

Assembly Bill No. 408

Passed the Assembly August 31, 2010

Chief Clerk of the Assembly

Passed the Senate August 30, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, Saldaña. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is \$265.

This bill, commencing April 1, 2011, and until March 31, 2016, would impose, in addition to the permit fee, a supplemental fee of \$300, to be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account, which the bill would create in the Fish and Game Preservation Fund. The bill would require that money in the account be expended by the department, upon appropriation by the Legislature, exclusively to fund specified projects and programs to improve lobster sustainability and management. The bill would create a 5-member Lobster Management Enhancement Advisory Committee that would be required to meet only once during any calendar year to recommend to the department projects and programs and budgets for the expenditure of account moneys, including a plan to prioritize expenditures. Those lobster management enhancement provisions would be repealed on January 1, 2017.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) California's spiny lobster fishery is an important component of California's marine ecosystem, as well as an important source

of jobs for California fishermen and fisherwomen and food for consumers.

(b) California's commercial and recreational lobster fishermen and fisherwomen, primarily through associations, should participate in the development and implementation of new approaches to managing lobster fishing. Those approaches should be designed to ensure economical and sustainable fishing.

(c) California's lobster fishing associations will greatly benefit from an established mechanism that will provide a steady source of funds for projects that promote the long-term sustainability and improved management of the California spiny lobster fishery.

(d) Improving the sustainability of the spiny lobster fishery through mechanisms such as development of a fishery management plan requires far greater funding resources than the revenue generated by this bill. Revenue generated by this bill constitutes the permittees' contribution to the improvement of the spiny lobster fishery, which must then be augmented by additional funding resources to improve management of the fishery.

SEC. 2. Section 8254.5 is added to the Fish and Game Code, to read:

8254.5. (a) In addition to the fee imposed pursuant to subdivision (c) of Section 8254, commencing April 1, 2011, a person described in subdivision (b) of Section 8254 shall also pay a supplemental fee of three hundred dollars (\$300). The supplemental fee shall be known as the Lobster Management Enhancement Supplement. The department shall deposit Lobster Management Enhancement Supplement revenues in the Lobster Management Enhancement Account in the Fish and Game Preservation Fund pursuant to Section 8262.

(b) Section 713 does not apply to the Lobster Management Enhancement Supplement.

(c) This section shall become inoperative on March 31, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Article 5.5 (commencing with Section 8260) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 5.5. Lobster Management Enhancement Supplement

8260. As used in this article:

(a) “Account” means the Lobster Management Enhancement Account established in Section 8262.

(b) “Committee” means the Lobster Management Enhancement Advisory Committee established pursuant to Section 8263.

8262. (a) Lobster Management Enhancement Supplement revenues received by the department pursuant to Section 8254.5, and any interest earned on those revenues, shall be deposited in the Lobster Management Enhancement Account, which is hereby established in the Fish and Game Preservation Fund. The money in the account, upon appropriation by the Legislature, shall be expended by the department exclusively for projects and programs to improve lobster sustainability and management consistent with subdivision (b). The department shall maintain the internal accountability necessary to ensure that expenditure of funds from the account is consistent with the requirements and purposes of this article. The department shall annually provide to the committee a full accounting of expenditures from the account and make that information available to the public.

(b) The committee shall develop a plan that prioritizes expenditures on projects and programs that support long-term sustainability or improved management, or both, of the California spiny lobster fishery, consistent with Section 35650 of the Public Resources Code.

(c) The director shall not fund any project or program pursuant to this article that the director determines to be inconsistent with the priorities identified pursuant to subdivision (b) and with this article.

(d) Nothing in this article, nor any decision of the committee, shall be construed to create an obligation on the part of the department to engage in a particular scientific, policy, or planning effort.

(e) Department administrative overhead, collection, or other charges shall not exceed 24 percent of the amount collected annually in the account.

(f) In order to reduce department costs, the committee shall be required to meet only once during any calendar year. The

department may call additional committee meetings as it determines to be necessary.

8263. (a) The Lobster Management Enhancement Advisory Committee is hereby created, consisting of five members, as follows:

(1) One member, with an alternate, who is representative of the state's commercial lobster fishermen and fisherwomen or who is a biological scientist actively involved in lobster research and who is affiliated with a college or university within the state. A member appointed pursuant to this paragraph and his or her alternate shall be appointed by the director from licensed lobster permittees and scientists who have submitted their names for consideration.

(2) Three members, each with an alternate, appointed by the director from a list of at least four persons submitted by the membership of the California Lobster and Trap Fishermen's Association. This subdivision does not prohibit persons selected pursuant to paragraph (1) from also being a member of the California Lobster and Trap Fishermen's Association.

(3) The director, or his or her designee.

(b) Except for a biological scientist member appointed pursuant to paragraph (1) of subdivision (a), the committee members described in paragraphs (1) and (2) of subdivision (a) and their alternates shall hold a valid lobster permit.

(c) A vote by the committee is not valid unless all five members or their alternates are present to vote.

(d) The committee shall recommend to the department projects and programs consistent with subdivision (b) of Section 8262 and budgets for the expenditure of moneys received pursuant to this article.

8264. The department may receive funds for deposit in the account, for purposes of this article, from sources other than the sale of commercial fishing lobster permits, including, but not limited to, grants from the federal government, grants from private foundations, money disbursed from court settlements, and donations and bequests from individuals. Additional funds received pursuant to this section shall not be deposited in the account unless the person or entity providing the funds specifically designates in writing, prior to or at the time of transmittal of the funds to the department, that the funds are intended solely for deposit to that account.

8265. This article shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

Approved _____, 2010

Governor