

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2488

Introduced by Assembly Member Dababneh

February 19, 2016

An act to amend Section 5515 ~~of~~ *of*, and to add Section 2081.10 to, the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 2488, as amended, Dababneh. ~~Fish: fully protected~~ *Protected species: unarmored threespine stickleback; taking or possession.*

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

This bill would ~~make a nonsubstantive change to this provision~~ *permit the department to authorize, under the California Endangered Species Act, the take of the unarmored threespine stickleback (Gasterosteus aculeatus williamsoni) attributable to the periodic dewatering, inspection, maintenance, or repair of the Metropolitan Water District of Southern California's Foothill Feeder water supply facility from Castaic Dam to the Joseph Jensen Treatment Plant in the County of Los Angeles, as specified, if certain conditions are satisfied.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

1 *SECTION 1. The Legislature finds and declares all of the*
 2 *following:*

3 *(a) The Foothill Feeder below Castaic Dam in the County of*
 4 *Los Angeles is the primary conduit for water from the State Water*
 5 *Project for the Southern California region served by the*
 6 *Metropolitan Water District of Southern California. The*
 7 *Metropolitan Water District of Southern California is a public*
 8 *agency comprised of 26 member public agencies – 14 cities, 11*
 9 *municipal water districts, and one county water authority – and*
 10 *provides water to more than 19 million people in the Counties of*
 11 *Los Angeles, Orange, Riverside, San Bernardino, San Diego, and*
 12 *Ventura.*

13 *(b) Water supplies from the State Water Project are a critical*
 14 *part of Southern California’s water supply portfolio, and any*
 15 *interruption of that supply must be minimized to ensure delivery*
 16 *of clean and reliable water supplies for municipal and industrial*
 17 *uses, including health and human safety, and to water agencies*
 18 *and cities that rely upon water supply deliveries from the*
 19 *Metropolitan Water District of Southern California.*

20 *(c) Periodic dewatering, inspection, maintenance, modification,*
 21 *or repair, including emergency repairs, require that all or a portion*
 22 *of the Foothill Feeder be dewatered into the Santa Clara River*
 23 *and certain of its tributaries where unarmored threespine*
 24 *stickleback (*Gasterosteus aculeatus williamsoni*) may be present*
 25 *during these activities. Thus, the incidental take of unarmored*
 26 *threespine stickleback must be permitted for the periodic*
 27 *dewatering, inspection, maintenance, modification, or repair of*
 28 *the Foothill Feeder to protect Southern California water supplies.*

29 *SEC. 2. Section 2081.10 is added to the Fish and Game Code,*
 30 *to read:*

31 *2081.10. (a) The department may authorize, under this chapter,*
 32 *the incidental take of unarmored threespine stickleback*
 33 *(*Gasterosteus aculeatus williamsoni*) attributable to the periodic*
 34 *dewatering, inspection, maintenance, modification, or repair of*
 35 *the Metropolitan Water District of Southern California’s Foothill*
 36 *Feeder water supply facility from Castaic Dam to the Joseph*
 37 *Jensen Treatment Plant in the County of Los Angeles, contingent*
 38 *upon the fulfillment of the following conditions:*

1 (1) *The department has determined that the requirements of*
2 *subdivisions (b) and (c) of Section 2081 are satisfied for the take*
3 *of the unarmored threespine stickleback.*

4 (2) *The department ensures that all further measures necessary*
5 *to contribute to conservation as defined in subdivision (d) of*
6 *Section 2805 are incorporated into the project.*

7 (3) *The take authorization provides for the development and*
8 *implementation, in cooperation with the department, of an adaptive*
9 *management process for monitoring the effectiveness of, and*
10 *adjusting as necessary, the measures to minimize and fully mitigate*
11 *the impacts of the authorized take. The adjusted measures are*
12 *subject to Section 2052.1.*

13 (b) *The take authorization shall cover any incidental take of*
14 *unarmored threespine stickleback attributable to the periodic*
15 *dewatering, inspection, maintenance, modification, or repair of*
16 *the Foothill Feeder that may occur in the following locations:*

17 (1) ____.

18 (2) ____.

19 (c) *This section shall not be construed to exempt from any other*
20 *law the periodic dewatering, inspection, maintenance, modification,*
21 *or repair of the Foothill Feeder.*

22 **SECTION 4.**

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

25 5515. (a) (1) Except as provided in this section, Section
26 2081.6, Section 2081.7, *Section 2081.10*, or Section 2835, a fully
27 protected fish shall not be taken or possessed at any time. No
28 provision of this code or any other law shall be construed to
29 authorize the issuance of a permit or license to take a fully
30 protected fish, and no permit or license previously issued shall
31 have force or effect for that purpose. However, the department
32 may authorize the taking of a fully protected fish for necessary
33 scientific research, including efforts to recover fully protected,
34 threatened, or endangered species. Before authorizing the take of
35 a fully protected fish, the department shall make an effort to notify
36 all affected and interested parties to solicit information and
37 comments on the proposed authorization. The notification shall
38 be published in the California Regulatory Notice Register and be
39 made available to each person who has notified the department,
40 in writing, of his or her interest in fully protected species and who

1 has provided an email address, if available, or postal address to
2 the department. Affected and interested parties shall have 30 days
3 after notification is published in the California Regulatory Notice
4 Register to provide relevant information and comments on the
5 proposed authorization.

6 (2) As used in this subdivision, “scientific research” does not
7 include an action taken as part of specified mitigation for a project,
8 as defined in Section 21065 of the Public Resources Code.

9 (3) A legally imported fully protected fish may be possessed
10 under a permit issued by the department.

11 (b) The following are fully protected fish:

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

13 (2) Thicktail chub (*Gila crassicauda*).

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

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

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

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

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

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

20 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*
21 *williamsoni*).

22 (10) Rough sculpin (*Cottus asperimus*).