

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JULY 3, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 18, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2402

Introduced by Assembly Member Huffman

February 24, 2012

An act to amend Section 219 of the Code of Civil Procedure, to amend Sections 37, 39, 700, 1002, 2068, 2070, 2071, 2071.5, 2072.7, 2073, 2073.3, 2073.5, 2073.7, 2074, 2074.2, 2074.4, 2074.6, 2074.8, 2075, 2075.5, 2076.5, 2077, 2078, 2079, 2080, 2082, 2084, 2089.4, 2099, 2536, 2540, 3031.2, 6651, 7149.8, 8598.3, and 13014 of, to add Sections 13.5, 33, 43, 702.1, 703.3, 703.5, 715, 1020, 1065, 1745, 2090, 12028, and 13205 to, and to add Article 7 (commencing with Section 1225) to Chapter 3 of Division 2 of, the Fish and Game Code, to amend Section 12805 of the Government Code, and to amend Section 4800 of the Labor Code, relating to fish and wildlife resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2402, as amended, Huffman. Department of Fish and ~~Game and Game~~: Fish and Game Commission.

(1) Existing law establishes the Department of Fish and Game and the Fish and Game Commission and sets forth the powers and duties of that department and commission.

This bill would make findings and declarations of the Legislature concerning the process of developing a strategic vision for the department and the commission pursuant to Chapter 424 of the Statutes of 2010, as specified. This bill would require the department and the commission to develop a strategic plan to implement proposals arising from the strategic vision, any legislation enacted relating to the strategic vision process, and the department's own proposals for reform. This bill would ~~permit~~ *authorize* the department and the commission to contract for consultants to assist in the preparation of the strategic plan.

The bill would make specified statements of policy relating to the use of ecosystem-based management, adaptive management, and credible science, as defined.

The bill would state the intent of the Legislature regarding department and commission partnerships and collaborations with other agencies and stakeholders. This bill would provide that it is the intent of the Legislature that the department is encouraged, to the extent feasible and subject to available resources, to establish and coordinate an environmental crimes task force.

This bill would state the intent of the Legislature; to extend the conservation benefits derived from investments made as part of compensatory mitigation to public lands, *and* that the department work with the Bureau of Land Management and interested stakeholders to develop a viable solution that will ensure durable mitigation and protection of mitigation lands on federal lands in perpetuity.

This bill would rename the department *as* the Department of Fish and Wildlife, and would make related changes. The bill would prohibit existing supplies, forms, insignias, signs, logos, uniforms, or emblems from being destroyed or changed as a result of changing the name of the department, and would require their continued use until exhausted or unserviceable.

The bill would require the Director of Fish and Wildlife, in consultation with the Natural Resources Agency, to establish an independent science advisory panel to provide advice and recommendations to the department and the commission.

This bill would authorize the department to enter into agreements to accept funds, services, or to assist the department in its efforts to secure

long-term private funding sources for purposes relating to conservation programs, projects, and activities by the department, as specified.

(2) Under existing law, the changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services is used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, and tags. Under existing law, the department issues scientific collecting permits, lifetime hunting licenses, guide licenses, abalone report cards, kelp harvester licenses, and marine aquaria collector's permits, and existing law establishes base fees for those entitlements, adjusted annually pursuant to the index.

This bill would require the commission to adjust the amount of the fees for lifetime hunting licenses, guide licenses, abalone report cards, kelp harvester licenses, and marine aquaria collector's permits, as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses or permits. The bill would require the department to adjust the amount of the fees for scientific collecting permits as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those permits.

(3) Existing law, except as expressly provided otherwise, makes violations of the Fish and Game Code, or of any rule, regulation, or order made or adopted under that code, a misdemeanor. Existing law sets prescribed fines and penalties for specified violations.

This bill would require the department, by January 1, 2015, to modify its Automated License Data System to include information on all violations of the code and regulations adopted pursuant to the code. The bill would require the department, by January 1, 2015, to modify electronic field equipment utilized by fish and game wardens to give fish and game wardens access to Automated License Data System information in the field.

This bill would require the department to maintain a statewide electronic system to manage citations issued by fish and game wardens, to the extent feasible, as prescribed.

(4) Existing law requires, unless otherwise provided, that all money collected under the provisions of the Fish and Game Code and of any other law relating to the protection and preservation of birds, mammals, fish, reptiles, or amphibia be paid into the State Treasury to the credit of the Fish and Game Preservation Fund.

This bill would provide that moneys collected or received from gifts or bequests, or from municipal or county appropriations, or donations for purposes relating to conservation programs, projects, and activities by the department are to be deposited in the State Treasury to the credit of the Fish and Game Preservation Fund and used for prescribed purposes.

(5) Existing law establishes specific accounts within the Fish and Game Preservation Fund, including, but not limited to, the Big Game Management Account, and the department has established other accounts within the fund.

This bill would require the Augmented Deer Tags Account, Bighorn Sheep Permit Account, and Wild Pig Account within the fund to be consolidated and any remaining funds in these accounts transferred to the Big Game Management Account. The bill would require the department, after consultation with the Department of Finance and the Legislative Analyst's Office, to provide recommendations to the Legislature for consolidation of additional dedicated accounts within the fund if, in the determination of the department, consolidation would serve to reduce administrative costs to the department and enhance its ability to meet current needs, while still preserving the stated purposes of the dedicated accounts.

(6) Existing law requires the Department of Fish and Game to operate lands, or lands and water, acquired for public shooting grounds, state marine recreational management areas, or wildlife management areas on a nonprofit basis (collectively, department-operated lands). Existing law states that multiple recreational use of wildlife management areas is desirable and requires the Fish and Game Commission to encourage multiple recreational use. Existing law authorizes the commission to determine and fix the amount of, and authorizes the department to collect, fees for any use privileges.

The bill, commencing January 1, 2015, would require the purchase of an entry permit, as specified, for access to department-managed lands for uses other than hunting and fishing, except as provided. The bill would make the failure to obtain a permit an infraction, as specified.

(7) Existing law, the California Endangered Species Act (CESA) requires the commission to establish a list of endangered species and a list of threatened species, and requires the department to recommend, and the commission to adopt, criteria for determining if a species is endangered or threatened. Under existing law, an interested person may petition the commission to add a species to, or remove a species from,

either the list of endangered species or the list of threatened species, and existing law requires the commission to consider the petition, as prescribed.

This bill would instead require the department to establish a list of endangered species and a list of threatened species, and would require the department to adopt criteria for determining if a species is endangered or threatened. This bill would require an interested person to petition the department and require the department to consider the petition, as specified.

(8) Existing law establishes ~~in the Special Deposit Fund~~, the Fish and Game Mitigation and Protection Endowment Principal Account *in the Special Deposit Fund*, with money in the account available upon appropriation by the Legislature, ~~and~~. Existing law also establishes the Fish and Game Mitigation and Protection Expendable Funds Account *in that fund*, with money in the account continuously appropriated to the department for specified purposes. The department ~~may~~ *is authorized* to deposit moneys in these accounts for purposes that include mitigating adverse biological impacts of a specific project, activity, spill, or release, and protecting, conserving, restoring, enhancing, managing, and maintaining fish, wildlife, native plants, or their habitats. Existing law requires the Treasurer, at the department's request, to transfer those funds from the Pooled Money Investment Account to another account within the State Treasury system to increase earnings over time while providing adequate liquidity. Existing law also authorizes the department to retain investment advisers to develop and maintain the investment strategy for these accounts.

This bill would instead authorize the department to invest or direct the investment of the assets of these accounts through the purchase, holding, or sale of any investment, financial instrument, or financial transaction when prudent in the informed opinion of the department. This bill would also authorize the department to contract with a person or entity, as specified, that has demonstrated expertise in the management of diverse investment portfolios.

Existing law, the Uniform Prudent Management of Institutional Funds Act (UPMIFA) governs the management and use of endowed institutional funds held by charitable institutions. UPMIFA, among other things, provides that a rebuttable presumption of imprudence is created by the appropriation for expenditure in any year of an amount greater than 7% of the fair market value of an endowment fund, calculated as prescribed.

This bill would require the department to hold, manage, and invest all moneys in the Fish and Game Mitigation and Protection Endowment Principal Account and the Fish and Game Mitigation and Protection Expendable Funds Account consistent with the management and investment principles set forth in UPMIFA. This bill would also continuously appropriate to the department moneys in the Fish and Game Mitigation and Protection Endowment Principal Account, subject to the limitations imposed by the presumption described above.

Existing law establishes the Renewable Energy Resources Development Fee Trust Fund as a continuously appropriated fund in the State Treasury to serve, and be managed, as an optional, voluntary method for developers or owners of eligible projects, as defined, to deposit fees sufficient to complete mitigation actions established by the department and thereby meet their requirements pursuant to CESA or the certification authority of the State Energy Resources Conservation and Development Commission. Existing law requires that a specified sum of money be transferred, as a loan, from the Renewable Resource Trust Fund to the Renewable Energy Resources Development Fee Trust Fund (the fund) and be repaid from the fund to the Renewable Resource Trust Fund no later than December 31, 2012.

This bill would make an appropriation by extending the date of repayment of this loan to December 31, 2013.

(9) Existing workers' compensation law provides that whenever any member of the Department of Justice falling within the "state peace officer/firefighter" class or when a harbor policeman employed by the San Francisco Port Commission, as described, is disabled by injury arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service to a leave of absence while so disabled without loss of salary, in lieu of disability payments, for a period not exceeding one year.

This bill would provide that the above provision also applies to a law enforcement officer employed by the department.

(10)

~~Existing law exempts certain peace officers from voir dire in civil and criminal matters, and other specified peace officers from voir dire in criminal matters.~~

~~This bill would exempt from voir dire in criminal matters peace officers employed by the department, as specified.~~

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

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

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

2 (a) In 2010, the Legislature passed and the Governor signed
3 Assembly Bill 2376 (Ch. 424, Stats. 2010), which established a
4 process to develop a strategic vision for the Department of Fish
5 and Game and the Fish and Game Commission.

6 (b) Pursuant to Assembly Bill 2376, the Natural Resources
7 Agency appointed an executive committee, a blue ribbon
8 commission, and a broad-based stakeholder group, and established
9 a public process that is focused on improving and enhancing the
10 capacity of both the Department of Fish and Game and the Fish
11 and Game Commission to protect and manage California's fish
12 and wildlife.

13 (c) All groups and individuals with an interest in improving the
14 work of the department and the commission have been invited to
15 participate in the stakeholder group process. Numerous public
16 meetings have been held and extensive information on the process
17 and the comments received to date are available on the Internet
18 Web site of the Department of Fish and Game. The process is still
19 underway and a final report is due to the Legislature by June 2012.

20 (d) The policy chairs of the committees of the Legislature with
21 subject matter jurisdiction shall consider proposed legislation to
22 address many of the draft recommendations of the California Fish
23 and Wildlife Strategic Vision and other reforms necessary to satisfy
24 the mandate of Assembly Bill 2376. Some of the content of the
25 proposed legislation reflects suggestions contained in the draft
26 interim strategic vision report released by the department and the
27 commission on November 22, 2011. The proposed legislation may
28 be amended from time to time to reflect additional
29 recommendations as the stakeholder and blue ribbon commission
30 process and final reports of the executive committee are completed.

31 ~~SEC. 2. Section 219 of the Code of Civil Procedure is amended~~
32 ~~to read:~~

33 ~~219. (a) Except as provided in subdivision (b), the jury~~
34 ~~commissioner shall randomly select jurors for jury panels to be~~
35 ~~sent to courtrooms for voir dire.~~

36 ~~(b) (1) Notwithstanding subdivision (a), no peace officer, as~~
37 ~~defined in Section 830.1, subdivision (a) of Section 830.2, and~~

1 ~~subdivision (a) of Section 830.33, of the Penal Code, shall be~~
2 ~~selected for voir dire in civil or criminal matters.~~

3 ~~(2) Notwithstanding subdivision (a), no peace officer, as defined~~
4 ~~in subdivisions (b), (c), and (e) of Section 830.2 of the Penal Code,~~
5 ~~shall be selected for voir dire in criminal matters.~~

6 ~~SEC. 3.~~

7 *SEC. 2.* Section 13.5 is added to the Fish and Game Code, to
8 read:

9 13.5. “Adaptive management,” unless otherwise specified in
10 this code, means management that improves the management of
11 biological resources over time by using new information gathered
12 through monitoring, evaluation, and other credible sources as they
13 become available, and adjusts management strategies and practices
14 to assist in meeting conservation and management goals. Under
15 adaptive management, program actions are viewed as tools for
16 learning to inform future actions.

17 ~~SEC. 4.~~

18 *SEC. 3.* Section 33 is added to the Fish and Game Code, to
19 read:

20 33. “Credible science” means the best available scientific
21 information that is not overly prescriptive due to the dynamic
22 nature of science, and includes the evaluation principles of
23 relevance, inclusiveness, objectivity, transparency, timeliness,
24 verification, validation, and peer review of information as
25 appropriate. Credible science also recognizes the need for adaptive
26 management as scientific knowledge evolves.

27 ~~SEC. 5.~~

28 *SEC. 4.* Section 37 of the Fish and Game Code is amended to
29 read:

30 37. “Department” means the Department of Fish and Wildlife.

31 ~~SEC. 6.~~

32 *SEC. 5.* Section 39 of the Fish and Game Code is amended to
33 read:

34 39. “Director” means the Director of Fish and Wildlife.

35 ~~SEC. 7.~~

36 *SEC. 6.* Section 43 is added to the Fish and Game Code, to
37 read:

38 43. “Ecosystem-based management” means an environmental
39 management approach relying on credible science, as defined in
40 Section 33, that recognizes the full array of interactions within an

1 ecosystem, including humans, rather than considering single issues,
2 species, or ecosystem services in isolation.

3 ~~SEC. 8.~~

4 *SEC. 7.* Section 700 of the Fish and Game Code is amended
5 to read:

6 700. (a) There is in the Natural Resources Agency a
7 Department of Fish and Wildlife administered through the director.

8 (b) The Department of Fish and Wildlife shall succeed to, and
9 is vested with, all the duties, powers, purposes, responsibilities,
10 property, and jurisdiction previously vested in the Department of
11 Fish and Game.

12 (c) Whenever the term “Department of Fish and Game” appears
13 in a law, the term means the “Department of Fish and Wildlife.”

14 (d) No existing supplies, forms, insignias, signs, logos, uniforms,
15 or emblems shall be destroyed or changed as a result of changing
16 the name of the Department of Fish and Game to the Department
17 of Fish and Wildlife, and those materials shall continue to be used
18 until exhausted or unserviceable.

19 ~~SEC. 9.~~

20 *SEC. 8.* Section 702.1 is added to the Fish and Game Code, to
21 read:

22 702.1. The department shall maintain a statewide electronic
23 system to manage citations issued by fish and game wardens and,
24 to the extent feasible, the department shall do all of the following:

25 (a) Electronically file citations with the court.

26 (b) Receive electronic reporting from courts on case dispositions.

27 (c) Electronically track-court imposed fines and penalties to
28 ensure collection of funds by the department.

29 (d) Electronically report court dispositions to the Automated
30 License Data System to enhance tracking of violations and allow
31 efficient handling of license or permit suspensions, revocations,
32 or court orders.

33 ~~SEC. 10.~~

34 *SEC. 9.* Section 703.3 is added to the Fish and Game Code, to
35 read:

36 703.3. It is the policy of the state that the department and
37 commission use ecosystem-based management informed by
38 credible science in all resource management decisions to the extent
39 feasible. It is further the policy of the state that scientific
40 professionals at the department and commission, and all resource

1 management decisions of the department and commission, be
2 governed by a scientific quality assurance and integrity policy,
3 and follow well-established standard protocols of the scientific
4 profession, including, but not limited to, the use of peer review,
5 publication, and science review panels where appropriate. Resource
6 management decisions of the department and commission should
7 also incorporate adaptive management to the extent possible.

8 ~~SEC. 11.~~

9 *SEC. 10.* Section 703.5 is added to the Fish and Game Code,
10 to read:

11 703.5. It is the intent of the Legislature that the department and
12 the commission seek to create, foster, and actively participate in
13 effective partnerships and collaborations with other agencies and
14 stakeholders to achieve shared goals and to better integrate fish
15 and wildlife resource conservation and management with the
16 natural resource management responsibilities of other agencies.
17 To that end, the department and commission are encouraged to
18 participate in interagency coordination processes that facilitate
19 consistency and efficiency in review of projects requiring multiple
20 permits, including, but not necessarily limited to, joint state,
21 federal, and local permit review teams that enable early
22 consultation with project applicants, and provide improved sharing
23 of data, information, tools, and science to achieve better alignment
24 of planning, policies, and regulations across agencies.

25 ~~SEC. 12.~~

26 *SEC. 11.* Section 715 is added to the Fish and Game Code, to
27 read:

28 715. (a) As used in this section, “panel” means the independent
29 science advisory panel established pursuant to subdivision (b).

30 (b) The director, in consultation with the Natural Resources
31 Agency, shall establish an independent science advisory panel to
32 provide advice and recommendations to the department and the
33 commission. The panel shall be composed of no more than 10
34 members recommended by the director and approved by the
35 Secretary of the Natural Resources Agency. The term of office
36 shall be for five years. A member shall not serve more than two
37 consecutive terms and shall not receive state compensation for
38 membership on the panel. Members of the panel shall be scientific
39 experts in their fields with expertise in biological sciences and
40 with a range of multidisciplinary expertise pertinent to the work

1 of the department and the commission. The purpose of the panel
2 shall be to assist the department and the commission in establishing
3 an independent and objective view of the scientific issues
4 underlying important policy decisions.

5 (c) The duties of the panel shall include, but not necessarily be
6 limited to, the following:

7 (1) Providing oversight of the scientific research, monitoring,
8 and assessment programs that support the department's and the
9 commission's work with fish and wildlife species and their habitats.

10 (2) Providing the best available independent scientific
11 information and advice to guide and inform department and
12 commission decisions.

13 (3) Promoting and facilitating independent scientific peer review.

14 (4) Promoting science-based adaptive management.

15 (5) Ensuring scientific integrity and transparency in
16 decisionmaking.

17 (d) The panel may recommend and consult with other
18 independent scientific experts with specialized expertise as needed
19 for independent peer review of department reports, including, but
20 not limited to, status review reports prepared for purposes of
21 informing decisions on petitions for listing of species under the
22 California Endangered Species Act (Chapter 1.5 (commencing
23 with Section 2050) of Division 3).

24 (e) The panel shall develop a proposed scientific integrity policy
25 to guide the work of the department and the commission. The
26 scientific integrity policy may include, but is not necessarily limited
27 to, an ethical code of conduct for department scientists, standards
28 for independent peer review, and other best practices for ensuring
29 scientific integrity and public confidence in department and
30 commission work products and decisions.

31 (f) For marine fisheries and other marine resources, the
32 department may utilize the California Ocean Science Trust for the
33 purposes of this section.

34 ~~SEC. 13.~~

35 *SEC. 12.* Section 1002 of the Fish and Game Code is amended
36 to read:

37 1002. (a) The department may issue permits, subject to
38 restrictions and regulations that the commission determines are
39 desirable, to take or possess, in any part of the state, for scientific,
40 educational, or propagation purposes, mammals, birds and the

1 nests and eggs thereof, fish, amphibians, reptiles, or any other form
2 of plant or animal life.

3 (b) The department may issue a permit that is valid for 24
4 months from the date of issuance to a resident of this state on the
5 payment of a base fee of thirty dollars (\$30), as adjusted under
6 Section 713.

7 (c) Notwithstanding subdivision (b), the department may issue
8 a permit without fee that is valid for 12 months from the date of
9 issuance for either of the following purposes:

10 (1) To authorize only the banding of birds and the exhibition
11 of live or dead wildlife specimens by public zoological gardens,
12 scientific, or educational institutions.

13 (2) To a student who is regularly enrolled in a commercial
14 fishing class in a school operating under the jurisdiction of the
15 State Board of Education or in a commercial fishing class in a
16 community college and to a faculty member of those schools or a
17 community college when conducting a regularly enrolled class in
18 commercial fishing. Any permit issued under this paragraph shall
19 be valid only when the student is under the direct supervision of
20 the instructor who is approved by the school or community college
21 to teach the class and who has obtained a permit under subdivision
22 (b) or this paragraph from the department. All fish taken shall be
23 taken in accordance with state law, except that Sections 7850,
24 7880, and 7881 do not apply to persons or equipment operating
25 under this paragraph. All fish taken under a permit issued under
26 this paragraph may be sold only to a person licensed to receive
27 fish from commercial fishermen as provided in Section 8032 or
28 8033 or donated to a charitable institution. All funds received from
29 the sale of the fish shall be used solely for the support of the
30 commercial fishing classes.

31 (d) The department may issue a special student permit that is
32 valid for 12 months from the date of issuance on the payment of
33 a base fee of ten dollars (\$10), as adjusted under Section 713, to
34 any student in a school of collegiate level who is required by an
35 instructor in wildlife research in the school to collect specimens
36 used in laboratory work in the school under supervision and in
37 connection with a course in wildlife research or in the conduct of
38 wildlife investigations and studies on behalf of the public.

39 (e) The department may issue a nonresident permit that is valid
40 for 24 months from the date of issuance on application and payment

1 of a base fee of one hundred dollars (\$100) as adjusted under
2 Section 713.

3 (f) It is not necessary for the possessor of the permit to have a
4 sport fishing or hunting license to collect any fish, reptile, aquatic
5 animal or plant, bird, or mammal for scientific, educational, or
6 propagation purposes in this state.

7 (g) Nothing in this section authorizes any act which violates
8 Section 597 of the Penal Code.

9 (h) A permit under this section does not authorize the taking of
10 fish or mammals from the ocean waters of this state which are
11 within the boundaries of any city if the city has filed with the
12 department an objection to the taking.

13 (i) The adjustment of the base fees pursuant to Section 713 that
14 is specified in subdivisions (b), (d), and (e) shall be applicable to
15 permits issued on or after January 1, 1991.

16 (j) The department shall adjust the amount of the fees specified
17 in subdivisions (b), (d), and (e) as necessary, to fully recover, but
18 not exceed, all reasonable administrative and implementation costs
19 of the department and the commission relating to those permits.

20 ~~SEC. 14.~~

21 *SEC. 13.* Section 1020 is added to the Fish and Game Code,
22 to read:

23 1020. (a) The department and the commission shall develop
24 a strategic plan to implement proposals arising from any of the
25 following:

26 (1) The strategic vision developed and submitted to the Governor
27 and the Legislature pursuant to Section 12805.3 of the Government
28 Code.

29 (2) Any legislation enacted relating to the strategic vision
30 process.

31 (3) The department's own proposals for reform.

32 (b) (1) The department and the commission may contract for
33 consultants to assist in the preparation of the strategic plan pursuant
34 to subdivision (a).

35 (2) Contracts entered into pursuant to paragraph (1) shall
36 terminate no later than December 31, 2015.

37 (3) Contracts entered into pursuant to paragraph (1) shall be
38 exempt from Part 2 (commencing with Section 10100) of Division
39 2 of the Public Contract Code.

1 ~~SEC. 15.~~

2 *SEC. 14.* Section 1065 is added to the Fish and Game Code,
3 to read:

4 1065. The department, by January 1, 2015, shall modify its
5 Automated License Data System to include information on all
6 violations of this code and regulations adopted pursuant to this
7 code. The department, by January 1, 2015, shall modify electronic
8 field equipment utilized by fish and game wardens to give fish and
9 game wardens access to Automated License Data System
10 information in the field.

11 ~~SEC. 16.~~

12 *SEC. 15.* Article 7 (commencing with Section 1225) is added
13 to Chapter 3 of Division 2 of the Fish and Game Code, to read:

14
15 Article 7. Nonprofit Partnerships

16
17 1225. All moneys collected or received from gifts or bequests,
18 or from municipal or county appropriations or donations for
19 purposes relating to conservation programs, projects, and activities
20 by the department shall be deposited in the State Treasury to the
21 credit of the Fish and Game Preservation Fund. All moneys
22 deposited pursuant to this section shall be used for purposes relating
23 to conservation programs, projects, and activities by the
24 department.

25 1226. (a) The department may enter into one or more
26 agreements to accept funds from any person, nonprofit
27 organization, or other public or private entity for purposes relating
28 to conservation programs, projects, and activities by the
29 department. Any funds received pursuant to this section shall be
30 deposited in the Fish and Game Preservation Fund. The funds
31 received shall supplement existing resources for purposes relating
32 to conservation programs, projects, and activities by the
33 department.

34 (b) The department may enter into one or more agreements to
35 accept services from any person, nonprofit organization, or other
36 public or private entity for purposes relating to conservation
37 programs, projects, and activities by the department. Under the
38 direction of the department, these services shall supplement
39 existing staff resources. Agreements for services for the

1 management and operation of department-managed lands shall be
2 subject to the provisions of Section 1745.

3 1227. Notwithstanding any other provision of law, the
4 department may enter into one or more agreements with any
5 person, nonprofit organization, or other public or private entity,
6 as may be appropriate, to assist the department in its efforts to
7 secure long-term private funding sources for purposes relating to
8 conservation programs, projects, and activities by the department.
9 The authority to enter into agreements for the purposes of this
10 section shall include, but not be limited to, for the purposes of
11 securing donations, memberships, corporate and individual
12 sponsorships, and marketing and licensing agreements.

13 ~~SEC. 17.~~

14 *SEC. 16.* Section 1745 is added to the Fish and Game Code,
15 to read:

16 1745. (a) Commencing January 1, 2015, the purchase of an
17 entry permit through the Automated License Data System or other
18 means, as determined by the department, shall be required to access
19 all department-managed lands for uses other than hunting and
20 fishing. The user shall have the entry permit in his or her immediate
21 possession while on department-managed lands. Failure to obtain
22 a permit for uses listed in paragraph (1) of subdivision (d) *hunting,*
23 *fishing, wildlife viewing, wildlife photography, conservation*
24 *education, fish and wildlife research, or other uses* as required by
25 regulations adopted by the commission pursuant to paragraph (2)
26 of subdivision (d), shall be an infraction as described in Section
27 12002.2.1. A person in possession of a valid hunting license, a
28 sportfishing license, or a trapping license shall be exempt from
29 the payment of an entry permit fee. Where, in the determination
30 of the department, it is feasible and cost effective, the department
31 shall make entry permits available for purchase onsite and shall
32 also modify its online processes for purchase of entry permits to
33 make these systems compatible for nonconsumptive users.

34 (b) For purposes of this section, “nonconsumptive uses” means
35 compatible uses other than hunting and fishing.

36 ~~SEC. 18.~~

37 *SEC. 17.* Section 2068 of the Fish and Game Code is amended
38 to read:

39 2068. “Candidate species” means a native species or subspecies
40 of a bird, mammal, fish, amphibian, reptile, or plant that the

1 commission or, after January 1, 2013, the department, has formally
 2 noticed as being under review by the department for addition to
 3 either the list of endangered species or the list of threatened species,
 4 or a species for which the commission has published a notice of
 5 proposed regulation to add the species to either list.

6 ~~SEC. 19.~~

7 *SEC. 18.* Section 2070 of the Fish and Game Code is amended
 8 to read:

9 2070. The department shall establish a list of endangered
 10 species and a list of threatened species. The department shall add
 11 or remove species from either list if it finds, upon the receipt of
 12 sufficient scientific information pursuant to this article, that the
 13 action is warranted.

14 ~~SEC. 20.~~

15 *SEC. 19.* Section 2071 of the Fish and Game Code is amended
 16 to read:

17 2071. The department shall adopt guidelines by which an
 18 interested person may petition the department to add a species to,
 19 or to remove a species from, either the list of endangered or the
 20 list of threatened species.

21 ~~SEC. 21.~~

22 *SEC. 20.* Section 2071.5 of the Fish and Game Code is amended
 23 to read:

24 2071.5. The department shall adopt criteria for determining if
 25 a species is endangered or threatened.

26 ~~SEC. 22.~~

27 *SEC. 21.* Section 2072.7 of the Fish and Game Code is amended
 28 to read:

29 2072.7. The department may, in the absence of a petition from
 30 an interested party, prepare its own petition to add a species to, or
 31 remove a species from, either the list of endangered species or the
 32 list of threatened species. If the department prepares its own
 33 petition under this section, the department shall include the
 34 information specified in Section 2072.3. A department petition
 35 prepared pursuant to this section shall be considered as described
 36 in subdivision (b) of Section 2073.5, and is subject to Sections
 37 2074 to 2079, inclusive.

38 ~~SEC. 23.~~

39 *SEC. 22.* Section 2073 of the Fish and Game Code is amended
 40 to read:

1 2073. Within 10 days of the receipt of a petition from an
2 interested person under Section 2072.3, the director shall refer the
3 petition to the appropriate staff within the department for
4 evaluation.

5 ~~SEC. 24.~~

6 *SEC. 23.* Section 2073.3 of the Fish and Game Code is amended
7 to read:

8 2073.3. (a) The department shall publish a notice in the
9 California Regulatory Notice Register of the receipt of a petition
10 prepared pursuant to Section 2072.3 by the department, or by an
11 interested party and referred to the department, pursuant to Section
12 2073, or the commencement of an evaluation, to add a species to,
13 remove a species from, or change the status of a species on, the
14 list of endangered species or the list of threatened species pursuant
15 to Section 2072.7. At a minimum, the notice shall include all of
16 the following:

- 17 (1) The scientific and common name of the species.
- 18 (2) Habitat type, if that information is available in the petition.
- 19 (3) The location where interested persons can submit information
20 to the department relating to the petitioned species.

21 (b) The department shall notify interested persons, pursuant to
22 Section 2078, by mail, of the notices prepared pursuant to
23 subdivision (a), and shall mail a copy of the notice to those persons.

24 ~~SEC. 25.~~

25 *SEC. 24.* Section 2073.5 of the Fish and Game Code is amended
26 to read:

27 2073.5. (a) Within 90 days of receipt of the petition, the
28 department shall evaluate the petition on its face and in relation
29 to other relevant information the department possesses or receives,
30 and prepare a written evaluation report with one of the following
31 recommendations:

32 (1) Based upon the information contained in the petition, there
33 is not sufficient information to indicate that the petitioned action
34 may be warranted, and the petition should be rejected.

35 (2) Based upon the information contained in the petition, there
36 is sufficient information to indicate that the petitioned action may
37 be warranted, and the petition should be accepted and considered.

38 (b) The director may grant an extension of time, not to exceed
39 30 days, to allow the department additional time to further analyze
40 and evaluate the petition, and complete its evaluation report.

1 (c) The department’s evaluation report shall include copies of,
2 or a list of, all information submitted to the department, pursuant
3 to subdivision (a) of Section 2073.4, during its evaluation of the
4 petition. If copies are not included, the report shall state where the
5 listed information is available for review.

6 ~~SEC. 26.~~

7 *SEC. 25.* Section 2073.7 of the Fish and Game Code is amended
8 to read:

9 2073.7. A petitioner may amend a petition at any time prior to
10 the beginning of the meeting held by the department pursuant to
11 Section 2074.2. However, if the department determines that the
12 amendment is substantive, the department shall further review the
13 petition, pursuant to Section 2073.5, publish notice of the
14 amendment, pursuant to Section 2073.3, and renotice or continue
15 any hearing scheduled, pursuant to Section 2074, in order to
16 provide adequate opportunity for public comment.

17 ~~SEC. 27.~~

18 *SEC. 26.* Section 2074 of the Fish and Game Code is amended
19 to read:

20 2074. The department shall schedule the petition for
21 consideration at a public meeting, but not sooner than 30 days after
22 receipt of the petition and public release of the evaluation report,
23 and distribute its pending agenda to interested persons pursuant
24 to Section 2078. The department also shall make the petition,
25 evaluation report, and other materials received available for review.

26 ~~SEC. 28.~~

27 *SEC. 27.* Section 2074.2 of the Fish and Game Code is amended
28 to read:

29 2074.2. (a) At the meeting scheduled pursuant to Section 2074,
30 the director or the director’s designee shall hold a public hearing
31 on the petition and shall receive information, written or otherwise,
32 and oral testimony. After the conclusion of oral testimony from
33 department staff, the petitioner, or any other persons, the
34 department may close the public hearing and administrative record
35 for the department’s decision pursuant to this section.

36 (b) After the department closes the public hearing, the
37 administrative record for the department’s decision is closed and
38 it shall not be reopened except as provided in subdivision (c). Once
39 the public hearing is closed, no person shall submit further
40 information to the department for consideration on that petition

1 and the department shall not accept any further information for
2 consideration on that petition except as provided in subdivision
3 (c).

4 (c) The administrative record for the department's decision
5 pursuant to this section shall not be reopened once the department
6 closes the public hearing unless one of the following occurs prior
7 to the department's decision:

8 (1) There is a change in state or federal law or regulation that
9 has a direct and significant impact on the department's
10 determination as to whether the petition provides sufficient
11 information to indicate that the petitioned action may be warranted.

12 (2) The department determines that it requires further
13 information to evaluate whether the petition provides sufficient
14 information to indicate that the petitioned action may be warranted.
15 If the department makes that determination during its deliberation,
16 the department may request, on the record at the scheduled meeting
17 or at a continued meeting, further information on any issue relevant
18 to making its determination as to whether the petition provides
19 sufficient information to indicate that the petitioned action may
20 be warranted. Any request by the department pursuant to this
21 paragraph shall specify a date by which the information must be
22 submitted to the department and shall serve to reopen the
23 administrative record for the limited purpose of receiving further
24 information relating to the issues specified by the department in
25 the request. Department staff, the petitioner, or any other person
26 may submit information in response to a request pursuant to this
27 paragraph.

28 (d) Within 90 days of the meeting scheduled pursuant to Section
29 2074, the department shall consider the petition, the department's
30 written report, written comments received, and oral testimony
31 provided during the public hearing, and the department shall make
32 and publish in the California Regulatory Notice Register one of
33 the following findings:

34 (1) If the department finds that the petition does not provide
35 sufficient information to indicate that the petitioned action may
36 be warranted, the department shall publish a notice of finding that
37 the petition is rejected, including the reasons why the petition is
38 not sufficient.

39 (2) If the department finds that the petition provides sufficient
40 information to indicate that the petitioned action may be warranted,

1 the department shall publish a notice of finding that the petition
2 is accepted for consideration. If the accepted petition recommends
3 the addition of a species to either the list of endangered species or
4 the list of threatened species, the department shall include in the
5 notice that the petitioned species is a candidate species. The
6 department shall maintain a list of species which are candidate
7 species.

8 (e) The department shall publish and distribute the findings
9 relating to the petition pursuant to Section 2078.

10 ~~SEC. 29.~~

11 *SEC. 28.* Section 2074.4 of the Fish and Game Code is amended
12 to read:

13 2074.4. If a petition is accepted by the department for
14 consideration, all reasonable attempts shall be made to notify
15 affected and interested parties and to solicit data and comments
16 on the petitioned action from as many persons as is practicable.
17 In addition to department efforts to provide notification through
18 distribution of the agenda and minutes pursuant to Section 2078,
19 the department shall immediately undertake efforts to notify
20 affected and interested parties. Methods of notification may
21 include, but are not limited to, correspondence, newspaper notices,
22 and press releases, and notification shall include notice to owners
23 of that land which may provide habitat essential to the continued
24 existence of the species, unless the director determines that
25 ownership is so widespread, fragmented, or complex as to make
26 individual notice impractical.

27 ~~SEC. 30.~~

28 *SEC. 29.* Section 2074.6 of the Fish and Game Code is amended
29 to read:

30 2074.6. The department shall promptly commence a review of
31 the status of the species concerned in the petition. Within 12
32 months of the date of publication of a notice of acceptance of a
33 petition for consideration pursuant to paragraph (2) of subdivision
34 (d) of Section 2074.2, the department shall produce and make
35 publicly available on the department's Internet Web site a written
36 peer reviewed report, based upon the best scientific information
37 available to the department, which indicates whether the petitioned
38 action is warranted, which includes a preliminary identification of
39 the habitat that may be essential to the continued existence of the
40 species, and which recommends management activities and other

1 recommendations for recovery of the species. The department shall
2 amend the draft status review report as appropriate to incorporate
3 scientific information from the independent peer review. The
4 revised report shall be posted on the department's Internet Web
5 site for a minimum of 30 days for public review prior to the hearing
6 scheduled pursuant to Section 2075. An extension of up to six
7 months time may be granted if the director determines an extension
8 is necessary to complete independent peer review of the report,
9 and to provide a minimum of 30 days for public review of the peer
10 reviewed report prior to the public hearing specified in Section
11 2075.

12 ~~SEC. 31.~~

13 *SEC. 30.* Section 2074.8 of the Fish and Game Code is amended
14 to read:

15 2074.8. Nothing in this article imposes any duty or obligation
16 for, or otherwise requires, the commission or the department to
17 undertake independent studies or other assessments of any species
18 when reviewing a petition and its attendant documents and
19 comments. However, the department shall seek independent
20 scientific peer review of the department's status report. The director
21 may approve an extension of time for completion of the status
22 report if necessary for the purposes of obtaining independent peer
23 review pursuant to Section 2074.6. The Independent Scientific
24 Advisory Panel, established pursuant to Section 715, may assist
25 the department in identifying appropriate nondepartment scientists
26 with expertise in the species being considered for listing to provide
27 independent peer review.

28 ~~SEC. 32.~~

29 *SEC. 31.* Section 2075 of the Fish and Game Code is amended
30 to read:

31 2075. The department shall schedule the petition for final
32 consideration at a public meeting within 30 days after closure of
33 the public comment period on the departmental report provided
34 pursuant to Section 2074.6 and shall distribute the pending agenda
35 for that meeting pursuant to Section 2078. The department shall
36 make the department's report, or copies thereof, which was
37 provided, pursuant to Section 2074.6, available for review upon
38 request.

1 ~~SEC. 33.~~

2 SEC. 32. Section 2075.5 of the Fish and Game Code is amended
3 to read:

4 2075.5. (a) At the meeting scheduled pursuant to Section 2075,
5 the director or the director's designee shall hold a public hearing
6 on the petition and shall receive information, written or otherwise,
7 and oral testimony. After the conclusion of oral testimony from
8 department staff, the petitioner, or any other persons, the
9 department may close the public hearing and the administrative
10 record for the department's decision pursuant to this section.

11 (b) After the department closes the public hearing the
12 administrative record for the department's decision is closed and
13 it shall not be reopened except as provided in subdivision (c). Once
14 the public hearing is closed no person shall submit further
15 information to the department for consideration on that petition
16 and the department shall not accept any further information for
17 consideration on that petition except as provided in subdivision
18 (c).

19 (c) The administrative record for the department's decision
20 pursuant to this section shall not be reopened once the department
21 closes the public hearing unless one of the following occurs prior
22 to the department's decision:

23 (1) There is a change in state or federal law or regulation that
24 has a direct and significant impact on the department's
25 determination as to whether the petition provides sufficient
26 information to indicate that the petitioned action is warranted.

27 (2) The department determines that it requires further
28 information to evaluate whether the petition provides sufficient
29 information to indicate that the petitioned action may be warranted.
30 If the department makes that determination during its deliberation,
31 the department may request, on the record at the scheduled meeting
32 or at a continued meeting, further information on any issue relevant
33 to making its determination as to whether the petition provides
34 sufficient information to indicate that the petitioned action is
35 warranted. Any request by the department pursuant to this
36 paragraph shall specify a date by which the information must be
37 submitted to the department and shall serve to reopen the
38 administrative record for the limited purpose of receiving further
39 information relating to the issues specified by the department in
40 the request. Department staff, the petitioner, or any other person

1 may submit information in response to a request pursuant to this
2 paragraph.

3 (d) Within 90 days of the meeting scheduled pursuant to Section
4 2075, the department shall consider the petition, the department's
5 written report, written comments received, and oral testimony
6 provided during the public hearing, and the department shall make
7 and publish in the California Regulatory Notice Register one of
8 the following findings:

9 (1) The petitioned action is not warranted, in which case the
10 finding shall be entered in the public records of the department
11 and the petitioned species shall be removed from the list of
12 candidate species maintained pursuant to Section 2074.2.

13 (2) The petitioned action is warranted, in which case the
14 department shall publish a notice of that finding and a notice of
15 proposed rulemaking, pursuant to Section 11346.4 of the
16 Government Code, to add the species to, or remove the species
17 from, the list of endangered species or the list of threatened species.
18 Further proceedings of the department on the petitioned action
19 shall be made in accordance with Chapter 3.5 (commencing with
20 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
21 Code.

22 ~~SEC. 34.~~

23 *SEC. 33.* Section 2076.5 of the Fish and Game Code is amended
24 to read:

25 2076.5. Notwithstanding Sections 2071 to 2075.5, inclusive,
26 the department may adopt a regulation which adds a species to the
27 list of endangered species or to the list of threatened species as an
28 emergency regulation pursuant to Article 1.5 (commencing with
29 Section 240) to Chapter 2 of Division 1 if the department finds
30 that there is any emergency posing a significant threat to the
31 continued existence of the species. The department shall notify
32 affected or interested persons of the adoption of such an emergency
33 regulation pursuant to the methods described in Section 2074.4.

34 ~~SEC. 35.~~

35 *SEC. 34.* Section 2077 of the Fish and Game Code is amended
36 to read:

37 2077. (a) The department shall review species listed as an
38 endangered species or as a threatened species every five years to
39 determine if the conditions that led to the original listing are still
40 present. The review shall be conducted based on information which

1 is consistent with the information specified in Section 2072.3 and
2 which is the best scientific information available to the department.
3 The review shall include a review of the identification of the habitat
4 that may be essential to the continued existence of the species and
5 the department's recommendations for management activities and
6 other recommendations for recovery of the species. The department
7 shall notify any person who has notified the department, in writing
8 with their address, of their interest, and the department may notify
9 any other person.

10 (b) Review of species that are listed by both the commission or
11 the department and the United States Department of Interior will
12 be conducted in conjunction with the five-year review process of
13 the United States Department of Interior.

14 (c) Initial review of those species listed by the commission
15 before January 1, 1982, that are not listed by the federal
16 government shall be undertaken and completed by July 1, 1987.
17 Initial review of those species listed by the commission or the
18 department after January 1, 1982, that are not listed by the federal
19 government shall be undertaken and completed within five years
20 of the date the species was originally listed by the commission or
21 the department.

22 (d) Notwithstanding any other provision of this section, the
23 department may review a species at any time based upon a petition
24 or upon other data available to the department.

25 (e) The department shall report in writing and make publicly
26 available the results of its five-year review for each listed species.
27 The department shall treat any report of the department under this
28 subdivision which contains a recommendation to add a species to,
29 or remove a species from, the list of endangered species or the list
30 of threatened species as a department recommendation submitted
31 pursuant to Section 2072.7.

32 ~~SEC. 36.~~

33 *SEC. 35.* Section 2078 of the Fish and Game Code is amended
34 to read:

35 2078. (a) To provide all interested persons access to
36 information and notification of pending listing or delisting actions,
37 the department shall distribute the related agenda of pending
38 actions and those portions of its minutes of actions taken under
39 this article to any individuals who have notified the department,
40 in writing with their address, of their interest. This notification

1 shall be published in the California Regulatory Notice Register
2 and shall meet the requirements of public notice as required for
3 department action under Section 2073.3, 2074, 2074.2, 2075, or
4 2077.

5 (b) The department may impose an annual fee on those persons
6 who request inclusion on the list to be notified in order to offset
7 the cost of establishing and maintaining the list, and preparing and
8 mailing the notices. Fees received pursuant to this section shall be
9 deposited in the Fish and Game Preservation Fund.

10 ~~SEC. 37.~~

11 *SEC. 36.* Section 2079 of the Fish and Game Code is amended
12 to read:

13 2079. The department shall, by January 30 of every third year,
14 beginning January 30, 1986, prepare a report summarizing the
15 status of all state listed endangered, threatened, and candidate
16 species, and shall submit the report to the Legislature, the
17 Governor, and all individuals who have notified the department,
18 in writing with their address, of their interest. This report shall
19 include, but not be limited to, a listing of those species designated
20 as endangered, threatened, and candidate species, a discussion of
21 the current status of endangered, threatened, or candidate species,
22 and the timeframes for the review of listed species pursuant to this
23 article.

24 ~~SEC. 38.~~

25 *SEC. 37.* Section 2080 of the Fish and Game Code is amended
26 to read:

27 2080. No person shall import into this state, export out of this
28 state, or take, possess, purchase, or sell within this state, any
29 species, or any part or product thereof, that the commission or,
30 after January 1, 2013, the department determines to be an
31 endangered species or a threatened species, or attempt any of those
32 acts, except as otherwise provided in this chapter, the Native Plant
33 Protection Act (Chapter 10 (commencing with Section 1900) of
34 this code), or the California Desert Native Plants Act (Division 23
35 (commencing with Section 80001) of the Food and Agricultural
36 Code).

37 ~~SEC. 39.~~

38 *SEC. 38.* Section 2082 of the Fish and Game Code is amended
39 to read:

1 2082. This chapter does not prohibit the sale of any endangered
 2 species or threatened species, or any part or product thereof, when
 3 the owner can demonstrate that the species, or part or product
 4 thereof, was in the person’s possession before the date upon which
 5 the commission or, after January 1, 2013, the department listed
 6 the species as an endangered species or threatened species or as
 7 an endangered animal or rare animal prior to January 1, 1985, and
 8 shall not prohibit the sale of that part or product by an individual
 9 not normally engaged in that sale if it was originally possessed by
 10 the seller for the seller’s own use and so used by that seller.
 11 However, it shall be unlawful to sell any species, or part or product
 12 thereof, if that sale would have been unlawful prior to the date
 13 upon which the commission added the species to the listing of
 14 endangered species or threatened species or to the listing of
 15 endangered animals or rare animals prior to January 1, 1985.

16 ~~SEC. 40.~~

17 SEC. 39. Section 2084 of the Fish and Game Code is amended
 18 to read:

19 2084. The department may authorize, subject to terms and
 20 conditions it prescribes, the taking of any candidate species, or the
 21 taking of any fish by hook and line for sport that is listed as an
 22 endangered, threatened, or candidate species.

23 ~~SEC. 41.~~

24 SEC. 40. Section 2089.4 of the Fish and Game Code is amended
 25 to read:

26 2089.4. As used in this article, the following definitions apply:

27 (a) “Agreement” means a state safe harbor agreement approved
 28 by the department pursuant to this article. “Agreement” includes
 29 an agreement with an individual landowner and a programmatic
 30 agreement.

31 (b) “Baseline conditions” means the existing estimated
 32 population size, the extent and quality of habitat, or both population
 33 size and the extent and quality of habitat, for the species on the
 34 land to be enrolled in the agreement that sustain seasonal or
 35 permanent use by the covered species. Baseline conditions shall
 36 be determined by the department, in consultation with the applicant,
 37 and shall be based on the best available science and objective
 38 scientific methodologies. For purposes of establishing baseline
 39 conditions, a qualified person that is not employed by the
 40 department may conduct habitat surveys, if that person has

1 appropriate species expertise and has been approved by the
2 department.

3 (c) “Department” means the Department of Fish and Wildlife,
4 acting through its director or his or her designee.

5 (d) “Landowner” means any person or nonstate or federal entity
6 or entities that lawfully hold any interest in land or water to which
7 they are committing to implement the requirements of this article.

8 (e) “Management actions” means activities on the enrolled land
9 or water that are reasonably expected by the department to provide
10 a net benefit to the species or their habitat, or both.

11 (f) “Monitoring program” means a program established or
12 approved by the department in accordance with subdivision (f) of
13 Section 2089.6.

14 (g) “Net conservation benefit” means the cumulative benefits
15 of the management activities identified in the agreement that
16 provide for an increase in a species’ population or the enhancement,
17 restoration, or maintenance of covered species’ suitable habitats
18 within the enrolled property. Net conservation benefit shall take
19 into account the length of the agreement, any offsetting adverse
20 effects attributable to the incidental taking allowed by the
21 agreement, and other mutually agreed upon factors. Net
22 conservation benefits shall be sufficient to contribute either directly
23 or indirectly to the recovery of the covered species. These benefits
24 include, but are not limited to, reducing fragmentation and
25 increasing the connectivity of habitats, maintaining or increasing
26 populations, enhancing and restoring habitats, and buffering
27 protected areas.

28 (h) “Programmatic agreement” means a state safe harbor
29 agreement issued to a governmental or nongovernmental program
30 administrator. The program administrator for a programmatic
31 agreement shall work with landowners and the department to
32 implement the agreement. The program administrator and the
33 department shall be responsible for ensuring compliance with the
34 terms of the agreement.

35 (i) “Qualified person” means a person with species expertise
36 who has been approved by the department.

37 (j) “Return to baseline” means, at the termination of an
38 agreement, activities undertaken by the landowner to return the
39 species population or extent or quality of habitat to baseline,
40 excluding catastrophic events such as floods, unplanned fires, or

1 earthquakes, and other factors mutually agreed upon prior to permit
2 issuance and that are beyond the control of the landowner.

3 ~~SEC. 42.~~

4 *SEC. 41.* Section 2090 is added to the Fish and Game Code,
5 to read:

6 2090. It is the intent of the Legislature that investments in
7 habitat protection and restoration made as part of compensatory
8 mitigation to retain and enhance biological values for listed species
9 are perpetual and supported with long-term management. To extend
10 the conservation benefits derived from these investments to public
11 lands, it is the intent of the Legislature that the department work
12 with the Bureau of Land Management and interested stakeholders
13 to develop a viable solution that will ensure durable mitigation
14 and protection of mitigation lands on federal lands in perpetuity.

15 *SEC. 42.* *Section 2099 of the Fish and Game Code is amended*
16 *to read:*

17 2099. (a) For purposes of this section, the following terms
18 have the following meanings:

19 (1) “Eligible project” means a solar thermal powerplant,
20 photovoltaic powerplant, wind powerplant, or geothermal
21 powerplant meeting the requirements of paragraph (1) or (2) of
22 subdivision (b) of Section 2069 or meeting the definition of a
23 “covered activity” in the final Desert Renewable Energy
24 Conservation Plan, as approved by the department.

25 (2) “Energy Commission” means the State Energy Resources
26 Conservation and Development Commission.

27 (b) (1) The Renewable Energy Resources Development Fee
28 Trust Fund is hereby established in the State Treasury. The
29 department shall collect a fee from the owner or developer of an
30 eligible project that elects to use mitigation actions developed and
31 approved by the department pursuant to Section 2069, and all
32 moneys received for purposes of mitigation actions pursuant to
33 Section 2069 shall be deposited in the fund and shall be held in
34 trust and be expended solely for the purposes of, and in conformity
35 with, that section, applicable permit or certification requirements
36 for eligible projects, and any contractual agreement between the
37 Energy Commission or department and the owner or developer of
38 an eligible project. The department may contract with, or award
39 grants to, third parties to implement mitigation actions in
40 conformity with Section 2069 and this section.

1 (2) Upon direction by the department, the Controller shall create
2 any accounts or subaccounts within the fund that the department
3 determines are necessary or convenient to facilitate management
4 of the fund.

5 (3) The fund shall serve, and be managed, as an optional,
6 voluntary method for developers or owners of eligible projects to
7 deposit fees to complete mitigation actions meeting the conditions
8 of subdivision (c) of Section 2069 and for the purpose of meeting
9 the requirements of this chapter or the requirements of Chapter 6
10 (commencing with Section 25500) of Division 15 of the Public
11 Resources Code by funding mitigation actions implemented by
12 the department or third parties in a contractual relationship with
13 the department. Notwithstanding Section 13340 of the Government
14 Code, the money in the fund is hereby continuously appropriated
15 to the department, without regard to fiscal years, for the purposes
16 enumerated in this section and Section 2069. An expenditure shall
17 not be made from the fund except as authorized by the department.

18 (4) The sum of ten million dollars (\$10,000,000) ~~is hereby~~
19 *previously* transferred, as a loan, from the Renewable Resource
20 Trust Fund to the fund. ~~This loan~~ shall be repaid from the fund to
21 the Renewable Resource Trust Fund no later than December 31,
22 ~~2012~~ 2013. The department shall use these funds, pursuant to
23 paragraph (1) of subdivision (c) of Section 2069, to purchase
24 mitigation lands or conservation easements, and to cover related
25 restoration, monitoring, and transaction costs incurred in advance
26 of the receipt of fees pursuant to paragraph (5) and to cover the
27 department's administrative costs for the program.

28 (5) A developer or owner of an eligible project that elects to
29 use mitigation actions developed and authorized by the department
30 pursuant to Section 2069 shall remit fees to the department for
31 deposit into the fund for those mitigation actions in an amount that
32 reflects the determination by the Energy Commission, with respect
33 to a solar thermal or geothermal powerplant subject to its
34 jurisdiction, or the department, with respect to a renewable energy
35 powerplant not subject to the Energy Commission's jurisdiction,
36 of the costs attributable to the mitigation actions that meet the
37 standards of this chapter. The amount of fees to be paid by a
38 developer or owner of an eligible project to meet the standards of
39 this chapter shall be calculated on a per acre basis, using total cost
40 accounting, and shall include, as applicable, land acquisition or

1 conservation easement costs, monitoring costs, restoration costs,
2 transaction costs, the amount of a perpetual endowment account
3 for land management or easement stewardship costs by the
4 department or other management entity, and administrative costs
5 and funds sufficient to repay any expenditure of state funds made
6 pursuant to paragraph (4). To ensure the funds deposited pursuant
7 to this section are sufficient to meet the standards of this chapter,
8 the project developer or owner, in addition to payment of those
9 funds, shall provide security, in a form and amount, not to exceed
10 5 percent of the amount of the funds, excluding any portion of the
11 funds to be used for a perpetual endowment, to be determined by
12 the Energy Commission, with respect to a solar thermal or
13 geothermal powerplant subject to its jurisdiction, or to be
14 determined by the department, with respect to a renewable energy
15 powerplant not subject to the Energy Commission's jurisdiction.

16 (c) The department shall monitor the implementation of the
17 mitigation actions and the progress of the construction of the
18 eligible projects. The department shall report all deposits, and the
19 source of those deposits, on its Internet Web site. The department
20 shall also report all expenditures from the fund on its Internet Web
21 site and identify the mitigation activities or programs that each
22 expenditure funded and its relationship to the permitted project.
23 The Energy Commission, with respect to a solar thermal or
24 geothermal powerplant subject to its jurisdiction, and the
25 department, with respect to a renewable energy powerplant not
26 subject to the Energy Commission's jurisdiction, shall ensure that
27 moneys paid pursuant to this section are used only for purposes
28 of satisfying the standards of paragraph (2) of subdivision (b) of
29 Section 2081. Where moneys are used to fund mitigation actions,
30 including the acquisition of lands or conservation easements, or
31 the restoration of lands, that use shall be in addition to, and not
32 duplicative of, mitigation obtained through any other means.

33 (d) The department and the Energy Commission shall not allow
34 any use of the interim mitigation strategy subsequent to a
35 determination by the department that the time and extent of
36 mitigation actions are not being implemented in rough proportion
37 to the impacts of those projects. The department shall reinstitute
38 the use of the interim mitigation strategy when the department
39 determines the rough proportionality between mitigation actions

1 and impacts of eligible projects has been reestablished by the
2 completion of additional mitigation actions.

3 SEC. 43. Section 2536 of the Fish and Game Code is amended
4 to read:

5 2536. (a) It is unlawful for any person to engage in the business
6 of guiding or packing, or to act as a guide for any consideration
7 or compensation whatever, without first having secured a guide
8 license from the department.

9 (b) An employee of a licensee who acts as a guide only in
10 connection with, and within the scope of, his or her employment
11 is exempt from the requirement of subdivision (a) if all of the
12 following conditions are met:

13 (1) If the employment is subject to and the person is reported
14 to the carrier of the employer's workers' compensation insurance.

15 (2) If the person is subject and reported to the state and federal
16 taxing authorities for withholding of income tax.

17 (3) If the person is reported to the department, on forms provided
18 by the department, as an employee of the guide prior to any contact
19 with any person being guided, and a registration fee has been paid.
20 The base fee for an employee guide registration for the 2004 license
21 year shall be thirty-three dollars (\$33), which shall be adjusted
22 annually thereafter pursuant to Section 713.

23 (c) A person who is licensed in another state to provide guide
24 services for the purposes of fishing is exempt from the requirements
25 of subdivision (a) if all of the following conditions are met:

26 (1) The state in which the person is licensed grants a similar
27 exemption to licensed guides who are residents of this state.

28 (2) Evidence of a valid guide license is provided to the
29 department upon request.

30 (3) The person is engaged in the business of guiding only in
31 conjunction with and during the term of a multistate fishing
32 tournament approved by the appropriate agency in each of the
33 affected states.

34 (4) The tournament sponsor provides to the department any
35 information or documents necessary to administer and enforce this
36 paragraph, as determined by the department, including, but not
37 limited to, the identities of all guides participating in the
38 tournament, verification of another state's license exemption, and
39 information sufficient to determine the validity of another state's
40 guide licenses.

1 (5) The tournament sponsor pays the department an amount,
2 determined by the department, to be sufficient to cover the
3 department’s cost to administer and enforce this subdivision.

4 (6) The net proceeds of the tournament are used for resource
5 management projects or habitat improvement projects, or both.

6 (d) The commission shall adjust the amount of the fees specified
7 in paragraph (3) of subdivision (b), as necessary, to fully recover,
8 but not exceed, all reasonable administrative and implementation
9 costs of the department and the commission relating to those
10 licenses.

11 SEC. 44. Section 2540 of the Fish and Game Code is amended
12 to read:

13 2540. (a) The base fee for a guide license issued to a resident
14 is one hundred fifty dollars (\$150).

15 (b) The base fee for a guide license issued to a nonresident is
16 three hundred fifty dollars (\$350).

17 (c) A guide license is valid for the license year beginning on
18 February 1 and ending on January 31 of the succeeding year or, if
19 issued after the beginning of the license year, for the remainder of
20 that license year.

21 (d) The base fees specified in this section are applicable to the
22 2004 license year, and shall be adjusted annually thereafter
23 pursuant to Section 713.

24 (e) The commission shall adjust the amount of the fees specified
25 in subdivisions (a), (b), and (d), as necessary, to fully recover, but
26 not exceed, all reasonable administrative and implementation costs
27 of the department and the commission relating to those licenses.

28 SEC. 45. Section 3031.2 of the Fish and Game Code is
29 amended to read:

30 3031.2. (a) In addition to Sections 714 and 3031, and
31 notwithstanding Section 3037, the department shall issue lifetime
32 hunting licenses under this section. A lifetime hunting license
33 authorizes the taking of birds and mammals anywhere in this state
34 in accordance with the law for purposes other than profit for the
35 life of the person to whom issued unless revoked for a violation
36 of this code or regulations adopted under this code. A lifetime
37 hunting license is not transferable. A lifetime hunting license does
38 not include any special tags, stamps, or fees.

39 (b) A lifetime hunting license may be issued to residents of this
40 state, as follows:

1 (1) To a person 62 years of age or over, upon payment of a base
2 fee of three hundred sixty-five dollars (\$365).

3 (2) To a person 40 years of age or over, and less than 62 years
4 of age, upon payment of a base fee of five hundred forty dollars
5 (\$540).

6 (3) To a person 10 years of age or over, and less than 40 years
7 of age, upon payment of a base fee of six hundred dollars (\$600).

8 (4) To a person less than 10 years of age, upon payment of a
9 base fee of three hundred sixty-five dollars (\$365).

10 (c) Nothing in this section requires a person less than 16 years
11 of age to obtain a license to take birds or mammals except as
12 required by law.

13 (d) Nothing in this section exempts an applicant for a license
14 from meeting other qualifications or requirements otherwise
15 established by law for the privilege of sport hunting.

16 (e) The base fees specified in this section are applicable
17 commencing January 1, 2004, and shall be adjusted annually
18 thereafter pursuant to Section 713.

19 (f) The commission shall adjust the amount of the fees specified
20 in subdivision (b), as necessary, to fully recover, but not exceed,
21 all reasonable administrative and implementation costs of the
22 department and the commission relating to those licenses.

23 SEC. 46. Section 6651 of the Fish and Game Code is amended
24 to read:

25 6651. (a) A license granting the privilege to harvest kelp or
26 other aquatic plants shall be issued upon application and the
27 payment of a fee of one hundred dollars (\$100) to the department.
28 The license shall be valid from January 1 to December 31,
29 inclusive, or, if issued after the beginning of that term, for the
30 remainder thereof.

31 (b) The commission shall adjust the amount of the fees specified
32 in subdivision (a), as necessary, to fully recover, but not exceed,
33 all reasonable administrative and implementation costs of the
34 department and the commission relating to those licenses.

35 (c) This chapter does not apply to aquatic plants grown on
36 private land or on state water bottoms leased pursuant to Division
37 12 (commencing with Section 15000).

38 SEC. 47. Section 7149.8 of the Fish and Game Code is
39 amended to read:

1 7149.8. (a) A person shall not take abalone from ocean waters
2 unless he or she first obtains, in addition to a valid California sport
3 fishing license and any applicable license validation or stamp
4 issued pursuant to this code, an abalone report card, and maintains
5 that report card in his or her possession while taking abalone.

6 (b) The department or an authorized license agent shall issue
7 an abalone report card upon payment of a fee of fifteen dollars
8 (\$15) in the 2004 license year, which shall be adjusted annually
9 thereafter pursuant to Section 713.

10 (c) The commission shall adjust the amount of the fees specified
11 in subdivision (b) as necessary, to fully recover, but not exceed,
12 all reasonable administrative and implementation costs of the
13 department and the commission relating to those licenses.

14 SEC. 48. Section 8598.3 of the Fish and Game Code is
15 amended to read:

16 8598.3. (a) The fee for a marine aquaria collector's permit
17 shall be three hundred thirty dollars (\$330).

18 (b) A person engaged in taking, possessing, or landing marine
19 species under a marine aquaria collector's permit shall not take,
20 possess aboard a boat, or land any species under the authority of
21 a scientific collector's permit issued pursuant to Section 1002,
22 5515, or 10660 on the same fishing trip.

23 (c) The commission shall adjust the amount of the fees specified
24 in subdivision (a) as necessary, to fully recover, but not exceed,
25 all reasonable administrative and implementation costs of the
26 department and the commission relating to those licenses.

27 SEC. 49. Section 12028 is added to the Fish and Game Code,
28 to read:

29 12028. The Legislature finds and declares that:

30 (a) Poaching violations and other violations of the Fish and
31 Game Code have been increasing, and these violations have a
32 detrimental impact on fish and wildlife and their habitats, which
33 are held in trust by the state for the benefit of the people of the
34 state.

35 (b) In order to deter illegal poaching and other violations that
36 adversely impact fish and wildlife, it is important that the
37 department coordinate with other law enforcement entities and the
38 courts to facilitate effective enforcement and prosecution of these
39 offenses.

1 (c) It is the intent of the Legislature that the department be
2 encouraged, to the extent feasible and subject to available
3 resources, to establish and coordinate an environmental crimes
4 task force. The task force should involve the participation of the
5 department's Office of General Counsel working with each of the
6 department's law enforcement districts. The task force may include
7 coordination with representatives from the California District
8 Attorneys' Association, the Judicial Council, the Attorney
9 General's office, and the University of California. Objectives of
10 the task force may include, but are not limited to, providing
11 training, education, and outreach to prosecutors and the courts on
12 Fish and Game Code violations and providing other assistance as
13 appropriate in the prosecution of environmental crimes.

14 SEC. 50. Section 13014 of the Fish and Game Code is amended
15 to read:

16 13014. (a) There are hereby established, initially in the Special
17 Deposit Fund, continued in existence by Section 16370 of the
18 Government Code, both of the following accounts:

19 (1) The Fish and Game Mitigation and Protection Endowment
20 Principal Account. The department shall deposit in this account
21 the endowment funds received by the department pursuant to an
22 agreement described in subdivision (b) and all earnings generated
23 thereon. Notwithstanding Section 13340 of the Government Code,
24 and subject to the limitations imposed by subdivision (d) of Section
25 18504 of the Probate Code, the moneys in the account established
26 by this paragraph are hereby continuously appropriated to the
27 department for expenditure without regard to fiscal years, for the
28 purposes of funding long-term management, enhancement,
29 monitoring, and enforcement activities on habitat lands in a manner
30 consistent with the terms of the underlying agreement.

31 (2) The Fish and Game Mitigation and Protection Expendable
32 Funds Account. The department shall deposit in this account
33 moneys, received pursuant to an agreement described in
34 subdivision (b), that are not endowment funds and that are
35 designated for expenditure for the purposes described in paragraph
36 (2) of that subdivision. Notwithstanding Section 13340 of the
37 Government Code, the moneys in the account established by this
38 paragraph are hereby continuously appropriated to the department
39 for expenditure without regard to fiscal year, for the purposes
40 described in this section.

1 (b) (1) The department may deposit moneys into the accounts
2 established pursuant to subdivision (a) that it receives pursuant to
3 any of the following, if those moneys are received for the purposes
4 described in paragraph (2):

5 (A) Agreements or permits pursuant to the Natural Communities
6 Conservation Planning Act (Chapter 10 (commencing with Section
7 2800) of Division 3).

8 (B) Conservation bank agreements.

9 (C) Habitat conservation implementation agreements.

10 (D) Incidental take permits.

11 (E) Legal or other written settlements.

12 (F) Mitigation agreements.

13 (G) Streambed or lakebed alteration agreements.

14 (H) Trust agreements.

15 (2) The department may deposit the moneys received pursuant
16 to an agreement described in paragraph (1) in an account
17 established by this section only if it receives those moneys for at
18 least one of the following purposes:

19 (A) Mitigating the adverse biological impacts of a specific
20 project, activity, spill, or release.

21 (B) Protecting, conserving, restoring, enhancing, managing, and
22 maintaining fish, wildlife, native plants, or their habitats.

23 (c) While the Fish and Game Mitigation and Protection
24 Endowment Principal Account and the Fish and Game Mitigation
25 and Protection Expendable Funds Account are initially established
26 in the Special Deposit Fund within the Pooled Money Investment
27 Account, the Treasurer's office shall, at the department's request,
28 transfer these funds from the Pooled Money Investment Account
29 to another account within the State Treasury system to increase
30 earnings over time while providing adequate liquidity. If either or
31 both of these accounts are transferred from the Pooled Money
32 Investment Account, assets in the transferred account or accounts
33 may be held and invested pursuant to subdivision (d).

34 (d) Notwithstanding the provisions of this chapter and any
35 conflicting provisions of Part 2 (commencing with Section 16300)
36 of Division 4 of the Government Code, the department may do all
37 of the following:

38 (1) Invest or direct the investment of the assets of the Fish and
39 Game Mitigation and Protection Endowment Principal Account
40 and the Fish and Game Mitigation and Protection Expendable

1 Funds Account through the purchase, holding, or sale of any
2 investment, financial instrument, or financial transaction when the
3 investment, financial instrument, or financial transaction is prudent
4 in the informed opinion of the department.

5 (2) For the purposes of developing and maintaining an
6 investment strategy for these accounts, the department may retain
7 investment advisers deemed acceptable to the Treasurer in the
8 Treasurer's reasonable discretion.

9 (3) For the purposes of managing and investing assets in these
10 accounts, the department may contract with a person or public,
11 private, or nonprofit entity that is experienced, knowledgeable,
12 and has demonstrated expertise in the management of diverse
13 investment portfolios and that is deemed acceptable to the
14 Treasurer in the Treasurer's reasonable discretion.

15 (e) The department shall hold, manage, and invest all moneys
16 in the accounts established pursuant to subdivision (a) consistent
17 with the management and investment principles set forth in the
18 Uniform Prudent Management of Institutional Funds Act (Part 7
19 (commencing with Section 18501) of Division 9 of the Probate
20 Code).

21 SEC. 51. Section 13205 is added to the Fish and Game Code,
22 to read:

23 13205. The Augmented Deer Tags Account, Bighorn Sheep
24 Permit Account, and Wild Pig Account, within the Fish and Game
25 Preservation Fund, shall be consolidated and any remaining funds
26 in these accounts transferred to the Big Game Management
27 Account, consistent with Section 3953. The department, after
28 consultation with the Department of Finance and the Legislative
29 Analyst's Office, shall provide recommendations to the Legislature
30 for consolidation of additional dedicated accounts within the Fish
31 and Game Preservation Fund if, in the determination of the
32 department, consolidation would serve to reduce administrative
33 costs to the department and enhance its ability to meet current
34 needs, while still preserving the generally stated purpose of the
35 dedicated accounts.

36 SEC. 52. Section 12805 of the Government Code is amended
37 to read:

38 12805. (a) The Resources Agency is hereby renamed the
39 Natural Resources Agency. The Natural Resources Agency consists
40 of the departments of Forestry and Fire Protection, Conservation,

1 Fish and Wildlife, Boating and Waterways, Parks and Recreation,
2 Resources Recycling and Recovery, and Water Resources; the
3 State Lands Commission; the Colorado River Board; the San
4 Francisco Bay Conservation and Development Commission; the
5 Central Valley Flood Protection Board; the Energy Resources
6 Conservation and Development Commission; the Wildlife
7 Conservation Board; the Delta Protection Commission; the Native
8 American Heritage Commission; the California Conservation
9 Corps; the California Coastal Commission; the State Coastal
10 Conservancy; the California Tahoe Conservancy; the Santa Monica
11 Mountains Conservancy; the Coachella Valley Mountains
12 Conservancy; the San Joaquin River Conservancy; the San Gabriel
13 and Lower Los Angeles Rivers and Mountains Conservancy; the
14 Baldwin Hills Conservancy; the San Diego River Conservancy;
15 and the Sierra Nevada Conservancy.

16 (b) No existing supplies, forms, insignias, signs, or logos shall
17 be destroyed or changed as a result of changing the name of the
18 Resources Agency to the Natural Resources Agency, and those
19 materials shall continue to be used until exhausted or unserviceable.

20 SEC. 53. Section 4800 of the Labor Code is amended to read:

21 4800. (a) Whenever any member of the Department of Justice
22 falling within the “state peace officer/firefighter” class is disabled
23 by injury arising out of and in the course of his or her duties, he
24 or she shall become entitled, regardless of his or her period of
25 service with the Department of Justice to leave of absence while
26 so disabled without loss of salary, in lieu of disability payments
27 under this chapter, for a period of not exceeding one year. This
28 section shall apply only to members of the Department of Justice
29 whose principal duties consist of active law enforcement and shall
30 not apply to persons employed in the Department of Justice whose
31 principal duties are those of telephone operator, clerk, stenographer,
32 machinist, mechanic or otherwise clearly not falling within the
33 scope of active law enforcement service, even though this person
34 is subject to occasional call or is occasionally called upon to
35 perform duties within the scope of active law enforcement service.

36 (b) This section shall apply to law enforcement officers
37 employed by the Department of Fish and Wildlife who are
38 described in subdivision (e) of Section 830.2 of the Penal Code.

1 (c) This section shall apply to harbor policemen employed by
2 the San Francisco Port Commission who are described in Section
3 20017.76 of the Government Code.

4 (d) This section shall not apply to periods of disability which
5 occur subsequent to termination of employment by resignation,
6 retirement or dismissal. When this section does not apply, the
7 employee shall be eligible for those benefits which would apply
8 if this section had not been enacted.

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