

Assembly Bill No. 498

Passed the Assembly September 4, 2015

Chief Clerk of the Assembly

Passed the Senate September 2, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 to encourage, wherever feasible and practicable, voluntary steps to protect the functioning of 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 protection of habitat connectivity for fish and wildlife resources.

This bill would 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.

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

SECTION 1. Section 1797.5 of the Fish and Game Code is amended to read:

1797.5. For the purposes of this chapter, the following terms shall have the following meanings:

(a) “Bank” means a conservation bank, mitigation bank, or conservation and mitigation bank.

(b) “Bank enabling instrument” means a written agreement with the department regarding the establishment, use, operation, and maintenance of the bank.

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

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

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

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

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

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

(5) To the extent feasible and practicable, protect habitat connectivity for fish and wildlife resources for purposes of this section.

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

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

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

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

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

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

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

1930. The Legislature finds and declares that:

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

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

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

(d) Preserving and connecting high-quality habitat for wildlife can create habitat strongholds.

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

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

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

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

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

(j) The importance of wildlife corridors to assist in adapting to climate change has been recognized by such groups as the Western Governors' Association, which unanimously approved a policy to protect wildlife migration corridors and crucial wildlife habitat in 2007. Individual local, state, and federal agencies have also adopted policies aimed at protecting wildlife corridors and habitat connectivity, in order to protect ecosystem health and biodiversity and to improve the resiliency of wildlife and their habitats to climate change. However, these efforts could be enhanced through establishment of a statewide policy to protect important wildlife corridors and habitat linkages where feasible and practicable.

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

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

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

(c) (1) It is the policy of the state to promote the voluntary protection of wildlife corridors and habitat strongholds in order to enhance the resiliency of wildlife and their habitats to climate change, protect biodiversity, and allow for the migration and movement of species by providing connectivity between habitat lands. In order to further these goals, it is the policy of the state to encourage, wherever feasible and practicable, voluntary steps to protect the functioning of wildlife corridors through various means,

as applicable and to the extent feasible and practicable, those means may include, but are not limited to:

(A) Acquisition or protection of wildlife corridors as open space through conservation easements.

(B) Installing of wildlife-friendly or directional fencing.

(C) Siting of mitigation and conservation banks in areas that provide habitat connectivity for affected fish and wildlife resources.

(D) Provision of roadway undercrossings, overpasses, oversized culverts, or bridges to allow for fish passage and the movement of wildlife between habitat areas.

(2) 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 a project shall not be grounds for denying a permit or requiring additional mitigation beyond what would be required to mitigate project impacts under other applicable laws, including, but not limited to, the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) The Legislature finds and declares that there are a number of existing efforts, including, but not limited to, efforts involving working landscapes, that are already working to achieve the policy described in subdivision (c).

(e) Subdivision (c) shall not be construed to create new regulatory requirements or modify the requirements of subparagraphs (B) and (E) of paragraph (4) of subdivision (a) of Section 2820 of the Fish and Game Code, or the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) For purposes of this section, the following terms have the following meanings:

(1) “Habitat stronghold” means high-quality habitat that supports wildlife in being more resilient to increasing pressures on species due to climate change and land development.

(2) “Wildlife corridor” means a habitat linkage that joins two or more areas of wildlife habitat, allowing for fish passage or the movement of wildlife from one area to another.

Approved _____, 2015

Governor