

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 958

Introduced by Committee on Agriculture

February 26, 2015

An act to amend Sections 76535, 76600, 76602, 76604, 76650, 76651, 76652, 76700, 76701, 76702, 76705, 76706, 76707, 76708, 76709, 76712, 76714, 76715, 76716, 76717, 76718, 76750, 76800, 76851, 76852, 76900, 76901, 76901.5, 76903, 76904, 76904.5, 76905, 76906, 76907, 76908, 76909, and 76910 of, to add Article 9.5 (commencing with Section 76961), Article 10 (commencing with Section 76971), and Article 11 (commencing with Section 76981) to, and to repeal and add Article 9 (commencing with Section 76950) of, Chapter 16 of Part 2 of Division 22 of, the Food and Agricultural Code, relating to salmon marketing and development, and making a *an* appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 958, as amended, Committee on Agriculture. California Salmon Marketing and Development Act. *Act: California Salmon Council.*

(1) Existing law, the California Salmon Marketing and Development Act, creates the California Salmon Council, consisting of 9 voting members, appointed by the Secretary of Food and Agriculture, and 5 nonvoting members, as provided. Under existing law, the council is required to provide advice and investigations for, and perform duties delegated to it by, the secretary, including programs to promote education, research, and public information regarding the consumption of salmon and salmon products. Existing law provides for referendum

voting by ~~fishermen~~, *commercial salmon vessel operators*, as defined, to determine whether the act should be implemented and, periodically, to review whether the operation of the act and the council should be continued. Upon approval of the referendum, existing law requires fishermen to pay specified assessments to the secretary and requires the secretary to expend and invest those moneys for purposes of the act. A violation of the act is a misdemeanor.

This bill would change the composition of the council to include ~~11 voting members, appointed by the secretary,~~ and 3 nonvoting members and would make various changes to the requirements covering commercial salmon fishing, with regard to notification of the adopted regulations by the secretary.

The bill would require the secretary to establish a list of handlers, defined to include processors, receivers, and wholesalers, and would provide for referendum voting by those handlers to determine whether they shall be subject to the act. *Upon approval of the referendum, the bill would change the composition of the council to include 11 voting members appointed by the secretary.* Upon approval of the referendum, the bill would require handlers to pay specified assessments to the secretary and would require the secretary to expend and invest those moneys for purposes of the act, thereby making an appropriation. The bill would include handlers, if subject to the act, in the periodic referenda to determine whether the operation of the act and the council should be continued and would make other conforming changes. By authorizing handlers to be subject to the requirements of the act, the violation of which is a misdemeanor, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 76535 of the Food and Agricultural Code
- 2 is amended to read:

1 76535. (a) “Handler” means any of the following:

2 (1) A processor.

3 (2) A receiver.

4 (3) A wholesaler.

5 (4) An exporter.

6 (5) An individual licensed or working for a partnership,
7 corporation, or any other business unit or organization licensed
8 pursuant to subdivision (a) of Section 8032 of the Fish and Game
9 Code and engaged in the California commercial salmon fishery.

10 (b) “Handler” does not include a commercial salmon vessel
11 operator who sells salmon directly to another person.

12 SEC. 2. Section 76600 of the Food and Agricultural Code is
13 amended to read:

14 76600. The Legislature finds and declares that this chapter is
15 enacted in the exercise of the power of this state for the purposes
16 of protecting and furthering the public health and welfare.

17 SEC. 3. Section 76602 of the Food and Agricultural Code is
18 amended to read:

19 76602. The Legislature declares that the purposes of this
20 chapter are as follows:

21 (a) Enable the salmon fishery, with the aid of the state, to
22 develop, maintain, and expand the state, nationwide, and foreign
23 markets for salmon and salmon products harvested, processed,
24 manufactured, sold, or distributed in this state for human
25 consumption, and the use and consumption of salmon and salmon
26 products in those markets.

27 (b) Enable the salmon fishery to purchase, where there are
28 willing sellers, the allocation rights to harvest salmon, as they may
29 exist, of other salmon user groups to provide fishermen, and
30 thereby the salmon fishery, greater access to salmon stocks than
31 otherwise may have been provided pursuant to a conservation,
32 management, or allocation agreement.

33 (c) In aid, but not in limitation, of the purpose in subdivision
34 (a), authorize and enable the secretary to formulate and effectuate,
35 directly or in cooperation with other agencies, organizations,
36 including the Oregon Salmon Commission, and instrumentalities
37 that are specified in this chapter, sales stimulation and consumer
38 or other educational programs designed to increase the use and
39 consumption of salmon and salmon products for human
40 consumption.

1 (d) Provide funds for the administration and enforcement of this
2 chapter by mandatory fees to be collected in the manner prescribed
3 in this chapter.

4 SEC. 4. Section 76604 of the Food and Agricultural Code is
5 amended to read:

6 76604. If any provision of this chapter or the application thereof
7 to any person or circumstances is held invalid, that invalidity does
8 not affect other provisions or applications of this chapter that can
9 be given effect without the invalid provision or application, and
10 to this end the provisions of this chapter are severable.

11 SEC. 5. Section 76650 of the Food and Agricultural Code is
12 amended to read:

13 76650. The secretary shall administer and enforce this chapter,
14 and may exercise any of the administrative powers ~~which~~ *that* are
15 conferred by Sections 11180 to 11191, inclusive, of the
16 Government Code upon a head of a department. In order to
17 effectuate the declared purposes of this chapter, the secretary may
18 contract to carry out the declared intent and purposes of this
19 chapter.

20 SEC. 6. Section 76651 of the Food and Agricultural Code is
21 amended to read:

22 76651. Upon recommendation by the council, the secretary
23 may adopt, consistent with this chapter, any regulations that cover
24 the administration and enforcement of this chapter that may be
25 necessary to carry out the purposes and attain the objectives of
26 this chapter, except the secretary shall not engage in any salmon
27 promotion activity or pursue the purchase of allocation rights to
28 harvest salmon without the approval of a majority of the voting
29 members of the council.

30 SEC. 7. Section 76652 of the Food and Agricultural Code is
31 amended to read:

32 76652. Upon the adoption of any regulations under this chapter,
33 a copy of the regulations shall be displayed on the department's
34 Internet Web site. No regulation shall become effective until five
35 days after the date of display on the Internet Web site and mailing
36 to every marketing association and every receiver that is directly
37 affected by the regulations whose name and address may be on
38 file in the office of the secretary and to every person who files in
39 the office of the secretary a written request for a copy of the
40 regulations.

1 SEC. 8. Section 76700 of the Food and Agricultural Code is
2 amended to read:

3 76700. (a) There is in the state government the California
4 Salmon Council. The council shall be composed of ~~11~~ *nine* voting
5 members and their alternates, and three nonvoting members.

6 (b) *If handlers have become subject to this chapter pursuant to*
7 *Article 9.5 (commencing with Section 76961), the council shall be*
8 *composed of 11 voting members and their alternates, and three*
9 *nonvoting members.*

10 SEC. 9. Section 76701 of the Food and Agricultural Code is
11 amended to read:

12 76701. (a) The voting members of the council shall be
13 appointed by the secretary, after consultation with the Director of
14 Fish and Wildlife, giving due consideration to proper geographic
15 distribution. ~~The 11~~

16 (b) *The nine members shall include:*

17 (1) *Five commercial salmon vessel operators or their*
18 *representatives, and their alternates.*

19 (2) *Two handlers who are receivers or processors or their*
20 *representatives, and their alternates.*

21 (3) *One representative of a handler who is an exporter or a*
22 *wholesaler, and an alternate.*

23 (4) *One public member, and an alternate.*

24 (c) *If handlers become subject to this chapter pursuant to Article*
25 *9.5 (commencing with Section 76961), the 11 members shall*
26 *include:*

27 ~~(a)~~

28 (1) *Five commercial salmon vessel operators or their*
29 *representatives, and their alternates.*

30 ~~(b)~~

31 (2) *Three handlers who are receivers or processors or their*
32 *representatives, and their alternates.*

33 ~~(c)~~

34 (3) *Two representatives of a handler who is an exporter or a*
35 *wholesaler, and their alternates.*

36 ~~(d)~~

37 (4) *One public member, and an alternate.*

38 SEC. 10. Section 76702 of the Food and Agricultural Code is
39 amended to read:

1 76702. (a) The commercial salmon vessel operators and their
2 alternates shall be selected from lists of nominees submitted by
3 marketing associations and any organization deemed to represent
4 the majority of organized commercial salmon vessel operators,
5 and from nominations by individual commercial salmon vessel
6 operators.

7 (b) The receivers, processors, wholesalers, or exporters and
8 their alternates shall be selected from lists of nominees submitted
9 by an organization deemed to represent the majority of those
10 organized groups in the state, and from individual receivers,
11 processors, wholesalers, and exporters.

12 (c) The public member and alternate shall be selected by the
13 secretary from a list submitted by the commercial salmon vessel
14 operators and handler members of the council.

15 SEC. 11. Section 76705 of the Food and Agricultural Code is
16 amended to read:

17 76705. Any vacancy in the membership of the council that
18 occurs during the unexpired term shall be filled by the secretary
19 for the unexpired term from the eligible nominees. No council
20 member or alternate shall serve more than two consecutive
21 three-year terms. Service as an alternate does not disqualify a
22 person to then serve two additional terms as a member, and a
23 member who was appointed for a one-year or a two-year term may
24 serve two additional three-year terms.

25 SEC. 12. Section 76706 of the Food and Agricultural Code is
26 amended to read:

27 76706. The secretary may remove any member of the council
28 or alternate for cause, and, upon that removal, there is a vacancy
29 that shall be filled in the manner as provided for the unexpired
30 term in Section 76705.

31 SEC. 13. Section 76707 of the Food and Agricultural Code is
32 amended to read:

33 76707. The secretary shall give notice, not later than January
34 31 of each year, of the vacancies that will exist upon the expiration
35 of terms on March 31, in writing, to all marketing associations and
36 organizations deemed to represent the majority of organized
37 fishermen, or receivers, processors, wholesalers, and exporters,
38 and shall issue any press releases and public statements that the
39 secretary deems appropriate requesting nominations.

1 SEC. 14. Section 76708 of the Food and Agricultural Code is
2 amended to read:

3 76708. (a) The notice requesting nominations shall indicate
4 that nominations shall be mailed or sent electronically to the
5 secretary at his or her office in Sacramento and that the secretary
6 shall consider nominations sent electronically or postmarked not
7 later than March 1.

8 (b) Nominations shall set forth all of the following:

9 (1) The name and address of each nominee.

10 (2) Whether each nominee is being nominated as a member or
11 alternate member.

12 (3) The type of category for which the nominee is being
13 nominated.

14 (4) The list of qualifications and supporters, if any, for the
15 nominee.

16 (5) The name and address of the nominating marketing
17 association, organization, or individual.

18 SEC. 15. Section 76709 of the Food and Agricultural Code is
19 amended to read:

20 76709. The nonvoting members of the council shall be
21 representatives of the following agencies, as selected by the
22 secretary:

23 (a) The department.

24 (b) The Department of Fish and Wildlife.

25 (c) The California Sea Grant Program.

26 SEC. 16. Section 76712 of the Food and Agricultural Code is
27 amended to read:

28 76712. (a) The council shall select annually from its voting
29 members, to serve at its pleasure, a chair and vice chair.

30 (b) The chair and vice chair, together with four other voting
31 members, selected annually by the council, shall constitute the
32 executive committee of the council. The executive committee shall
33 have and exercise any powers of the council that the council may
34 delegate to it.

35 (c) If handlers have become subject to this chapter pursuant to
36 Article 9.5 (commencing with Section 76961), the officers and the
37 other members of the executive committee shall be equally divided
38 between commercial salmon vessel operators and handlers.

39 SEC. 17. Section 76714 of the Food and Agricultural Code is
40 amended to read:

1 76714. The voting members of the council shall receive forty
2 dollars (\$40) per day per diem for each day spent in actual
3 attendance at the meetings or on the business of the council and
4 shall be reimbursed for necessary traveling and other expenses
5 incurred in the performance of their official duties, except, during
6 the first year of council operations, when members shall serve at
7 their own expense. Nonvoting members shall be reimbursed at the
8 same rate as voting members when their agencies do not pay their
9 expenses. Alternates shall only be paid expenses and per diem for
10 meetings at which they serve as the replacement for the voting
11 member.

12 SEC. 18. Section 76715 of the Food and Agricultural Code is
13 amended to read:

14 76715. No member of the council, except members of the
15 executive committee, shall receive compensation for more than
16 three days' service per month. The chair may receive compensation
17 for not more than seven days per month.

18 SEC. 19. Section 76716 of the Food and Agricultural Code is
19 amended to read:

20 76716. The secretary may require any employee or agent of
21 the council to give a fidelity bond, executed by a surety company
22 that is authorized to do business in this state, in favor of the
23 secretary, in the sum, and containing any terms and conditions,
24 that the secretary may prescribe. The cost of the fidelity bonds of
25 employees or agents of the council shall be paid from the funds
26 that are collected pursuant to this chapter.

27 SEC. 20. Section 76717 of the Food and Agricultural Code is
28 amended to read:

29 76717. No member or employee of the council shall be held
30 responsible individually to any person for liability on any contract
31 or agreement of the council. All salaries, expenses, costs,
32 obligations, and liabilities that arise out of the administration and
33 enforcement of this chapter are payable only from funds that are
34 collected pursuant to this chapter.

35 SEC. 21. Section 76718 of the Food and Agricultural Code is
36 amended to read:

37 76718. An alternate member of the council shall sit as a voting
38 member of the council if the member for whom he or she is an
39 alternate fails for any reason to attend any meeting of the council.
40 The alternate member shall be compensated and reimbursed in the

1 same manner and to the same extent as a voting member when so
2 serving. When so serving, the alternate member has all of the
3 powers, duties, liabilities, and immunities of the member in whose
4 place he or she is serving, except that the alternate to the chair or
5 vice chair shall not succeed to the functions of these offices.

6 SEC. 22. Section 76750 of the Food and Agricultural Code is
7 amended to read:

8 76750. The duties of the council shall be advisory, except as
9 to those duties that may be delegated to it by the secretary or as
10 otherwise designated in this chapter. The council may, subject to
11 the approval of the secretary, exercise any of the following powers
12 that may be delegated to the council by the secretary:

13 (a) Recommend to the secretary administrative regulations that
14 relate to the administration and enforcement of this chapter.

15 (b) Investigate all matters that affect the administration of this
16 chapter, and to report violations of this chapter to the secretary.

17 (c) Employ and, at its pleasure, discharge a manager and such
18 clerical help and other employees as it deems necessary, and to
19 prescribe their duties and powers and fix their compensation.

20 (d) Contract with, or employ, and at its pleasure, discharge any
21 other persons that it deems necessary, and in the cases of those
22 persons it shall employ, to outline their powers and duties and fix
23 their compensation.

24 (e) Establish offices and incur expenses incidental thereto.

25 (f) Make contracts and other agreements that may be proper to
26 promote the sale of salmon and salmon products on either a local,
27 state, national, or international basis.

28 (g) (1) Cooperate with any other local, state, or national
29 commission, organization, or agency, whether voluntary or created
30 by state or federal law, including, but not limited to, the Oregon
31 Salmon Commission, and instrumentalities that are engaged in
32 work or activities similar to the work and activities of the council,
33 and to recommend to the secretary the making of contracts and
34 agreements with those organizations or agencies for carrying on
35 joint programs of education, research, publicity, and advertising.

36 (2) Recommend to the secretary the making of contracts and
37 agreements with other councils, commodity commissions, or
38 producer organizations for joint programs of publicity and
39 advertising where those products are compatible with the promotion
40 of salmon and salmon products.

1 (3) In matters of research, cooperate with organizations of
2 recognized professional standing that are adequately equipped
3 with facilities for the research that is contemplated.

4 (h) Recommend to the secretary the institution and promotion
5 of scientific research to develop or discover, or both, the health,
6 food, therapeutic, dietetic, and other uses of salmon.

7 (i) (1) Receive, invest, and disburse funds pursuant to Article
8 8 (commencing with Section 76900).

9 (2) Allocate funds to agencies not specifically or solely engaged
10 in carrying on research or promotion for salmon, if the council and
11 the secretary are satisfied that those allocations will be beneficial
12 to the California salmon fishery and will tend to effectuate the
13 declared purposes of this chapter.

14 (j) Present facts to, and negotiate with, state, federal, and foreign
15 agencies on matters that affect this chapter.

16 SEC. 23. Section 76800 of the Food and Agricultural Code is
17 amended to read:

18 76800. The secretary shall conduct, or may cause the council
19 to conduct, programs of education, research, or public information,
20 that are designed to accomplish the following purposes, among
21 others:

22 (a) Increase the consumption of salmon and salmon products.

23 (b) Gather, publicize, and diffuse accurate and scientific
24 information—~~which that~~ shows the importance of the use and
25 consumption of salmon and salmon products in relation to the
26 public health, economy, and diet, and proper nutrition of children
27 and adults.

28 (c) Study means and methods—~~which that~~ are employed in
29 harvesting, processing, manufacturing, marketing, and distributing
30 salmon and salmon products in order to comply with the sanitary
31 and other regulations—~~which that~~ are imposed by municipalities,
32 this state, and the United States.

33 (d) Gather and disseminate information regarding the high
34 standards—~~which that~~ are observed and imposed to—~~insure~~ ensure
35 pure and wholesome salmon and salmon products.

36 (e) Gather and disseminate information regarding the harmful
37 effects on the public health resulting from the breakdown or
38 instability of the salmon fishery, the factors and conditions peculiar
39 to the salmon fishery—~~which that~~ tend to cause an unbalanced

1 production, and the price of salmon and salmon products in relation
2 to the cost of other items of food in a balanced diet.

3 (f) Gather and disseminate information regarding the factors
4 ~~which~~ *that* tend to promote increased consumption of salmon and
5 salmon products, stabilize the fishery, and foster a better
6 understanding and more efficient cooperation among fishermen,
7 receivers, processors, and the consuming public.

8 SEC. 24. Section 76851 of the Food and Agricultural Code is
9 amended to read:

10 76851. If the Attorney General determines under Section 76850
11 that selling allocation rights to harvest salmon would be binding
12 and consistent with California public policy and if an agreement
13 for purchase of allocation rights of harvest is determined to be
14 lawful and binding, the Director of Fish and Wildlife may, in
15 consultation with the secretary, develop a program to authorize
16 the transfer of the allocation rights consistent with all other state
17 or federal laws and regulations. Upon authorization by the Director
18 of Fish and Wildlife, the secretary may, at a price and quantity
19 agreed to by the council, and with funds available from the council,
20 enter into an agreement for the purchase of the allocation rights
21 to harvest from another user holding bona fide rights to harvest
22 stocks of salmon.

23 SEC. 25. Section 76852 of the Food and Agricultural Code is
24 amended to read:

25 76852. The council, in any negotiations for the purchase of
26 tribal allocations of rights to harvest, if any, however they may
27 exist, may, with the secretary, seek federal or other funds as may
28 be available to match the council funds for the purchase of
29 allocation rights to harvest in recognition of the federal
30 government's responsibility to the Indian people and their
31 resources.

32 SEC. 26. Section 76900 of the Food and Agricultural Code is
33 amended to read:

34 76900. Programs and administration of the activities that are
35 conducted pursuant to this chapter shall be funded as follows:

36 (a) Every fisherman who sells salmon to any person, shall pay
37 a fee, as specified in this article, for each pound or fraction thereof,
38 of salmon taken and sold by the fisherman. The fee shall be
39 collected from the fisherman and remitted to the secretary, by any
40 person licensed to receive fish to whom the salmon are sold. If the

1 salmon are sold to any other person the fee shall be remitted to the
2 secretary by the fisherman.

3 (b) Every handler subject to this chapter pursuant to Article 9.5
4 (commencing with Section 76961) shall pay the fee specified in
5 this article for each pound or fraction thereof, of salmon received
6 from a fisherman. The fee shall be remitted to the secretary by the
7 handler.

8 SEC. 27. Section 76901 of the Food and Agricultural Code is
9 amended to read:

10 76901. Consistent with Section 8041 of the Fish and Game
11 Code, the following persons shall remit the fees required by
12 subdivision (a) of Section 76900 to the secretary:

13 (a) Any person who is required to be licensed as a fish receiver
14 by Section 8033 of the Fish and Game Code, and receives salmon
15 in this state from persons conducting the activities of a commercial
16 fisherman.

17 (b) Any commercial fisherman who sells salmon to any person
18 who is not a licensed fish receiver.

19 SEC. 28. Section 76901.5 of the Food and Agricultural Code
20 is amended to read:

21 76901.5. (a) Each person who is required by this chapter to
22 collect a fee from fishermen or pay a fee as a handler shall maintain
23 a complete and accurate record of all transactions subject to the
24 fee. These records shall contain any information required by the
25 secretary relating to the collection of fees, shall be preserved for
26 a period of three years, and shall be available for review
27 immediately upon demand by the secretary or the secretary's duly
28 authorized agent.

29 (b) Any information obtained by the secretary or the secretary's
30 duly authorized agent from inspection or audit of records shall be
31 confidential and shall not be disclosed except when required by a
32 court order after a hearing in a judicial proceeding.

33 SEC. 29. Section 76903 of the Food and Agricultural Code is
34 amended to read:

35 76903. The fees imposed under this article shall be paid
36 monthly to the secretary within 60 days after the last day of each
37 month. If fees are not paid within 60 days after the month for which
38 they are due, the secretary shall collect amounts owing under the
39 procedures prescribed for sales and use taxes provided in Chapter
40 5 (commencing with Section 6451) of Part 1 of Division 2 of the

1 Revenue and Taxation Code, insofar as they may be applicable,
2 and for those purposes, “board” means the department and “the
3 date of which the tax became due and payable,” means that date
4 60 days after the month for which it is due.

5 SEC. 30. Section 76904 of the Food and Agricultural Code is
6 amended to read:

7 76904. Sections 8058 to 8070, inclusive, of the Fish and Game
8 Code apply to claims for overpayment of fees to the secretary. For
9 purposes of this section, “department,” as used in those sections,
10 means the Department of Food and Agriculture, and “landing tax”
11 means the fees imposed pursuant to this article.

12 SEC. 31. Section 76904.5 of the Food and Agricultural Code
13 is amended to read:

14 76904.5. The secretary may consult with and enter into
15 agreements with the Director of Fish and Wildlife where necessary
16 and reasonable, to assist in the administration of this chapter and
17 in enforcing compliance with this chapter. If an agreement is
18 established, the secretary shall reimburse the Department of Fish
19 and Wildlife for administrative costs associated with this chapter.

20 SEC. 32. Section 76905 of the Food and Agricultural Code is
21 amended to read:

22 76905. After one year after the establishment of the council,
23 and not before the commercial salmon season of 1990, the council
24 may recommend to the secretary an increase over and above the
25 two cents (\$0.02) per pound fee required by Section 76902 for the
26 council to carry out its duties under this chapter. The council shall
27 consider the budget for the council, funding for activities conducted
28 pursuant to Article 6 (commencing with Section 76800) and Article
29 7 (commencing with Section 76850), as well as the market price
30 of salmon, landing taxes imposed by the Department of Fish and
31 Wildlife, assessments charged by marketing associations, and any
32 other relevant factor affecting the economics of the salmon fishery.
33 The council shall, in making any determination to increase fees,
34 consult with marketing associations and, if the recommended
35 increase would exceed seven cents (\$0.07) per pound of salmon
36 sold, the council shall conduct a vote of persons on the secretary’s
37 lists established pursuant to Article 9 (commencing with Section
38 76950) and, *if applicable*, Article 9.5 (commencing with Section
39 76961). The secretary may not increase any fee without a majority
40 approval of the voting members of the council.

1 SEC. 33. Section 76906 of the Food and Agricultural Code is
2 amended to read:

3 76906. (a) All money that is collected by the secretary pursuant
4 to this chapter shall be deposited in any bank, or other depository
5 that is approved by the Director of Finance, allocated to the
6 purposes of this chapter only, and disbursed by the secretary or
7 the council only for the necessary expenses that are incurred by
8 the council and the secretary in carrying out this chapter, including
9 expenses generated by the auditing requirement contained in this
10 section. Money that is so collected shall be deposited and disbursed
11 in conformity with appropriate auditing regulations that are
12 prescribed by the secretary. The expenditure of the money is
13 exempt from ~~Section~~ Sections 925.6 and 16304 of the Government
14 Code.

15 (b) All expenditures by the council and the secretary shall be
16 audited at least once every two years by one of the following
17 means:

18 (1) By contract with a certified public ~~account~~ *accountant*.

19 (2) By contract with a public accountant holding a valid permit
20 issued by the California Board of Accountancy.

21 (3) By contract with a public accounting firm.

22 (4) By agreement with the Department of Finance.

23 SEC. 34. Section 76907 of the Food and Agricultural Code is
24 amended to read:

25 76907. Money that is deposited pursuant to Section 76906 may
26 be invested and reinvested by the Treasurer or the council in any
27 of the securities described in Article 1 (commencing with Section
28 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the
29 Government Code, or placed in a depository as provided in Chapter
30 4 (commencing with Section 16500) of Part 2 of Division 4 of
31 Title 2 of the Government Code, and handled in the same manner
32 as money in the State Treasury. For these purposes, the money
33 may also be combined with funds that are determined by the
34 secretary to be available for investment pursuant to Section 58939.
35 Any increment that is received from investment, reinvestment, or
36 deposit made by the Treasurer shall be remitted to the council. The
37 Treasurer may deduct from the remittance an amount equal to the
38 reasonable cost incurred in carrying out this section or may bill
39 the council for the costs and the council shall pay the costs from
40 money that is collected for it pursuant to this chapter.

1 SEC. 35. Section 76908 of the Food and Agricultural Code is
2 amended to read:

3 76908. The secretary, after consultation with the council, shall
4 prepare an annual budget that sets forth in reasonable detail the
5 proposed expenditures that the secretary deems necessary for the
6 performance by him or her and by the department of the duties
7 that are imposed upon them by this chapter. The secretary shall
8 also prepare and submit to the council an annual statement, in
9 reasonable detail, of the secretary's expenditures pursuant to this
10 chapter.

11 SEC. 36. Section 76909 of the Food and Agricultural Code is
12 amended to read:

13 76909. The secretary may receive funds in amounts that may
14 be reasonable and necessary to defray the initial expenses in
15 making effective this chapter. The secretary shall reimburse those
16 persons from whom those funds are received in the amounts
17 received from any funds ~~which~~ *that* are received by the secretary
18 pursuant to this article.

19 SEC. 37. Section 76910 of the Food and Agricultural Code is
20 amended to read:

21 76910. The secretary may accept contributions to advance the
22 purposes of this chapter. If requested by the donor, the
23 contributions shall be segregated and separately maintained for
24 the use of the council.

25 SEC. 38. Article 9 (commencing with Section 76950) of
26 Chapter 16 of Part 2 of Division 22 of the Food and Agricultural
27 Code is repealed.

28 SEC. 39. Article 9 (commencing with Section 76950) is added
29 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural
30 Code, to read:

31
32 Article 9. Implementation and Voting Procedure for Fishermen
33

34 76950. On or before August 15, 1989, the secretary shall
35 establish a list of commercial salmon vessel operators eligible to
36 vote on implementation of this chapter. In establishing the list, the
37 secretary may require that handlers and commercial salmon vessel
38 operators submit the names and mailing addresses of all
39 commercial salmon vessel operators who harvested salmon during
40 the previous season, as evidenced by receipts prepared under

1 Section 8043 of the Fish and Game Code, together with the volume
2 of salmon landed. The secretary may also request the assistance
3 of the Director of Fish and Wildlife for the names of all commercial
4 salmon vessel operators who landed salmon the previous season
5 and the volume of landings for each vessel. The request for the
6 information shall be in writing and shall be subject to the
7 confidentiality provisions of Section 8022 of the Fish and Game
8 Code. The list shall be filed within 30 days following receipt of
9 the written notice.

10 76951. Any commercial salmon vessel operator whose name
11 does not appear upon the secretary's list of commercial salmon
12 vessel operators affected may have his or her name established on
13 the list by filing with the secretary a signed statement, identifying
14 himself or herself as a commercial salmon vessel operator and
15 furnishing evidence of having made landings the previous year
16 through the submission of receipts prepared under Section 8043
17 of the Fish and Game Code. Failure to be on the list does not
18 exempt a commercial salmon vessel operator from paying
19 assessments under this chapter.

20 76952. This chapter, except as necessary to conduct an
21 implementation referendum vote under this ~~article~~ *article*, shall
22 not become operative until the secretary finds in an implementation
23 referendum conducted by the secretary under this ~~article~~, *article*
24 that at least 40 percent of the total number of commercial salmon
25 vessel operators from the list established by the secretary have
26 participated by voting in the referendum, and the secretary finds
27 either of the following:

28 (a) Sixty-five percent or more of the commercial salmon vessel
29 operators who voted in the referendum voted in favor of
30 implementing this chapter, and the commercial salmon vessel
31 operators who voted in the referendum marketed 51 percent or
32 more of the total quantity of salmon landed in the preceding fiscal
33 year by all the commercial salmon vessel operators who voted in
34 the referendum.

35 (b) Fifty-one percent of the commercial salmon vessel operators
36 who voted in the referendum voted in favor of implementing this
37 chapter, and the commercial salmon vessel operators who voted
38 in the referendum marketed 65 percent or more of the total quantity
39 of salmon landed in the preceding fiscal year by all of the
40 commercial salmon vessel operators who voted in the referendum.

1 76953. The secretary shall establish a period in which to
2 conduct the implementation referendum ~~which~~ *that* shall not be
3 more than 60 days in duration, and may prescribe additional
4 procedures as may be necessary to conduct the referendum. If the
5 initial period established is less than 30 days, the secretary may
6 extend that period. However, the total referendum period may not
7 exceed 60 days.

8 76953.5. (a) Before the referendum vote is conducted by the
9 secretary, the proponents of the council shall deposit with the
10 secretary the amount that the secretary determines is necessary to
11 defray the expenses of preparing the necessary lists and information
12 and conducting the referendum vote.

13 (b) Any funds not used in carrying out this article shall be
14 returned to the proponents of the council who deposited the funds
15 with the secretary.

16 (c) Upon establishment of the council, the council may
17 reimburse the proponents of the council for any funds deposited
18 with the secretary that were used in carrying out this article, and
19 for any legal expenses and costs incurred in establishing the
20 council.

21 (d) After approval by the Commercial Salmon Trollers Advisory
22 Committee created pursuant to Section 7862 of the Fish and Game
23 Code, the Department of Fish and Wildlife may expend funds
24 collected pursuant to Section 7861 of the Fish and Game Code,
25 for payment to the Secretary of Food and Agriculture to pay
26 necessary costs incurred in conducting the implementation
27 referendum vote. If the commercial salmon vessel operators who
28 voted in the implementation referendum voted in favor of
29 implementing this article, as provided in Section 76952, the council
30 shall reimburse the Commercial Salmon Stamp Account in the
31 Fish and Game Preservation Fund all amounts received from that
32 fund.

33 76954. Nonreceipt of a ballot shall not invalidate a referendum.

34 76955. (a) If the secretary finds that a favorable vote has been
35 given, the secretary shall so certify and give notice of the favorable
36 vote to all commercial salmon vessel operators whose names and
37 addresses may be on file with the secretary.

38 (b) If the secretary finds that a favorable vote has not been given,
39 the secretary shall so certify and declare all provisions of this
40 chapter inoperative.

1 SEC. 40. Article 9.5 (commencing with Section 76961) is
2 added to Chapter 16 of Part 2 of Division 22 of the Food and
3 Agricultural Code, to read:

4

5 Article 9.5. Implementation and Voting Procedure for Handlers

6

7 76961. On or before _____, *January 31, 2016*, the secretary shall
8 establish a list of handlers eligible to vote on whether they shall
9 be subject to this chapter. In establishing the list, the secretary may
10 require that handlers provide receipts of the quantity of salmon
11 received from commercial salmon vessel operators in the previous
12 season. The secretary may also request the assistance of the
13 Director of Fish and Wildlife in compiling the list. The request for
14 the information shall be in writing and shall be subject to the
15 confidentiality provisions of Section 8022 of the Fish and Game
16 Code. The list shall be filed within 30 days following receipt of
17 the written notice.

18 76962. Any handler whose name does not appear upon the
19 secretary's list of handlers may have his or her name established
20 on the list by filing with the secretary a signed statement,
21 identifying himself or herself as a handler. Failure to be on the list
22 does not exempt a handler from paying assessments under this
23 chapter.

24 76963. This chapter shall not apply to handlers until the
25 secretary finds in a referendum conducted by the secretary under
26 this article that at least 40 percent of the total number of handlers
27 from the list established by the secretary have participated by
28 voting in the referendum, and the secretary finds either of the
29 following:

30 (a) Sixty-five percent or more of the handlers who voted in the
31 referendum voted in favor of being subject to this chapter, and the
32 handlers who voted in the referendum handled 51 percent or more
33 of the total quantity of salmon landed in the preceding fiscal year
34 by all the handlers who voted in the referendum.

35 (b) Fifty-one percent of the handlers who voted in the
36 referendum voted in favor of being subject to this chapter, and the
37 handlers who voted in the referendum marketed 65 percent or more
38 of the total quantity of salmon landed in the preceding fiscal year
39 by all of the handlers who voted in the referendum.

1 76964. The secretary shall establish a period in which to
2 conduct the referendum that shall not be more than 60 days in
3 duration, and may prescribe additional procedures as may be
4 necessary to conduct the referendum. If the initial period
5 established is less than 30 days, the secretary may extend that
6 period. However, the total referendum period may not exceed 60
7 days.

8 76965. (a) Before the referendum vote is conducted by the
9 secretary, the proponents of this article shall deposit with the
10 secretary the amount that the secretary determines is necessary to
11 defray the expenses of preparing the necessary lists and information
12 and conducting the referendum vote.

13 (b) Any funds not used in carrying out this article shall be
14 returned to the proponents of this article who deposited the funds
15 with the secretary.

16 (c) Upon passage of the referendum, the council may reimburse
17 the proponents of this article for any funds deposited with the
18 secretary that were used in carrying out this article, and for any
19 legal expenses and costs incurred in approval of this article.

20 76966. Nonreceipt of a ballot shall not invalidate a referendum.

21 76967. (a) If the secretary finds that a favorable vote has been
22 given, the secretary shall so certify and give notice of the favorable
23 vote to all handlers whose names and addresses may be on file
24 with the secretary.

25 (b) If the secretary finds that a favorable vote has not been given,
26 the secretary shall so certify and declare this article inoperative.

27 SEC. 41. Article 10 (commencing with Section 76971) is added
28 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural
29 Code, to read:

30

31

Article 10. Continuation

32

33 76971. (a) Between January 1, 2019, and February 28, 2019,
34 and in the same period each five years thereafter, the secretary
35 shall, by the public hearing procedure, and if appropriate, the
36 procedure specified in this article, determine whether the council
37 program provided for in this chapter shall continue in effect.

38 (b) If the secretary finds from evidence received at the hearing
39 that a substantial question exists as to whether the council program
40 is contrary to or does not effectuate the declared purposes or

1 provisions of this chapter or receives in writing a referendum
2 petition with the signatures of 25 percent or more of the number
3 of commercial salmon vessel operators who made landings in the
4 previous year, as evidenced by receipts prepared under Section
5 8043 of the Fish and Game Code, and, if applicable, 25 percent or
6 more of the handlers who are subject to this chapter, the council
7 program shall be submitted to referendum as provided in this
8 article.

9 76972. If the secretary determines that a referendum procedure
10 is appropriate, the secretary shall establish a referendum period of
11 not to exceed 30 days during which period ballots shall be
12 submitted to every commercial salmon vessel operator and, if
13 applicable, every handler subject to this chapter on a statewide
14 basis. If the secretary determines that the referendum period does
15 not provide sufficient time for the balloting, the secretary may
16 extend the referendum for an additional period not to exceed 30
17 days. The ballots shall provide a “yes” or “no” voting alternative
18 to the following question: “Shall the California Salmon Council
19 be continued for the next five fiscal years commencing April 1,
20 following this referendum?”

21 76973. If the council program is submitted to a referendum as
22 provided in this article, the secretary shall find that commercial
23 salmon vessel operators and, if applicable, handlers subject to this
24 chapter statewide have approved the council program if the
25 secretary finds either of the following:

26 (a) Sixty-five percent or more of the total number of commercial
27 salmon vessel operators and handlers, who voted in the referendum
28 and who harvested 51 percent or more of the total amount of
29 salmon landed during the previous fiscal year by all commercial
30 salmon vessel operators and handlers who voted in the referendum,
31 approve the program.

32 (b) Fifty-one percent or more of the total number of commercial
33 salmon vessel operators and handlers, who voted in the review
34 referendum and who harvested 65 percent or more of the total
35 amount of salmon landed during the previous fiscal year by all
36 commercial salmon vessel operators and handlers who voted in
37 the review referendum, approve the program.

38 76974. (a) This chapter shall continue if commercial salmon
39 vessel operators and handlers vote for continuation in accordance
40 with the requirements of this article.

1 (b) This chapter shall not continue in operation if commercial
2 salmon vessel operators and handlers vote not to continue in
3 accordance with the requirements of this article.

4 (c) If commercial salmon vessel operators vote for continuation
5 and handlers do not vote for continuation, or if handlers vote for
6 continuation and commercial salmon vessel operators do not vote
7 for continuation, this chapter shall continue to be operative for the
8 group voting for continuation and shall no longer apply to the
9 group voting against continuation.

10 SEC. 42. Article 11 (commencing with Section 76981) is added
11 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural
12 Code, to read:

13
14 Article 11. Termination

15
16 76981. If the commercial salmon vessel operators and the
17 handlers vote to terminate the council pursuant to Article 10
18 (commencing with Section 76971), the council shall remain in
19 existence for the purpose of furnishing the secretary with a
20 complete record of its outstanding financial obligations, accrued
21 and to accrue. The secretary shall pay from the money deposited
22 and disbursed any outstanding obligations and any obligations
23 incurred by the secretary and the department under the terms and
24 provisions of this section. Any money that remains shall be retained
25 by the secretary to defray the expenses of formulation, issuance,
26 administration, or enforcement of any subsequent program for
27 salmon promotion. If no such program is undertaken within a
28 period of three years from the date of termination of the council,
29 that money shall be withdrawn from the approved depository and
30 paid into the special account for enhancement and restoration
31 programs established pursuant to Section 7861 of the Fish and
32 Game Code.

33 SEC. 43. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O