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AMENDED IN SENATE JULY 2, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 497

Introduced by Assembly Member Chesbro

February 20, 2013

An act to amend Sections 206, 207, 8276.3, and 8283 of, *and* to add Sections 106 and 205.1 to, ~~and to add Article 1.8 (commencing with Section 7695) to Chapter 1 of Part 3 of Division 6 of~~, the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 497, as amended, Chesbro. Fish and wildlife.

(1) Existing law requires the Fish and Game Commission to form a marine resources committee from its membership consisting of at least one commissioner and requires the committee to report to the commission from time to time on its activities, to make recommendations on all marine resource matters considered by the commission, and to have the committee or its designee, to the extent practicable, attend meetings of the Department of Fish and Wildlife's staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

This bill would require the commission to form a wildlife resources committee from its membership consisting of at least one commissioner,

to report to the commission from time to time on its activities, to make recommendations on all nonmarine resource matters considered by the commission, and to have the committee or its designee, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant wildlife resource management documents are being developed.

(2) The California Constitution creates the Fish and Game Commission. Existing law establishes the commission in the Natural Resources Agency to perform specified functions. Existing law requires the commission to hold no fewer than 10 regular meetings per year, if the commission has adequate funding for related travel, including funding for department travel, with no more than 3 regular meetings to be held in Sacramento per year. Existing law requires the commission to cause the notice of the schedule for regular meetings, and notice of any change in the date and location of a meeting, to be disseminated to the public in a manner that will result in broad dissemination, including, but not limited to, electronic distribution, mailings to interested parties, and publication in local newspapers of the affected communities.

This bill would reduce the number of regular meetings required per year to 8 and would delete the limitation that no more than 3 regular meetings be held in Sacramento per year. The bill would also delete the requirement that the broad dissemination of the notices regarding meetings be achieved in a specific manner but would require the commission to disseminate notices regarding meetings to the public in a manner that complies with specified provisions of the Administrative Procedure Act.

(3) Existing law requires the commission, except for emergency regulations, to consider and adopt regulations at a series of no fewer than 3 meetings and requires that these meetings, whether regular or special meetings, be duly noticed to the public in accordance with specified provisions of state law. Existing law provides that at the 3rd meeting the commission may choose to hear additional public discussion regarding the regulations it intends to adopt and requires that either at that meeting or within 20 days after that meeting, the commission add, amend, or repeal regulations relating to any recommendation received at the initial meeting it deems necessary to preserve, properly utilize, and maintain each species or subspecies.

This bill would delete the 20-day period after the 3rd meeting during which the commission would have been authorized to add, amend, or repeal.

(4) Existing law authorizes the commission to annually adopt regulations, as specified, pertaining to migratory birds to conform with or to further restrict the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act. Existing law provides that migratory game birds may be taken in conformity with federal laws and regulations and the regulations of the commission, as specified, and, if no regulations are prescribed by the proper federal agency, authorizes the commission to determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of migratory game birds, under such rules and regulations as the commission may prescribe.

This bill would add similar provisions that would authorize the commission to establish by regulation an automatic process to conform its sport fishing regulations to federal regulations and would require the Department of Fish and Wildlife to provide public notice of any conforming action implemented pursuant to this provision.

~~The bill would also provide that regulations that the commission may be authorized to adopt pertaining to salmon and groundfish are not subject to specified provisions of the Administrative Procedure Act and would require the commission to hold at least one duly noticed public hearing before any regulations are adopted under these provisions.~~

(5) Existing law, until April 1, 2019, authorizes the Director of the Department of Fish and Wildlife to order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year and prohibits the delay in the opening from being later than January 15 of any year. Under existing law, if the director orders this delay, the opening date of the Dungeness crab fishery in those districts is required to be preceded by a 36-hour gear setting period, as ordered by the director.

This bill instead would require a 64-hour gear setting period.

(6) Existing law requires the director, if requested on or before November 10 of any year, to consult with the Dungeness crab industry and to specify by public announcement on or before November 20 of that year when crab traps may be set and baited prior to the opening date of the Dungeness crab season in Districts 6, 7, 8, and 9.

This bill would eliminate the above requirements and instead would authorize crab traps to be set and baited 64 hours prior to the opening date of the Dungeness crab season in Districts 6, 7, 8, and 9.

Vote: majority. Appropriation: no. 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 all of the*
2 *following:*

3 (a) *The federal Magnuson-Stevens Fishery Conservation and*
4 *Management Act (16 U.S.C. Sec. 1801 et seq.) authorizes fishery*
5 *management plans and regulations that require close coordination*
6 *with state fishery managers.*

7 (b) *The United States Secretary of Commerce routinely adopts*
8 *federal fishery rules that require the State of California to make*
9 *timely conforming changes to its fishery regulations in order to*
10 *maintain continuity of management and enforcement, and to avoid*
11 *preemption.*

12 (c) *Since 1976, a mechanism for federal conformance has existed*
13 *in the Fish and Game Code for commercial fishing and a similar*
14 *mechanism is now required for sport fishing.*

15 SECTION 1.

16 SEC. 2. Section 106 is added to the Fish and Game Code, to
17 read:

18 106. The commission shall form a wildlife resources committee
19 from its membership consisting of at least one commissioner. The
20 committee shall report to the commission from time to time on its
21 activities and shall make recommendations on all nonmarine
22 resource matters considered by the commission. The committee
23 or its designee shall, to the extent practicable, attend meetings of
24 the department staff, including meetings of the department staff
25 with interested parties, in which significant wildlife resource
26 management documents are being developed.

27 SEC. 2.

28 SEC. 3. Section 205.1 is added to the Fish and Game Code, to
29 read:

30 205.1. (a) ~~The Legislature finds and declares all of the~~
31 ~~following:~~

32 (1) ~~The federal Magnuson-Stevens Fishery Conservation and~~
33 ~~Management Act (16 U.S.C. Sec. 1801 et seq.) authorizes fishery~~
34 ~~management plans and regulations that require close coordination~~
35 ~~with state fishery managers.~~

36 (2) ~~The Secretary of Commerce routinely adopts federal fishery~~
37 ~~rules that require the State of California to make timely conforming~~

1 changes to its fishery regulations in order to maintain continuity
2 of management and enforcement, and to avoid preemption.

3 (3) Since 1976, a mechanism for federal conformance has
4 existed in this code for commercial fishing and a similar
5 mechanism is now required for sport fishing.

6 (b)

7 205.1. (a) The commission may establish by regulation an
8 automatic process to conform its sport fishing regulations to federal
9 regulations.

10 (e)

11 (b) The department shall provide public notice of any
12 conforming action implemented pursuant to this section.

13 SEC. 3.

14 SEC. 4. Section 206 of the Fish and Game Code is amended
15 to read:

16 206. (a) The commission shall hold no fewer than eight regular
17 meetings per calendar year, if the commission has adequate funding
18 for related travel, including funding for department travel. The
19 commission may also hold special meetings or hearings to receive
20 additional input from the department and the public.

21 (b) The commission shall announce the dates and locations of
22 meetings for the year by January 1 of that year, or 60 days prior
23 to the first meeting, whichever comes first. Meeting locations shall
24 be accessible to the public and located throughout the state. To the
25 extent feasible, meetings shall be held in state facilities. In setting
26 the dates and locations for regular meetings, the commission shall
27 also consider the following factors:

28 (1) Recommendations of the department.

29 (2) Opening and closing dates of fishing and hunting seasons.

30 (3) The schedules of other state and federal regulatory agencies
31 whose regulations affect the management of fish and wildlife of
32 this state.

33 (c) The commission shall cause the notice of the schedule for
34 regular meetings, and notice of any change in the date and location
35 of a meeting, to be disseminated to the public in a manner that will
36 result in broad dissemination and that complies with the
37 Administrative Procedure Act (Chapter 3.5 (commencing with
38 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
39 Code).

1 SEC. 4.

2 SEC. 5. Section 207 of the Fish and Game Code is amended
3 to read:

4 207. (a) Except for emergency regulations, the commission
5 shall consider and adopt regulations pursuant to Sections 203 and
6 205 at a series of no fewer than three meetings. These meetings
7 may be regular or special meetings that are duly noticed to the
8 public in accordance with subdivision (c) of Section 206 and the
9 Administrative Procedure Act (Chapter 3.5 (commencing with
10 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
11 Code).

12 (b) At the first meeting, the commission shall receive
13 recommendations for regulations from its own members and staff,
14 the department, other public agencies, and the public.

15 (c) At the second meeting, the commission shall devote time
16 for open public discussion of proposed regulations presented at
17 the first meeting. The department shall participate in this discussion
18 by reviewing and presenting its findings regarding each regulation
19 proposed by the public and by responding to objections raised
20 pertaining to its proposed regulations. After considering the public
21 discussion, the commission shall announce, prior to adjournment
22 of the meeting, the regulations it intends to add, amend, or repeal.

23 (d) At the third meeting, the commission may choose to hear
24 additional public discussion regarding the regulations it intends to
25 adopt. At the meeting, the commission shall add, amend, or repeal
26 regulations relating to any recommendation received at the initial
27 meeting it deems necessary to preserve, properly utilize, and
28 maintain each species or subspecies.

29 (e) Within 45 days after adoption, the department shall publish
30 and distribute regulations adopted pursuant to this section.

31 SEC. 5. Article 1.8 (commencing with Section 7695) is added
32 to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code,
33 to read:

34

35 Article 1.8. Salmon and Groundfish Regulations

36

37 7695. Regulations that the commission may be authorized to
38 adopt pursuant to this article to conform with federal regulations
39 are not subject to Sections 11343.4, 11346.1, 11346.4, and 11346.8
40 of the Government Code. The commission shall hold at least one

1 ~~duly noticed public hearing before any regulations are adopted~~
2 ~~under this article.~~

3 SEC. 6. Section 8276.3 of the Fish and Game Code is amended
4 to read:

5 8276.3. (a) If there is any delay ordered by the director
6 pursuant to Section 8276.2 in the opening of the Dungeness crab
7 fishery in Fish and Game Districts 6, 7, 8, and 9, a vessel shall not
8 take or land crab within Districts 6, 7, 8, and 9 during any closure.

9 (b) If there is any delay in the opening of the Dungeness crab
10 season pursuant to Section 8276.2, the opening date in Fish and
11 Game Districts 6, 7, 8, and 9 shall be preceded by a 64-hour gear
12 setting period, as ordered by the director.

13 (c) This section shall become inoperative on April 1, 2019, and,
14 as of January 1, 2020, is repealed, unless a later enacted statute,
15 that becomes operative on or before January 1, 2020, deletes or
16 extends the dates on which it becomes inoperative and is repealed.

17 SEC. 7. Section 8283 of the Fish and Game Code is amended
18 to read:

19 8283. (a) Crab traps may be set and baited 64 hours prior to
20 the opening date of the Dungeness crab season in Fish and Game
21 Districts 6, 7, 8, and 9. Crab traps may be set and baited in advance
22 of that opening date in those districts if no other attempt is made
23 to take or possess Dungeness crab in those districts.

24 (b) Except in Fish and Game Districts 6, 7, 8, and 9, crab traps
25 may be set and baited 18 hours in advance of the opening date of
26 the Dungeness crab season, if no other attempt is made to take or
27 possess Dungeness crab.