (a) *Review the mass fish death incident at Prospect Island in*
25 *the fall of 2007 in connection with the United States Bureau of*
26 *Reclamation's levee repair project.*

27 (b) *Determine appropriate actions to mitigate the destruction*
28 *of fish in that incident.*

29 (c) *Impose terms and conditions on the permits issued in*
30 *accordance with Part 2 (commencing with Section 1200) of*
31 *Division 2 of the Water Code to the United States Bureau of*
32 *Reclamation with regard to the federal Central Valley Project to*
33 *implement the actions identified in subdivision (b).*

34 SEC. 2. Chapter 1.5 (commencing with Section 12210) is added
35 to Part 4.5 of Division 6 of the Water Code, to read:

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37 *CHAPTER 1.5. WATER RIGHTS*

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39 12210. *The state board shall impose terms and conditions on*
40 *permits issued for the State Water Resources Development System*

1 *and the federal Central Valley Project in accordance with Part 2*
2 *(commencing with Section 1200) of Division 2 with regard to the*
3 *Sacramento-San Joaquin Delta that provide reasonable mitigation*
4 *for both direct and indirect adverse impacts on delta fishery*
5 *resources arising from the operation of water export facilities of*
6 *the state system and the federal project, respectively, since the*
7 *construction of those facilities.*

8 ~~SEC. 2.~~

9 SEC. 3. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.