

AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 498

Introduced by Assembly Member Levine

February 23, 2015

An act to amend Sections 1797.5, 1930, and 1930.5 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 498, as amended, Levine. Wildlife conservation: wildlife corridors.

Existing law requires the Department of Fish and Wildlife to administer the Significant Natural Areas Program, and requires the department, among other things, to develop and maintain a spatial data system that identifies those areas in the state that are most essential for maintaining habitat connectivity, including wildlife corridors and habitat linkages. Existing law requires the department, contingent upon the provision of certain funding, to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages and prioritize vegetative data development in those areas. Existing law requires the department to seek input from representatives of other state agencies, local government, federal agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry in determining essential wildlife corridors and habitat linkages.

This bill would declare that it is the policy of the state, with regard to a project proposed in an area identified as a wildlife corridor, to encourage the project proponent to consult with the department, and, *state to encourage*, wherever feasible and practicable, ~~take~~ voluntary steps to ~~promote, protect, or restore~~ *protect* the functioning of the ~~wildlife corridor~~ *wildlife corridors* through various means, as applicable.

Existing law provides for the establishment of conservation banks, defined as publicly or privately owned and operated sites that are to be conserved and managed for habitat protection purposes in accordance with an agreement with the Department of Fish and Wildlife. Existing law provides for the issuance of credits by a conservation bank to, among other things, reduce adverse impacts to fish or wildlife resources from certain activities. *Existing law also provides for the establishment of mitigation banks, as defined.*

This bill would include within the authorized purposes of a conservation bank the ~~maximization~~ *protection* of habitat connectivity for fish and wildlife resources.

This bill would provide that a project applicant may receive advance mitigation credits for investing in a mitigation bank that protects habitat connectivity for affected fish and wildlife resources, and would further provide that the fact that a project applicant does not take voluntary steps to protect the functioning of a wildlife corridor prior to initiating the application process for the project shall not be grounds for denying a permit or requiring additional mitigation beyond what is otherwise required by law to mitigate project impacts.

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. Section 1797.5 of the Fish and Game Code is
- 2 amended to read:
- 3 1797.5. For the purposes of this chapter, the following terms
- 4 shall have the following meanings:
- 5 (a) “Bank” means a conservation bank, mitigation bank, or
- 6 conservation and mitigation bank.
- 7 (b) “Bank enabling instrument” means a written agreement with
- 8 the department regarding the establishment, use, operation, and
- 9 maintenance of the bank.

1 (c) “Bank sponsor” means the person or entity responsible for
2 establishing and operating a bank.

3 (d) “Conservation bank” means a publicly or privately owned
4 and operated site that is to be conserved and managed in accordance
5 with a written agreement with the department that includes
6 provisions for the issuance of credits, on which important habitat,
7 including habitat for threatened, endangered, or other special status
8 species, exists, has been, or will be created to do any of the
9 following:

10 (1) Compensate for take or other adverse impacts of activities
11 authorized pursuant to Chapter 1.5 (commencing with Section
12 2050) of Division 3.

13 (2) Reduce adverse impacts to fish or wildlife resources from
14 activities, authorized pursuant to Chapter 6 (commencing with
15 Section 1600) of Division 2, to less than substantial.

16 (3) Mitigate significant effects on the environment pursuant to
17 the California Environmental Quality Act (Division 13
18 (commencing with Section 21000) of the Public Resources Code)
19 and Guidelines for Implementation of the California Environmental
20 Quality Act (Chapter 3 (commencing with Section 15000) of
21 Division 6 of Title 14 of the California Code of Regulations).

22 (4) Establish mitigation in advance of any impacts or effects.

23 (5) To the extent *feasible and practicable*, ~~maximize protect~~
24 habitat connectivity for the affected fish and wildlife resources.

25 (e) “Conservation easement” means a perpetual conservation
26 easement, as defined by Section 815.1 of the Civil Code, covering
27 the real property that comprises the bank site.

28 (f) “Mitigation bank” means either of the following:

29 (1) A bank site or mitigation bank site as defined by Section
30 1777.2.

31 (2) Any publicly or privately owned and operated site, other
32 than those defined by Section 1777.2, on which wetlands exist,
33 have been, or will be created, and that is to be conserved and
34 managed in accordance with a written agreement with the
35 department for any of the purposes described in paragraphs (1) to
36 (4), inclusive, of subdivision (d).

37 (g) “Person” has the meaning set forth in subdivision (b) of
38 Section 711.2.

1 (h) “Prospectus” means a written summary of the proposed bank
2 containing a sufficient level of detail to support informed
3 department review and comment.

4 SEC. 2. Section 1930 of the Fish and Game Code is amended
5 to read:

6 1930. The Legislature finds and declares that:

7 (a) Areas containing diverse ecological and geological
8 characteristics are vital to the continual health and well being of
9 the state’s natural resources and of its citizens.

10 (b) Many habitats and ecosystems that constitute the state’s
11 natural diversity are in danger of being lost.

12 (c) Connectivity between wildlife habitats is important to the
13 long-term viability of the state’s biodiversity.

14 (d) ~~Preserving, restoring,~~ *Preserving* and connecting high-quality
15 habitat for wildlife can create habitat strongholds.

16 (e) Increasingly fragmented habitats threaten the state’s wildlife
17 species.

18 (f) There is an opportunity to provide incentive for private
19 landowners to maintain and perpetuate significant local natural
20 areas in their natural state.

21 (g) Efforts to preserve natural areas have been fragmented
22 between federal, state, local, and private sectors.

23 (h) Analysis of the state’s habitat connectivity benefits from the
24 consideration of all relevant data, including information from
25 private and public landowners.

26 (i) The department’s existing mapping activities and products
27 should be developed and sustained.

28 (j) The importance of wildlife corridors to assist in adapting to
29 climate change has been recognized by such groups as the Western
30 ~~Governor’s~~ *Governors’* Association, which unanimously approved
31 a policy to protect wildlife migration corridors and crucial wildlife
32 habitat in 2007. Individual local, state, and federal agencies have
33 also adopted policies aimed at protecting wildlife corridors and
34 ~~restoring~~ habitat connectivity, in order to protect ecosystem health
35 and biodiversity and to improve the resiliency of wildlife and their
36 habitats to climate change. However, these efforts could be
37 enhanced through establishment of a statewide policy to protect
38 ~~and restore~~ important wildlife corridors and habitat linkages where
39 ~~feasible.~~ *feasible and practicable.*

1 SEC. 3. Section 1930.5 of the Fish and Game Code is amended
2 to read:

3 1930.5. (a) Contingent upon funding being provided by the
4 Wildlife Conservation Board from moneys available pursuant to
5 Section 75055 of the Public Resources Code, or from other
6 appropriate bond funds, upon appropriation by the Legislature, the
7 department shall investigate, study, and identify those areas in the
8 state that are most essential as wildlife corridors and habitat
9 linkages, as well as the impacts to those wildlife corridors from
10 climate change, and shall prioritize vegetative data development
11 in these areas.

12 (b) It is the intent of the Legislature that the Wildlife
13 Conservation Board use various funds to work with the department
14 to complete a statewide analysis of wildlife corridors and
15 connectivity to support conservation planning and climate change
16 adaptation activities.

17 (c) (1) It is the policy of the state to promote the voluntary
18 protection of wildlife corridors and habitat strongholds in order to
19 enhance the resiliency of wildlife and their habitats to climate
20 change, protect biodiversity, and allow for the migration and
21 movement of species by providing connectivity between habitat
22 lands. In order to further these goals, it is the policy of the state,
23 ~~with regard to a project proposed in an area identified as a wildlife~~
24 ~~corridor, to encourage the project proponent to consult with the~~
25 ~~department, and, state to encourage,~~ wherever feasible and
26 practicable, ~~take~~ voluntary steps to ~~promote, protect, or restore~~
27 ~~protect~~ the functioning of ~~the wildlife corridor~~ *corridors* through
28 various means, as applicable. ~~Those~~

29 *As applicable and to the extent feasible and practicable, those*
30 *means may include, but are not necessarily limited to, acquisition*
31 *to:*

32 (A) *Acquisition* or protection of wildlife corridors as open space
33 through conservation easements, ~~installing~~ *easements*.

34 (B) *Installing* of wildlife-friendly ~~fencing, and provision~~ *fencing*.

35 (C) *Creation of mitigation and conservation banks that protect*
36 *habitat connectivity for affected fish and wildlife resources.*

37 (D) *Provision* of roadway ~~undercrossings and undercrossings,~~
38 ~~oversized culverts and culverts, or bridges~~ to allow for movement
39 of wildlife between habitat ~~areas, as applicable.~~ *areas.*

1 (2) *Consistent with Chapter 7.9 (commencing with Section 1797)*
2 *of Division 2, a project applicant may receive advance mitigation*
3 *credits for investing in a mitigation bank that, to the extent feasible*
4 *and practicable, protects habitat connectivity for affected fish and*
5 *wildlife resources. The fact that a project applicant does not take*
6 *voluntary steps to protect the functioning of a wildlife corridor*
7 *prior to initiating the application process for a project shall not*
8 *be grounds for denying a permit or requiring additional mitigation*
9 *beyond what would be required to mitigate project impacts under*
10 *other applicable laws, including, but not limited to, the California*
11 *Endangered Species Act (Chapter 1.5 (commencing with Section*
12 *2050) of Division 3) and the California Environmental Quality*
13 *Act (Division 13 (commencing with Section 21000) of the Public*
14 *Resources Code).*

15 ~~(d) It is further the intent of the Legislature that state agencies~~
16 ~~and other conservation planners be encouraged to access publicly~~
17 ~~available database tools developed by the department and other~~
18 ~~conservation partners to support and assist conservation planning~~
19 ~~and facilitate identification, mapping, and prioritization of wildlife~~
20 ~~corridors and other habitat connectivity linkages. Those tools shall~~
21 ~~include, but need not be limited to, the statewide California~~
22 ~~Essential Habitat Connectivity Project and other more fine-scale~~
23 ~~regional wildlife connectivity analyses, as those guidance tools~~
24 ~~are developed and refined and made publicly available through~~
25 ~~the department's Internet Web site.~~

26 ~~(e)~~

27 (d) The Legislature finds and declares that there are a number
28 of existing programs, including, but not necessarily limited to,
29 programs involving working landscapes, such as timberlands,
30 agricultural lands, and rangelands, that are already working to
31 achieve the policy described in subdivision (c).

32 ~~(f)~~

33 (e) Subdivision (c) shall not be construed to create new
34 regulatory requirements or modify the requirements of the
35 California Environmental Quality Act (Division 13 (commencing
36 with Section 21000) of the Public Resources Code).

37 ~~(g)~~

38 (f) For purposes of this chapter, the following terms have the
39 following meanings:

- 1 (1) "Habitat stronghold" means high-quality habitat that supports
- 2 wildlife in being more resilient to increasing pressures on species
- 3 due to climate change and land development.
- 4 (2) "Wildlife corridor" means a habitat linkage that joins two
- 5 or more areas of wildlife habitat, allowing for the movement of
- 6 wildlife from one area to another.