

AMENDED IN ASSEMBLY MAY 18, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 958**

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**Introduced by Committee on Agriculture**

February 26, 2015

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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 an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 958, as amended, Committee on Agriculture. California Salmon Marketing and Development 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 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 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 *fishermen who sell salmon to the ultimate consumer and* 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.~~  
13    SECTION 1. Section 76600 of the Food and Agricultural Code  
14    is amended to read:

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

18    ~~SEC. 3.~~  
19    SEC. 2. Section 76602 of the Food and Agricultural Code is  
20    amended to read:

21    76602. The Legislature declares that the purposes of this  
22    chapter are as follows:

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

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

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

1 consumption of salmon and salmon products for human  
2 consumption.

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

6 ~~SEC. 4.~~

7 *SEC. 3.* Section 76604 of the Food and Agricultural Code is  
8 amended to read:

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

14 ~~SEC. 5.~~

15 *SEC. 4.* Section 76650 of the Food and Agricultural Code is  
16 amended to read:

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

24 ~~SEC. 6.~~

25 *SEC. 5.* Section 76651 of the Food and Agricultural Code is  
26 amended to read:

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

35 ~~SEC. 7.~~

36 *SEC. 6.* Section 76652 of the Food and Agricultural Code is  
37 amended to read:

38 76652. Upon the adoption of any regulations under this chapter,  
39 a copy of the regulations shall be displayed on the department's  
40 Internet Web site. No regulation shall become effective until five

1 days after the date of display on the Internet Web site and mailing  
2 to every marketing association and every receiver that is directly  
3 affected by the regulations whose name and address may be on  
4 file in the office of the secretary and to every person who files in  
5 the office of the secretary a written request for a copy of the  
6 regulations.

7 ~~SEC. 8.~~

8 *SEC. 7.* Section 76700 of the Food and Agricultural Code is  
9 amended to read:

10 76700. (a) There is in the state government the California  
11 Salmon Council. The council shall be composed of nine voting  
12 members and their alternates, and three nonvoting members.

13 (b) If handlers have become subject to this chapter pursuant to  
14 Article 9.5 (commencing with Section 76961), the council shall  
15 be composed of 11 voting members and their alternates, and three  
16 nonvoting members.

17 ~~SEC. 9.~~

18 *SEC. 8.* Section 76701 of the Food and Agricultural Code is  
19 amended to read:

20 76701. (a) The voting members of the council shall be  
21 appointed by the secretary, after consultation with the Director of  
22 Fish and Wildlife, giving due consideration to proper geographic  
23 distribution.

24 (b) The nine members shall include:

25 (1) Five commercial salmon vessel operators or their  
26 representatives, and their alternates.

27 (2) Two handlers who are receivers or processors or their  
28 representatives, and their alternates.

29 (3) One representative of a handler who is an exporter or a  
30 wholesaler, and an alternate.

31 (4) One public member, and an alternate.

32 (c) If handlers become subject to this chapter pursuant to Article  
33 9.5 (commencing with Section 76961), the 11 members shall  
34 include:

35 (1) Five commercial salmon vessel operators or their  
36 representatives, and their alternates.

37 (2) Three handlers who are receivers or processors or their  
38 representatives, and their alternates.

39 (3) Two representatives of a handler who is an exporter or a  
40 wholesaler, and their alternates.

1 (4) One public member, and an alternate.

2 ~~SEC. 10.~~

3 *SEC. 9.* Section 76702 of the Food and Agricultural Code is  
4 amended to read:

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

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

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

19 ~~SEC. 11.~~

20 *SEC. 10.* Section 76705 of the Food and Agricultural Code is  
21 amended to read:

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

30 ~~SEC. 12.~~

31 *SEC. 11.* Section 76706 of the Food and Agricultural Code is  
32 amended to read:

33 76706. The secretary may remove any member of the council  
34 or alternate for cause, and, upon that removal, there is a vacancy  
35 that shall be filled in the manner as provided for the unexpired  
36 term in Section 76705.

37 ~~SEC. 13.~~

38 *SEC. 12.* Section 76707 of the Food and Agricultural Code is  
39 amended to read:

1 76707. The secretary shall give notice, not later than January  
2 31 of each year, of the vacancies that will exist upon the expiration  
3 of terms on March 31, in writing, to all marketing associations and  
4 organizations deemed to represent the majority of organized  
5 fishermen, or receivers, processors, wholesalers, and exporters,  
6 and shall issue any press releases and public statements that the  
7 secretary deems appropriate requesting nominations.

8 ~~SEC. 14.~~

9 *SEC. 13.* Section 76708 of the Food and Agricultural Code is  
10 amended to read:

11 76708. (a) The notice requesting nominations shall indicate  
12 that nominations shall be mailed or sent electronically to the  
13 secretary at his or her office in Sacramento and that the secretary  
14 shall consider nominations sent electronically or postmarked not  
15 later than March 1.

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

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

18 (2) Whether each nominee is being nominated as a member or  
19 alternate member.

20 (3) The type of category for which the nominee is being  
21 nominated.

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

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

26 ~~SEC. 15.~~

27 *SEC. 14.* Section 76709 of the Food and Agricultural Code is  
28 amended to read:

29 76709. The nonvoting members of the council shall be  
30 representatives of the following agencies, as selected by the  
31 secretary:

32 (a) The department.

33 (b) The Department of Fish and Wildlife.

34 (c) The California Sea Grant Program.

35 ~~SEC. 16.~~

36 *SEC. 15.* Section 76712 of the Food and Agricultural Code is  
37 amended to read:

38 76712. (a) The council shall select annually from its voting  
39 members, to serve at its pleasure, a chair and vice chair.

1 (b) The chair and vice chair, together with four other voting  
2 members, selected annually by the council, shall constitute the  
3 executive committee of the council. The executive committee shall  
4 have and exercise any powers of the council that the council may  
5 delegate to it.

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

10 ~~SEC. 17.~~

11 *SEC. 16.* Section 76714 of the Food and Agricultural Code is  
12 amended to read:

13 76714. The voting members of the council shall receive forty  
14 dollars (\$40) per day per diem for each day spent in actual  
15 attendance at the meetings or on the business of the council and  
16 shall be reimbursed for necessary traveling and other expenses  
17 incurred in the performance of their official duties, except, during  
18 the first year of council operations, when members shall serve at  
19 their own expense. Nonvoting members shall be reimbursed at the  
20 same rate as voting members when their agencies do not pay their  
21 expenses. Alternates shall only be paid expenses and per diem for  
22 meetings at which they serve as the replacement for the voting  
23 member.

24 ~~SEC. 18.~~

25 *SEC. 17.* Section 76715 of the Food and Agricultural Code is  
26 amended to read:

27 76715. No member of the council, except members of the  
28 executive committee, shall receive compensation for more than  
29 three days' service per month. The chair may receive compensation  
30 for not more than seven days per month.

31 ~~SEC. 19.~~

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

34 76716. The secretary may require any employee or agent of  
35 the council to give a fidelity bond, executed by a surety company  
36 that is authorized to do business in this state, in favor of the  
37 secretary, in the sum, and containing any terms and conditions,  
38 that the secretary may prescribe. The cost of the fidelity bonds of  
39 employees or agents of the council shall be paid from the funds  
40 that are collected pursuant to this chapter.

1     ~~SEC. 20.~~

2     *SEC. 19.* Section 76717 of the Food and Agricultural Code is  
3 amended to read:

4     76717. No member or employee of the council shall be held  
5 responsible individually to any person for liability on any contract  
6 or agreement of the council. All salaries, expenses, costs,  
7 obligations, and liabilities that arise out of the administration and  
8 enforcement of this chapter are payable only from funds that are  
9 collected pursuant to this chapter.

10    ~~SEC. 21.~~

11    *SEC. 20.* Section 76718 of the Food and Agricultural Code is  
12 amended to read:

13    76718. An alternate member of the council shall sit as a voting  
14 member of the council if the member for whom he or she is an  
15 alternate fails for any reason to attend any meeting of the council.  
16 The alternate member shall be compensated and reimbursed in the  
17 same manner and to the same extent as a voting member when so  
18 serving. When so serving, the alternate member has all of the  
19 powers, duties, liabilities, and immunities of the member in whose  
20 place he or she is serving, except that the alternate to the chair or  
21 vice chair shall not succeed to the functions of these offices.

22    ~~SEC. 22.~~

23    *SEC. 21.* Section 76750 of the Food and Agricultural Code is  
24 amended to read:

25    76750. The duties of the council shall be advisory, except as  
26 to those duties that may be delegated to it by the secretary or as  
27 otherwise designated in this chapter. The council may, subject to  
28 the approval of the secretary, exercise any of the following powers  
29 that may be delegated to the council by the secretary:

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

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

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

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

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

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

5 (g) (1) Cooperate with any other local, state, or national  
6 commission, organization, or agency, whether voluntary or created  
7 by state or federal law, including, but not limited to, the Oregon  
8 Salmon Commission, and instrumentalities that are engaged in  
9 work or activities similar to the work and activities of the council,  
10 and to recommend to the secretary the making of contracts and  
11 agreements with those organizations or agencies for carrying on  
12 joint programs of education, research, publicity, and advertising.

13 (2) Recommend to the secretary the making of contracts and  
14 agreements with other councils, commodity commissions, or  
15 producer organizations for joint programs of publicity and  
16 advertising where those products are compatible with the promotion  
17 of salmon and salmon products.

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

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

24 (i) (1) Receive, invest, and disburse funds pursuant to Article  
25 8 (commencing with Section 76900).

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

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

33 ~~SEC. 23.~~

34 *SEC. 22.* Section 76800 of the Food and Agricultural Code is  
35 amended to read:

36 76800. The secretary shall conduct, or may cause the council  
37 to conduct, programs of education, research, or public information,  
38 that are designed to accomplish the following purposes, among  
39 others:

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

1 (b) Gather, publicize, and diffuse accurate and scientific  
2 information that shows the importance of the use and consumption  
3 of salmon and salmon products in relation to the public health,  
4 economy, and diet, and proper nutrition of children and adults.

5 (c) Study means and methods that are employed in harvesting,  
6 processing, manufacturing, marketing, and distributing salmon  
7 and salmon products in order to comply with the sanitary and other  
8 regulations that are imposed by municipalities, this state, and the  
9 United States.

10 (d) Gather and disseminate information regarding the high  
11 standards that are observed and imposed to ensure pure and  
12 wholesome salmon and salmon products.

13 (e) Gather and disseminate information regarding the harmful  
14 effects on the public health resulting from the breakdown or  
15 instability of the salmon fishery, the factors and conditions peculiar  
16 to the salmon fishery that tend to cause an unbalanced production,  
17 and the price of salmon and salmon products in relation to the cost  
18 of other items of food in a balanced diet.

19 (f) Gather and disseminate information regarding the factors  
20 that tend to promote increased consumption of salmon and salmon  
21 products, stabilize the fishery, and foster a better understanding  
22 and more efficient cooperation among fishermen, receivers,  
23 processors, and the consuming public.

24 ~~SEC. 24.~~

25 *SEC. 23.* Section 76851 of the Food and Agricultural Code is  
26 amended to read:

27 76851. If the Attorney General determines under Section 76850  
28 that selling allocation rights to harvest salmon would be binding  
29 and consistent with California public policy and if an agreement  
30 for purchase of allocation rights of harvest is determined to be  
31 lawful and binding, the Director of Fish and Wildlife may, in  
32 consultation with the secretary, develop a program to authorize  
33 the transfer of the allocation rights consistent with all other state  
34 or federal laws and regulations. Upon authorization by the Director  
35 of Fish and Wildlife, the secretary may, at a price and quantity  
36 agreed to by the council, and with funds available from the council,  
37 enter into an agreement for the purchase of the allocation rights  
38 to harvest from another user holding bona fide rights to harvest  
39 stocks of salmon.

1 ~~SEC. 25.~~

2 *SEC. 24.* Section 76852 of the Food and Agricultural Code is  
3 amended to read:

4 76852. The council, in any negotiations for the purchase of  
5 tribal allocations of rights to harvest, if any, however they may  
6 exist, may, with the secretary, seek federal or other funds as may  
7 be available to match the council funds for the purchase of  
8 allocation rights to harvest in recognition of the federal  
9 government’s responsibility to the Indian people and their  
10 resources.

11 ~~SEC. 26.~~

12 *SEC. 25.* Section 76900 of the Food and Agricultural Code is  
13 amended to read:

14 76900. Programs and administration of the activities that are  
15 conducted pursuant to this chapter shall be funded as follows:

16 (a) (1) Every fisherman who sells salmon to any ~~person, person~~  
17 *who is required to be licensed as a fish receiver pursuant to Section*  
18 *8033 of the Fish and Game Code shall pay a fee, as the fee*  
19 *specified in this article, Sections 76902 and 76905 for each ~~pound~~*  
20 *pound, or fraction thereof, of salmon taken and sold by the*  
21 ~~fisherman.~~ *fisherman to the fish receiver.* The fee shall be collected  
22 from the fisherman and remitted to the ~~secretary,~~ *secretary* by any  
23 person licensed to receive fish to whom the salmon are sold. ~~If the~~  
24 ~~salmon are sold to any other person the fee shall be remitted to the~~  
25 ~~secretary by the fisherman.~~

26 (2) *Every fisherman licensed pursuant to Section 8033.5 of the*  
27 *Fish and Game Code who sells salmon to the ultimate consumer*  
28 *shall pay the fee specified in paragraph (1) and, if handlers have*  
29 *become subject to this chapter pursuant to Article 9.5 (commencing*  
30 *with Section 76961), shall also pay the fee specified in paragraph*  
31 *(1) of subdivision (b) for each pound, or fraction thereof, of salmon*  
32 *taken and sold by the fisherman to the ultimate consumer. The fees*  
33 *shall be remitted to the secretary by the fisherman.*

34 (b) (1) Every handler subject to this chapter pursuant to Article  
35 9.5 (commencing with Section 76961) shall pay the fee specified  
36 ~~in this article~~ *Sections 76902 and 76905 for each ~~pound~~ pound, or*  
37 *fraction thereof, of salmon received from a fisherman. The fee*  
38 *shall be remitted to the secretary by the handler.*

39 (2) *Every handler subject to this chapter pursuant to Article 9.5*  
40 *(commencing with Section 76961) shall pay the fee specified in*

1 *paragraph (1) and shall also pay the fee specified in paragraph*  
2 *(1) of subdivision (a) for each pound, or fraction thereof, of salmon*  
3 *that the handler has caught while conducting the activities of a*  
4 *commercial fisherman for his or her own processing or sale. The*  
5 *fees shall be remitted to the secretary by the handler.*

6 ~~SEC. 27.~~

7 *SEC. 26.* Section 76901 of the Food and Agricultural Code is  
8 amended to read:

9 76901. Consistent with Section 8041 of the Fish and Game  
10 Code, the following persons shall remit the fees required by  
11 subdivision (a) of Section 76900 to the secretary:

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

16 (b) Any commercial fisherman *licensed pursuant to Section*  
17 *8033.5 of the Fish and Game Code* who sells salmon to ~~any person~~  
18 ~~who is not a licensed fish receiver.~~ *the ultimate consumer.*

19 ~~SEC. 28.~~

20 *SEC. 27.* Section 76901.5 of the Food and Agricultural Code  
21 is amended to read:

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

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

34 ~~SEC. 29.~~

35 *SEC. 28.* Section 76903 of the Food and Agricultural Code is  
36 amended to read:

37 76903. The fees imposed under this article shall be paid  
38 monthly to the secretary within 60 days after the last day of each  
39 month. If fees are not paid within 60 days after the month for which  
40 they are due, the secretary shall collect amounts owing under the

1 procedures prescribed for sales and use taxes provided in Chapter  
2 5 (commencing with Section 6451) of Part 1 of Division 2 of the  
3 Revenue and Taxation Code, insofar as they may be applicable,  
4 and for those purposes, “board” means the department and “the  
5 date of which the tax became due and payable,” means that date  
6 60 days after the month for which it is due.

7 ~~SEC. 30.~~

8 *SEC. 29.* Section 76904 of the Food and Agricultural Code is  
9 amended to read:

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

15 ~~SEC. 31.~~

16 *SEC. 30.* Section 76904.5 of the Food and Agricultural Code  
17 is amended to read:

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

24 ~~SEC. 32.~~

25 *SEC. 31.* Section 76905 of the Food and Agricultural Code is  
26 amended to read:

27 76905. After one year after the establishment of the council,  
28 and not before the commercial salmon season of 1990, the council  
29 may recommend to the secretary an increase over and above the  
30 two cents (\$0.02) per pound fee required by Section 76902 for the  
31 council to carry out its duties under this chapter. The council shall  
32 consider the budget for the council, funding for activities conducted  
33 pursuant to Article 6 (commencing with Section 76800) and Article  
34 7 (commencing with Section 76850), as well as the market price  
35 of salmon, landing taxes imposed by the Department of Fish and  
36 Wildlife, assessments charged by marketing associations, and any  
37 other relevant factor affecting the economics of the salmon fishery.  
38 The council shall, in making any determination to increase fees,  
39 consult with marketing associations and, if the recommended  
40 increase would exceed seven cents (\$0.07) per pound of salmon

1 sold, the council shall conduct a vote of persons on the secretary's  
2 lists established pursuant to Article 9 (commencing with Section  
3 76950) and, if applicable, Article 9.5 (commencing with Section  
4 76961). The secretary may not increase any fee without a majority  
5 approval of the voting members of the council.

6 ~~SEC. 33.~~

7 *SEC. 32.* Section 76906 of the Food and Agricultural Code is  
8 amended to read:

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

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

- 23 (1) By contract with a certified public accountant.
- 24 (2) By contract with a public accountant holding a valid permit  
25 issued by the California Board of Accountancy.
- 26 (3) By contract with a public accounting firm.
- 27 (4) By agreement with the Department of Finance.

28 ~~SEC. 34.~~

29 *SEC. 33.* Section 76907 of the Food and Agricultural Code is  
30 amended to read:

31 76907. Money that is deposited pursuant to Section 76906 may  
32 be invested and reinvested by the Treasurer or the council in any  
33 of the securities described in Article 1 (commencing with Section  
34 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the  
35 Government Code, or placed in a depository as provided in Chapter  
36 4 (commencing with Section 16500) of Part 2 of Division 4 of  
37 Title 2 of the Government Code, and handled in the same manner  
38 as money in the State Treasury. For these purposes, the money  
39 may also be combined with funds that are determined by the  
40 secretary to be available for investment pursuant to Section 58939.

1 Any increment that is received from investment, reinvestment, or  
2 deposit made by the Treasurer shall be remitted to the council. The  
3 Treasurer may deduct from the remittance an amount equal to the  
4 reasonable cost incurred in carrying out this section or may bill  
5 the council for the costs and the council shall pay the costs from  
6 money that is collected for it pursuant to this chapter.

7 ~~SEC. 35.~~

8 *SEC. 34.* Section 76908 of the Food and Agricultural Code is  
9 amended to read:

10 76908. The secretary, after consultation with the council, shall  
11 prepare an annual budget that sets forth in reasonable detail the  
12 proposed expenditures that the secretary deems necessary for the  
13 performance by him or her and by the department of the duties  
14 that are imposed upon them by this chapter. The secretary shall  
15 also prepare and submit to the council an annual statement, in  
16 reasonable detail, of the secretary's expenditures pursuant to this  
17 chapter.

18 ~~SEC. 36.~~

19 *SEC. 35.* Section 76909 of the Food and Agricultural Code is  
20 amended to read:

21 76909. The secretary may receive funds in amounts that may  
22 be reasonable and necessary to defray the initial expenses in  
23 making effective this chapter. The secretary shall reimburse those  
24 persons from whom those funds are received in the amounts  
25 received from any funds that are received by the secretary pursuant  
26 to this article.

27 ~~SEC. 37.~~

28 *SEC. 36.* Section 76910 of the Food and Agricultural Code is  
29 amended to read:

30 76910. The secretary may accept contributions to advance the  
31 purposes of this chapter. If requested by the donor, the  
32 contributions shall be segregated and separately maintained for  
33 the use of the council.

34 ~~SEC. 38.~~

35 *SEC. 37.* Article 9 (commencing with Section 76950) of  
36 Chapter 16 of Part 2 of Division 22 of the Food and Agricultural  
37 Code is repealed.

1     ~~SEC. 39.~~

2     *SEC. 38.* Article 9 (commencing with Section 76950) is added  
3 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural  
4 Code, to read:

5

6     Article 9. Implementation and Voting Procedure for Fishermen

7

8     76950. On or before August 15, 1989, the secretary shall  
9 establish a list of commercial salmon vessel operators eligible to  
10 vote on implementation of this chapter. In establishing the list, the  
11 secretary may require that handlers and commercial salmon vessel  
12 operators submit the names and mailing addresses of all  
13 commercial salmon vessel operators who harvested salmon during  
14 the previous season, as evidenced by receipts prepared under  
15 Section 8043 of the Fish and Game Code, together with the volume  
16 of salmon landed. The secretary may also request the assistance  
17 of the Director of Fish and Wildlife for the names of all commercial  
18 salmon vessel operators who landed salmon the previous season  
19 and the volume of landings for each vessel. The request for the  
20 information shall be in writing and shall be subject to the  
21 confidentiality provisions of Section 8022 of the Fish and Game  
22 Code. The list shall be filed within 30 days following receipt of  
23 the written notice.

24     76951. Any commercial salmon vessel operator whose name  
25 does not appear upon the secretary's list of commercial salmon  
26 vessel operators affected may have his or her name established on  
27 the list by filing with the secretary a signed statement, identifying  
28 himself or herself as a commercial salmon vessel operator and  
29 furnishing evidence of having made landings the previous year  
30 through the submission of receipts prepared under Section 8043  
31 of the Fish and Game Code. Failure to be on the list does not  
32 exempt a commercial salmon vessel operator from paying  
33 assessments under this chapter.

34     76952. This chapter, except as necessary to conduct an  
35 implementation referendum vote under this article, shall not  
36 become operative until the secretary finds in an implementation  
37 referendum conducted by the secretary under this article that at  
38 least 40 percent of the total number of commercial salmon vessel  
39 operators from the list established by the secretary have participated

1 by voting in the referendum, and the secretary finds either of the  
2 following:

3 (a) Sixty-five percent or more of the commercial salmon vessel  
4 operators who voted in the referendum voted in favor of  
5 implementing this chapter, and the commercial salmon vessel  
6 operators who voted in the referendum marketed 51 percent or  
7 more of the total quantity of salmon landed in the preceding fiscal  
8 year by all the commercial salmon vessel operators who voted in  
9 the referendum.

10 (b) Fifty-one percent of the commercial salmon vessel operators  
11 who voted in the referendum voted in favor of implementing this  
12 chapter, and the commercial salmon vessel operators who voted  
13 in the referendum marketed 65 percent or more of the total quantity  
14 of salmon landed in the preceding fiscal year by all of the  
15 commercial salmon vessel operators who voted in the referendum.

16 76953. The secretary shall establish a period in which to  
17 conduct the implementation referendum that shall not be more  
18 than 60 days in duration, and may prescribe additional procedures  
19 as may be necessary to conduct the referendum. If the initial period  
20 established is less than 30 days, the secretary may extend that  
21 period. However, the total referendum period may not exceed 60  
22 days.

23 76953.5. (a) Before the referendum vote is conducted by the  
24 secretary, the proponents of the council shall deposit with the  
25 secretary the amount that the secretary determines is necessary to  
26 defray the expenses of preparing the necessary lists and information  
27 and conducting the referendum vote.

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

31 (c) Upon establishment of the council, the council may  
32 reimburse the proponents of the council for any funds deposited  
33 with the secretary that were used in carrying out this article, and  
34 for any legal expenses and costs incurred in establishing the  
35 council.

36 (d) After approval by the Commercial Salmon Trollers Advisory  
37 Committee created pursuant to Section 7862 of the Fish and Game  
38 Code, the Department of Fish and Wildlife may expend funds  
39 collected pursuant to Section 7861 of the Fish and Game Code,  
40 for payment to the Secretary of Food and Agriculture to pay

1 necessary costs incurred in conducting the implementation  
2 referendum vote. If the commercial salmon vessel operators who  
3 voted in the implementation referendum voted in favor of  
4 implementing this article, as provided in Section 76952, the council  
5 shall reimburse the Commercial Salmon Stamp Account in the  
6 Fish and Game Preservation Fund all amounts received from that  
7 fund.

8 76954. Nonreceipt of a ballot shall not invalidate a referendum.

9 76955. (a) If the secretary finds that a favorable vote has been  
10 given, the secretary shall so certify and give notice of the favorable  
11 vote to all commercial salmon vessel operators whose names and  
12 addresses may be on file with the secretary.

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

16 ~~SEC. 40.~~

17 *SEC. 39.* Article 9.5 (commencing with Section 76961) is added  
18 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural  
19 Code, to read:

20

21 Article 9.5. Implementation and Voting Procedure for Handlers

22

23 76961. On or before January 31, 2016, the secretary shall  
24 establish a list of handlers eligible to vote on whether they shall  
25 be subject to this chapter. In establishing the list, the secretary may  
26 require that handlers provide receipts of the quantity of salmon  
27 received from commercial salmon vessel operators in the previous  
28 season. The secretary may also request the assistance of the  
29 Director of Fish and Wildlife in compiling the list. The request for  
30 the information shall be in writing and shall be subject to the  
31 confidentiality provisions of Section 8022 of the Fish and Game  
32 Code. The list shall be filed within 30 days following receipt of  
33 the written notice.

34 76962. Any handler whose name does not appear upon the  
35 secretary's list of handlers may have his or her name established  
36 on the list by filing with the secretary a signed statement,  
37 identifying himself or herself as a handler. Failure to be on the list  
38 does not exempt a handler from paying assessments under this  
39 chapter.

1 76963. This chapter shall not apply to handlers until the  
2 secretary finds in a referendum conducted by the secretary under  
3 this article that at least 40 percent of the total number of handlers  
4 from the list established by the secretary have participated by  
5 voting in the referendum, and the secretary finds either of the  
6 following:

7 (a) Sixty-five percent or more of the handlers who voted in the  
8 referendum voted in favor of being subject to this chapter, and the  
9 handlers who voted in the referendum handled 51 percent or more  
10 of the total quantity of salmon landed in the preceding fiscal year  
11 by all the handlers who voted in the referendum.

12 (b) Fifty-one percent of the handlers who voted in the  
13 referendum voted in favor of being subject to this chapter, and the  
14 handlers who voted in the referendum marketed 65 percent or more  
15 of the total quantity of salmon landed in the preceding fiscal year  
16 by all of the handlers who voted in the referendum.

17 76964. The secretary shall establish a period in which to  
18 conduct the referendum that shall not be more than 60 days in  
19 duration, and may prescribe additional procedures as may be  
20 necessary to conduct the referendum. If the initial period  
21 established is less than 30 days, the secretary may extend that  
22 period. However, the total referendum period may not exceed 60  
23 days.

24 76965. (a) Before the referendum vote is conducted by the  
25 secretary, the proponents of this article shall deposit with the  
26 secretary the amount that the secretary determines is necessary to  
27 defray the expenses of preparing the necessary lists and information  
28 and conducting the referendum vote.

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

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

36 76966. Nonreceipt of a ballot shall not invalidate a referendum.

37 76967. (a) If the secretary finds that a favorable vote has been  
38 given, the secretary shall so certify and give notice of the favorable  
39 vote to all handlers whose names and addresses may be on file  
40 with the secretary.

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

3 ~~SEC. 41.~~

4 *SEC. 40.* Article 10 (commencing with Section 76971) is added  
5 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural  
6 Code, to read:

7  
8 Article 10. Continuation  
9

10 76971. (a) Between January 1, 2019, and February 28, 2019,  
11 and in the same period each five years thereafter, the secretary  
12 shall, by the public hearing procedure, and if appropriate, the  
13 procedure specified in this article, determine whether the council  
14 program provided for in this chapter shall continue in effect.

15 (b) If the secretary finds from evidence received at the hearing  
16 that a substantial question exists as to whether the council program  
17 is contrary to or does not effectuate the declared purposes or  
18 provisions of this chapter or receives in writing a referendum  
19 petition with the signatures of 25 percent or more of the number  
20 of commercial salmon vessel operators who made landings in the  
21 previous year, as evidenced by receipts prepared under Section  
22 8043 of the Fish and Game Code, and, if applicable, 25 percent or  
23 more of the handlers who are subject to this chapter, the council  
24 program shall be submitted to referendum as provided in this  
25 article.

26 76972. If the secretary determines that a referendum procedure  
27 is appropriate, the secretary shall establish a referendum period of  
28 not to exceed 30 days during which period ballots shall be  
29 submitted to every commercial salmon vessel operator and, if  
30 applicable, every handler subject to this chapter on a statewide  
31 basis. If the secretary determines that the referendum period does  
32 not provide sufficient time for the balloting, the secretary may  
33 extend the referendum for an additional period not to exceed 30  
34 days. The ballots shall provide a “yes” or “no” voting alternative  
35 to the following question: “Shall the California Salmon Council  
36 be continued for the next five fiscal years commencing April 1,  
37 following this referendum?”

38 76973. If the council program is submitted to a referendum as  
39 provided in this article, the secretary shall find that commercial  
40 salmon vessel operators and, if applicable, handlers subject to this

1 chapter statewide have approved the council program if the  
 2 secretary finds either of the following:

3 (a) Sixty-five percent or more of the total number of commercial  
 4 salmon vessel operators and handlers, who voted in the referendum  
 5 and who harvested 51 percent or more of the total amount of  
 6 salmon landed during the previous fiscal year by all commercial  
 7 salmon vessel operators and handlers who voted in the referendum,  
 8 approve the program.

9 (b) Fifty-one percent or more of the total number of commercial  
 10 salmon vessel operators and handlers, who voted in the review  
 11 referendum and who harvested 65 percent or more of the total  
 12 amount of salmon landed during the previous fiscal year by all  
 13 commercial salmon vessel operators and handlers who voted in  
 14 the review referendum, approve the program.

15 76974. (a) This chapter shall continue if commercial salmon  
 16 vessel operators and handlers vote for continuation in accordance  
 17 with the requirements of this article.

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

21 (c) If commercial salmon vessel operators vote for continuation  
 22 and handlers do not vote for continuation, or if handlers vote for  
 23 continuation and commercial salmon vessel operators do not vote  
 24 for continuation, this chapter shall continue to be operative for the  
 25 group voting for continuation and shall no longer apply to the  
 26 group voting against continuation.

27 ~~SEC. 42.~~

28 *SEC. 41.* Article 11 (commencing with Section 76981) is added  
 29 to Chapter 16 of Part 2 of Division 22 of the Food and Agricultural  
 30 Code, to read:

31

32 Article 11. Termination

33

34 76981. If the commercial salmon vessel operators and the  
 35 handlers vote to terminate the council pursuant to Article 10  
 36 (commencing with Section 76971), the council shall remain in  
 37 existence for the purpose of furnishing the secretary with a  
 38 complete record of its outstanding financial obligations, accrued  
 39 and to accrue. The secretary shall pay from the money deposited  
 40 and disbursed any outstanding obligations and any obligations

1 incurred by the secretary and the department under the terms and  
2 provisions of this section. Any money that remains shall be retained  
3 by the secretary to defray the expenses of formulation, issuance,  
4 administration, or enforcement of any subsequent program for  
5 salmon promotion. If no such program is undertaken within a  
6 period of three years from the date of termination of the council,  
7 that money shall be withdrawn from the approved depository and  
8 paid into the special account for enhancement and restoration  
9 programs established pursuant to Section 7861 of the Fish and  
10 Game Code.

11 ~~SEC. 43.~~

12 *SEC. 42.* No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.