

AMENDED IN SENATE SEPTEMBER 6, 1995

AMENDED IN SENATE AUGUST 22, 1995

AMENDED IN SENATE JULY 17, 1995

AMENDED IN SENATE JUNE 15, 1995

AMENDED IN ASSEMBLY MAY 8, 1995

AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 389

Introduced by Assembly Member Cannella

*(Coauthors: Assembly Members Granlund, McPherson,
Setencich, Thompson, and Woods)*

(Coauthors: Senators Johannessen, Kelley, and O'Connell)

February 14, 1995

An act to amend Sections 1777.2 and 1784 of the Fish and Game Code, and to add Article 8.5 (commencing with Section 560) to Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 389, as amended, Cannella. Agriculture: environmental farming: wetland habitat.

(1) The Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993 defines "bank site" and "mitigation bank site" for the purposes of that act. Excluded



from these definitions is land on which rice is produced that provides significant wetland habitat value.

This bill, instead, would provide, among other things, that a “bank site” or “mitigation bank site” may include any lands on which rice is grown, as long as those lands ~~continue to produce rice~~ *are managed as ricelands* and meet other specified criteria. ~~The bill would provide that lands on which rice is grown may be deemed to be new wetlands if the lands meet specified conditions.~~

(2) Existing law sets forth various powers and duties of the Department of Food and Agriculture.

This bill would enact the Cannella Environmental Farming Act of 1995. The bill would require the department to establish and oversee an environmental farming program to provide incentives to farmers whose practices promote the well-being of ecosystems, air quality, and wildlife and their habitat. The bill would require the Secretary of Food and Agriculture to convene a Scientific Advisory Panel on Environmental Farming for the purpose of providing advice and assistance with respect to various matters.

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

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

- 1 SECTION 1. Section 1777.2 of the Fish and Game
- 2 Code is amended to read:
- 3 1777.2. “Bank site” or “mitigation bank site” means a
- 4 publicly or privately owned and operated site on which
- 5 wetlands have been or will be created in accordance with
- 6 this chapter to compensate for adverse impacts caused by
- 7 removal or fill permit activities authorized pursuant to
- 8 Section 404 of the federal Clean Water Act (33 U.S.C. Sec.
- 9 1344 et seq.). “Bank site” or “mitigation bank site” may
- 10 include land on which rice is grown as long as those lands
- 11 ~~continue to produce rice and as long as those lands meet~~
- 12 *are managed as ricelands and those lands meet* the other
- 13 requirements of Section 1784.
- 14 SEC. 2. Section 1784 of the Fish and Game Code is
- 15 amended to read:



1 1784. (a) The department, in cooperation with those
2 agencies specified in Section 1786, shall adopt regulations
3 that establish standards and criteria for the bank site
4 qualification process, for the evaluation of wetland
5 ~~acreage and~~ habitat values created at the bank sites, and
6 for the operation and evaluation of bank sites, and any
7 other regulations that are necessary to implement this
8 chapter.

9 These criteria shall require, at a minimum, that the
10 newly created wetland provide the hydrologic,
11 vegetative, and wildlife characteristics, including the
12 food web components, of a naturally occurring wetland
13 system *that is equal to the site being mitigated*.

14 (b) With respect to bank site standards and operator
15 qualifications, the department shall consider, at a
16 minimum, all of the following criteria:

17 (1) A requirement that the bank site have a reliable,
18 adequate, and available water supply necessary to
19 provide wetland values. For wetlands dependent only on
20 rainfall, rainfall satisfies this requirement.

21 (2) The relative ease or difficulty of converting
22 uplands into wetlands at the bank site.

23 (3) The anticipated maintenance necessary to sustain
24 the recreated and created wetlands at the bank site.

25 (4) The proximity of the bank site to other established
26 preserves or natural features historically associated with
27 abundant wildlife values.

28 (5) The proximity of the bank site to urban or
29 populated areas that could reduce the bank site's
30 long-term biological values.

31 (6) The demonstrated ability of the bank site operator
32 to create, administer, maintain, and protect the bank site
33 in perpetuity *in its enhanced state*, including financial,
34 technical, and management ability.

35 (7) The relative abundance or scarcity of the wetland
36 type to be created at the bank site.

37 (c) A bank site or mitigation bank site may include any
38 lands on which rice is grown as long as those lands
39 ~~continue to produce rice. The lands shall be deemed to be~~
40 ~~new wetlands are managed as ricelands with the required~~



1 *enhanced wetland values* if they otherwise qualify under
2 this chapter and either of the following conditions exist:

3 (1) The lands are lands on which rice was grown after
4 January 1, 1996. For purposes of this paragraph, to qualify
5 as new ~~wetlands~~ *wetland values*, rice shall not have been
6 grown on the lands for 10 years before the application is
7 submitted pursuant to Section 1785.

8 (2) The lands are lands on which rice was grown
9 before January 1, 1996. *These lands shall qualify only if*
10 *there is an increase in wetland habitat value that is equal*
11 *to the site being mitigated.* For purposes of this
12 paragraph, a wetland value shall only be provided for
13 lands on which rice was grown that are proposed for
14 wetlands mitigation for the period when that land is
15 flooded between the harvesting of rice and the planting
16 of the next crop. This paragraph shall apply only to lands
17 that were not flooded after harvest between January 1,
18 1982, and January 1, 1992.

19 (d) Any mitigation site established pursuant to
20 subdivision (c) may be replaced by a new site of an equal
21 ~~or greater~~ wetland value.

22 (e) This section shall not be construed to permit
23 waters used to flood rice fields in order to create wetlands
24 mitigation to be credited as beneficial to wildlife under
25 federal law.

26 SEC. 3. Article 8.5 (commencing with Section 560) is
27 added to Chapter 3 of Part 1 of Division 1 of the Food and
28 Agricultural Code, to read:

29

30 Article 8.5. The Cannella Environmental Farming Act
31 of 1995
32

33 560. This article shall be known as the Cannella
34 Environmental Farming Act of 1995.

35 561. The Legislature finds and declares the following:

36 (a) California agriculture helps to feed the world and
37 fuel our economy. Agriculture provides one out of every
38 10 jobs in California, and our state has led the nation in
39 total farm production every year since 1948. During 1993,



1 California’s 76,000 farms generated nearly \$20 billion in
2 cash receipts and another \$70 billion in economic activity.

3 (b) Many farmers engage in practices that contribute
4 to the well-being of ecosystems, air quality, and wildlife
5 and their habitat. Agriculture plays a pivotal role in
6 preserving open space that is vital to the environment.
7 Seventy-five percent of the nation’s wildlife live on farms
8 and ranches. Freshwater streams and stockponds on
9 farms and ranches provide habitat to millions of fish.
10 Corn, wheat, rice, and other field crops provide bountiful
11 food and habitat for deer, antelope, ducks, geese, and
12 other wildlife.

13 (c) Environmental laws should be based on the best
14 scientific evidence gathered from public and private
15 sources.

16 (d) Best scientific evidence should include the net
17 environmental impact provided by agriculture.

18 (e) Additional research is necessary to adequately
19 inventory the impact that agriculture has on the
20 environment. Recognition should be afforded to
21 agricultural activities that produce a net benefit for the
22 environment, which is consistent with the growing trend
23 of providing incentives for the private sector to
24 undertake economic activities that benefit the
25 environment.

26 564. Unless the context otherwise requires, the
27 following definitions govern the construction of this
28 article:

29 (a) “Agricultural activities” means those activities
30 that generate products as specified in Section 54004.

31 (b) “Department” means the Department of Food
32 and Agriculture.

33 (c) “Panel” means the Scientific Advisory Panel on
34 Environmental Farming.

35 (d) “Secretary” means the Secretary of Food and
36 Agriculture.

37 566. (a) The department shall establish and oversee
38 an environmental farming program. The program shall
39 provide incentives to farmers whose practices promote



1 the well-being of ecosystems, air quality, and wildlife and
2 their habitat.

3 (b) The department ~~shall~~ *may* assist in the compilation
4 of scientific evidence from public and private sources,
5 including the scientific community, industry,
6 conservation organizations, and federal, state, and local
7 agencies identifying the net environmental impacts that
8 agriculture creates for the environment. The department
9 shall serve as the depository of this information and
10 provide it to federal, state, and local governments, as
11 needed.

12 (c) The department shall conduct the activities
13 specified in this article with existing resources, to the
14 extent they are available.

15 568. (a) The secretary shall convene a five-member
16 Scientific Advisory Panel on Environmental Farming to
17 advise and assist federal, state, and local government
18 agencies *on issues relating to air, water, and wildlife*
19 *habitat* to do the following:

20 (1) Review data on the impact that agriculture has on
21 the environment and recommend to appropriate state
22 agencies data that the panel approves as scientifically
23 valid. A state agency that receives data recommended by
24 the panel may adopt and incorporate the data into the
25 appropriate program. If a state agency does not utilize the
26 data recommended by the panel, it shall ~~publish in the~~
27 ~~California Notice Register~~ *provide the panel with a*
28 written statement of reasons for not utilizing the data.
29 The reasons, at a minimum, shall specify the scientific
30 basis for not utilizing the data. The reasons shall be
31 ~~published~~ *provided* within 180 days of receiving the data
32 from the panel.

33 (2) ~~Inventory~~ *Compile* the net environmental impacts
34 that agriculture creates for the environment, *identified*
35 *pursuant to paragraph (1)*.

36 (3) Research, review, and comment on data upon
37 which proposed environmental policies and regulatory
38 programs are based to ensure that the environmental
39 impacts of agricultural activities are accurately portrayed
40 and to identify incentives that may be provided to



1 encourage agricultural practices with environmental
2 benefits.

3 (4) Assist government agencies to incorporate
4 benefits *identified pursuant to paragraph (1)* into
5 environmental regulatory programs.

6 (b) Members of the panel shall be highly qualified and
7 professionally active or engaged in the conduct of
8 scientific research. Of the members first appointed to the
9 panel, two shall serve for a term of two years and three
10 shall serve for a term of three years, as determined by lot.
11 Thereafter, members shall be appointed for a term of
12 three years. The members shall be appointed as follows:

13 (1) Three members shall be appointed by the
14 secretary. At least one of these members shall have a
15 minimum of five years of training and experience in the
16 field of agriculture and shall represent production
17 agriculture.

18 (2) One member, who has a minimum of five years of
19 training and experience in the field of human health or
20 environmental science, shall be appointed by the
21 Secretary of the Environmental Protection Agency.

22 (3) One member, who has a minimum of five years of
23 training and experience in the field of resource
24 management, shall be appointed by the Secretary of the
25 Resources Agency.

26 (c) The panel may establish ad hoc committees, which
27 may include professionals or scientists, to assist it in
28 performing its functions.

29 (d) The panel shall be created and maintained with
30 funds made available from existing resources within the
31 department *to the extent they are available*.

