

Introduced by Senator GainesFebruary 18, 2011

An act to add Section 5653.2 to, and to repeal and add Section 5653.1 of, the Fish and Game Code, relating to fish and wildlife, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 657, as introduced, Gaines. Vacuum or suction dredge equipment.

The California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. The act exempts from its provisions, among other things, certain types of ministerial projects proposed to be carried out or approved by public agencies, and emergency repairs to public service facilities necessary to maintain service.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Existing law designates the issuance of permits to operate vacuum or suction dredge equipment to be a project under the California Environmental Quality Act, and suspends the issuance of permits, and mining pursuant to a permit, until the department has completed an environmental impact report for the project as ordered by the court in a specified court action. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the director of the department certifies to the Secretary of State that (1) the department has completed the environmental review of its

existing vacuum or suction dredge equipment regulations as ordered by the court, (2) the department has transmitted for filing with the Secretary of State a certified copy of new regulations, as necessary, and (3) the new regulations are operative.

This bill would repeal the prohibition on the use of vacuum or suction dredge equipment, and would exempt the issuance of permits to operate vacuum or suction dredge equipment from the California Environmental Quality Act until January 1, 2014. The bill would require the department to refund a specified portion of the permit fee paid by a person issued a vacuum or suction dredge equipment permit and subject to the prohibition on the use of vacuum or suction dredge equipment. The bill would require the department, on or before January 1, 2014, to complete an economic impact report on the prohibition on the use of vacuum and suction dredge equipment.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 5653.1 of the Fish and Game Code is
2 repealed.
3 ~~5653.1.—(a) The issuance of permits to operate vacuum or~~
4 ~~suction dredge equipment is a project pursuant to the California~~
5 ~~Environmental Quality Act (Division 13 (commencing with Section~~
6 ~~21000) of the Public Resources Code) and permits may only be~~
7 ~~issued, and vacuum or suction dredge mining may only occur as~~
8 ~~authorized by any existing permit, if the department has caused to~~
9 ~~be prepared, and certified the completion of, an environmental~~
10 ~~impact report for the project pursuant to the court order and consent~~
11 ~~judgment entered in the case of Karuk Tribe of California et al. v.~~
12 ~~California Department of Fish and Game et al., Alameda County~~
13 ~~Superior Court Case No. RG 05211597.~~
14 (b) ~~Notwithstanding Section 5653, the use of any vacuum or~~
15 ~~suction dredge equipment in any river, stream, or lake of this state~~
16 ~~is prohibited until the director certifies to the Secretary of State~~
17 ~~that all of the following have occurred:~~
18 (1) ~~The department has completed the environmental review of~~
19 ~~its existing suction dredge mining regulations, as ordered by the~~

1 court in the case of *Karuk Tribe of California et al. v. California*
2 *Department of Fish and Game et al.*, Alameda County Superior
3 Court Case No. RG 05211597.

4 ~~(2) The department has transmitted for filing with the Secretary~~
5 ~~of State pursuant to Section 11343 of the Government Code, a~~
6 ~~certified copy of new regulations adopted, as necessary, pursuant~~
7 ~~to Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
8 ~~Division 3 of Title 2 of the Government Code.~~

9 ~~(3) The new regulations described in paragraph (2) are operative.~~

10 ~~(e) The Legislature finds and declares that this section, as added~~
11 ~~during the 2009–10 Regular Session, applies solely to vacuum and~~
12 ~~suction dredging activities conducted for instream mining purposes.~~
13 ~~This section does not expand or provide new authority for the~~
14 ~~department to close or regulate suction dredging conducted for~~
15 ~~regular maintenance of energy or water supply management~~
16 ~~infrastructure, flood control, or navigational purposes governed~~
17 ~~by other state or federal law.~~

18 ~~(d) This section does not prohibit or restrict nonmotorized~~
19 ~~recreational mining activities, including panning for gold.~~

20 SEC. 2. Section 5653.1 is added to the Fish and Game Code,
21 to read:

22 5653.1. (a) The California Environmental Quality Act
23 (Division 13 (commencing with Section 21000) of the Public
24 Resources Code) does not apply to the issuance of permits to
25 operate vacuum or suction dredge equipment pursuant to Section
26 5653.

27 (b) This section shall remain in effect only until January 1, 2014,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2014, deletes or extends that date.

30 SEC. 3. Section 5653.2 is added to the Fish and Game Code,
31 to read:

32 5653.2. (a) The department shall refund a portion of the permit
33 fee paid by a person issued a permit for the use of vacuum or
34 suction dredge equipment pursuant to Section 5653 and subject to
35 the prohibition on the use of vacuum and suction dredge equipment
36 imposed by Section 5653.1, as that section read on August 6, 2009.
37 The amount of any refund issued pursuant to this subdivision shall
38 be prorated to refund the portion of the permit fee that is
39 attributable to the period for which the permit was issued and for
40 which the permittee could not use vacuum or suction dredge

1 equipment as a result of the prohibition on the use of vacuum and
2 suction dredge equipment.

3 (b) On or before January 1, 2014, the department shall complete
4 a report on the economic impacts of the prohibition on the use of
5 vacuum and suction dredge equipment imposed by Section 5653.1,
6 as that section read on August 6, 2009.

7 SEC. 4. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the Constitution and shall go into
10 immediate effect. The facts constituting the necessity are:

11 In order to address, at the earliest time possible, the financial
12 hardship caused by the moratorium on vacuum and suction
13 dredging to those who depend on vacuum and suction dredging
14 for their livelihood, it is necessary that this act take effect
15 immediately.