

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 353

Introduced by Assembly Member Lackey

February 17, 2015

An act to amend Section 5515 of, and to add Section 2081.6 to, the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 353, as amended, Lackey. Protected species: take: Bouquet Canyon: habitat restoration project.

Existing law prohibits the taking or possession of any fully protected fish, except as provided, and designates the unarmored threespine stickleback as a fully protected fish. The California Endangered Species Act prohibits the taking of an endangered or threatened species, except as specified. The Department of Fish and Wildlife may authorize the take of listed species if the take is incidental to an otherwise lawful activity and the impacts are minimized and fully mitigated.

This bill would ~~require~~ *permit* the department to authorize, under the California Endangered Species Act, the take of the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) resulting from impacts attributable to the habitat restoration project to restore and improve riparian habitat on public lands in the Bouquet Canyon area, and projects to restore the flow capacity to Bouquet Creek in Bouquet Canyon on public lands, as specified, if certain conditions are satisfied.

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 that the*
2 *environmental degradation of Bouquet Creek in Bouquet Canyon*
3 *caused by a devastating wildfire in 2002 and the historic floods*
4 *in the winter of 2004–05 has severely impacted the habitat of the*
5 *unarmored threespine stickleback. In order to restore the*
6 *environment for this fully protected species, the Los Angeles County*
7 *Department of Public Works, the Los Angeles Department of Water*
8 *and Power, and the United States Department of Agriculture,*
9 *Forest Service, must be authorized to take the unarmored*
10 *threespine stickleback to complete their environmental restoration*
11 *project on Bouquet Creek in Bouquet Canyon.*

12 ~~SECTION 1.~~

13 *SEC. 2.* Section 2081.6 is added to the Fish and Game Code,
14 to read:

15 2081.6. The department ~~shall~~ *may* authorize, under this chapter,
16 the take of the unarmored threespine stickleback (*Gasterosteus*
17 *aculeatus williamsoni*) resulting from impacts attributable to the
18 habitat restoration project to restore and improve riparian habitat
19 on public lands in the Bouquet Canyon area, and projects to restore
20 the flow capacity to Bouquet Creek in Bouquet Canyon on public
21 lands, undertaken by the Los Angeles County Department of Public
22 Works, the Los Angeles Department of Water and Power, and the
23 United States Department of Agriculture, Forest Service, if all of
24 the following conditions are satisfied:

25 (a) The department has determined that the appropriate
26 agreements have been executed to address environmental impacts
27 at the Bouquet Canyon area, including, but not limited to, Bouquet
28 Creek.

29 (b) The requirements of subdivisions (b) and (c) of Section 2081
30 are satisfied for the take of the unarmored threespine stickleback.

31 (c) The take authorization provides for the development and
32 implementation, in cooperation with federal and state agencies, of
33 an adaptive management process for monitoring the effectiveness
34 of, and adjusting, as necessary, the measures to minimize and fully
35 mitigate the impacts of the authorized take. The adjusted measures
36 are subject to Section 2052.1.

37 (d) The take authorization provides for the development and
38 implementation, in cooperation with state and federal agencies, of

1 an adaptive management process that substantially contributes to
2 the long-term conservation of the unarmored threespine stickleback.

3 ~~SEC. 2.~~

4 *SEC. 3.* Section 5515 of the Fish and Game Code is amended
5 to read:

6 5515. (a) (1) Except as provided in Section 2081.6, 2081.7,
7 or 2835, fully protected fish or parts thereof may not be taken or
8 possessed at any time. No provision of this code or any other law
9 shall be construed to authorize the issuance of permits or licenses
10 to take any fully protected fish, and no permits or licenses
11 heretofore issued shall have any force or effect for that purpose.
12 However, the department may authorize the taking of those species
13 for necessary scientific research, including efforts to recover fully
14 protected, threatened, or endangered species. Before authorizing
15 the take of any of those species, the department shall make an
16 effort to notify all affected and interested parties to solicit
17 information and comments on the proposed authorization. The
18 notification shall be published in the California Regulatory Notice
19 Register and be made available to each person who has notified
20 the department, in writing, of his or her interest in fully protected
21 species and who has provided an e-mail address, if available, or
22 postal address to the department. Affected and interested parties
23 shall have 30 days after notification is published in the California
24 Regulatory Notice Register to provide any relevant information
25 and comments on the proposed authorization.

26 (2) As used in this subdivision, “scientific research” does not
27 include any actions taken as part of specified mitigation for a
28 project, as defined in Section 21065 of the Public Resources Code.

29 (3) Legally imported fully protected fish or parts thereof may
30 be possessed under a permit issued by the department.

31 (b) The following are fully protected fish:

32 (1) Colorado River squawfish (*Ptychocheilus lucius*).

33 (2) Thicketail chub (*Gila crassicauda*).

34 (3) Mohave chub (*Gila mohavensis*).

35 (4) Lost River sucker (*Catostomus luxatus*).

36 (5) Modoc sucker (*Catostomus microps*).

37 (6) Shortnose sucker (*Chasmistes brevirostris*).

38 (7) Humpback sucker (*Xyrauchen texanus*).

39 (8) Owens River pupfish (*Cyprinoden radiosus*).

- 1 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*
- 2 *williamsoni*).
- 3 (10) Rough sculpin (*Cottus asperrimus*).