

**Assembly Bill No. 2785**

CHAPTER 937

An act to add Part 9 (commencing with Section 998) to Division 3.6 of Title 1 of the Government Code, relating to the Department of Fish and Game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1998. Filed  
with Secretary of State September 28, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2785, Richter. Department of Fish and Game: claims.

(1) Existing law specifies the duties and authority of the Department of Fish and Game.

This bill would appropriate \$9,176,000 from the General Fund to a special account in the Special Deposit Fund created by the bill to compensate certain claimants, including the City of Portola and Plumas County, with respect to the Lake Davis Northern Pike Eradication Project. The bill would specify the applicable procedures for processing those claims, including the processing of individual claims by the office of the Attorney General.

(2) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Part 9 (commencing with Section 998) is added to Division 3.6 of Title 1 of the Government Code, to read:

**PART 9. LAKE DAVIS NORTHERN PIKE ERADICATION  
PROJECT RELIEF ACCOUNT**

998. The Legislature finds and declares that in order to alleviate the economic and social disruptions arising out of the Lake Davis Northern Pike Eradication Project, it is necessary and appropriate to create a special account within the Special Deposit Fund for payment of economic and infrastructure assistance to the City of Portola and the County of Plumas, and for all other claims arising out of that project. The Legislature hereby appropriates to the office of the Attorney General in the Department of Justice the sum of nine million one hundred seventy-six thousand dollars (\$9,176,000) from the General Fund to the special account within the Special Deposit Fund, to be known as the Lake Davis Northern Pike Eradication



Project Relief Account, to pay these claims as apportioned in Section 998.1.

It is the purpose of this part to compensate the above claimants without regard to legal liability, fault, or responsibility, and without the necessity of litigation against the State of California, or its agencies, officers, or employees. It is the further intent of the Legislature that all valid claims shall be negotiated for settlement purposes fairly and promptly. Nothing in this part shall be construed as an admission of legal liability, responsibility, or fault on the part of the State of California, or any of its agencies, officers, or employees.

998.1. (a) The sum of two million eight hundred sixty-seven thousand six hundred sixty-seven dollars (\$2,867,667) is hereby transferred from the Lake Davis Northern Pike Eradication Project Relief Account to the City of Portola to provide economic and infrastructure assistance and in satisfaction of the City of Portola's claims against the State of California or its agencies, officers, and employees for all alleged damage or injury it claims to have suffered as a result of the Lake Davis Northern Pike Eradication Project. This sum of money is being paid in accordance with the terms of a settlement agreement and release to be entered into between the City of Portola and the State of California, and shall be reduced by any amounts already expended by the State of California or the Department of Fish and Game pursuant to any agreement with the City of Portola concerning the provision of alternate water supplies. With respect to the Lake Davis Northern Pike Eradication Project, and except as otherwise provided in that agreement, all obligations imposed upon the State of California by any such memoranda and by Section 116751 of the Health and Safety Code shall terminate upon enactment of this part.

(b) The sum of two million fifty-eight thousand three hundred thirty-three dollars (\$2,058,333) is hereby transferred from the Lake Davis Northern Pike Eradication Project Relief Account to the County of Plumas to provide economic and infrastructure assistance and in satisfaction of the County of Plumas' and Plumas County Flood Control and Water Conservation District's claims against the State of California and its agencies, officers, and employees for all alleged damage or injury they claim to have suffered as a result of the Lake Davis Northern Pike Eradication Project. This sum of money is being paid in accordance with the terms of a settlement agreement and release between the County of Plumas and Plumas County Flood Control and Water Conservation District and the State of California, and shall be reduced by any amounts already expended by the State of California or the Department of Fish and Game pursuant to any agreement with the County of Plumas concerning the provision of alternate water supplies. With regard to the Lake Davis Northern Pike Eradication Project, and except as provided in that agreement, all obligations imposed upon the State of California by such



Memoranda and by Section 16751 of the Health and Safety Code, shall terminate upon enactment of this part.

(c) The sum of two hundred fifty thousand dollars (\$250,000) shall be transferred from the Lake Davis Northern Pike Eradication Project Relief Account to the County of Plumas to be used as matching funds for the purpose of obtaining a loan or grant from the State Department of Health Services pursuant to Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code to make improvements to the Lake Davis Water Treatment Plant. The funds shall be deposited in an interest bearing account and held until the county enters into an agreement with the State Department of Health Services for a loan or grant. If the improvements requested by the County of Plumas are not eligible for a loan or grant, the sum of two hundred fifty thousand dollars (\$250,000), plus any interest earned, shall be returned to the General Fund.

(d) The sum of four million dollars (\$4,000,000) shall be available from the Lake Davis Northern Pike Eradication Project Relief Account to pay all other claims including, but not limited to, claims for personal injury, property damage, or business loss, arising out of the Lake Davis Northern Pike Eradication Project. Any unused funds, plus any interest earned, shall revert to the General Fund.

998.2. (a) Any person or business may file an application with the State Board of Control for compensation based on personal injury, property loss, business loss, or other economic loss, claimed to have been incurred as a result of the Lake Davis Northern Pike Eradication Project. Any application made pursuant to this section shall be presented to the board in accordance with this division. A late claim may be presented to the board pursuant to the procedure specified by Section 911.4. Each such application shall contain in addition to the information required by Section 910, all of the following:

(1) The legal name of any business claiming a loss, as well as the names of the owners and officers of the business; for any property owner claiming diminution of property value, the names of all persons holding a legal interest in the property; and the name of any person claiming to have suffered personal injury.

(2) An authorization permitting the office of the Attorney General or its designee to obtain relevant medical, employment, business, property, and tax records.

(3) A brief statement describing when, where, and how the injury, loss, or diminution in market value occurred.

(b) Upon receipt of an application presented pursuant to this section from the State Board of Control, the office of the Attorney General or its designee shall examine the application and may require the applicant to submit additional information or documents which are necessary to verify and evaluate the application. The office



of the Attorney General or its designee shall attempt to resolve an application within six months from the effective date of this part unless this period of time is extended by mutual agreement between the office of the Attorney General or its designee and the applicant. Any application that does not result in a final settlement agreement within the resolution period shall be deemed denied, allowing the claimant to proceed with a court action pursuant to Chapter 2 (commencing with Section 945) of Part 4.

(c) The office of the Attorney General or its designee shall adopt guidelines in consultation with one representative designated by the City of Portola, one representative designated by the County of Plumas, and one member of the public to be selected jointly by the city and the county. Any guidelines so developed shall be used to evaluate and settle claims filed pursuant to this part. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, any regulations adopted thereunder by the Attorney General in order to implement this section shall not be subject to the review and approval of the Office of Administrative Law, nor subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2).

(d) Any court action following denial of an application, including denial pursuant to subdivision (b), shall be filed within six months of the mailing date of the board's rejection or denial of the application or the applicant's rejection of the board's offer pursuant to Section 945.6 or subdivision (b) of Section 998.3.

(e) Any claim pursuant to Part 3 (commencing with Section 900) made before or after the effective date of this part for personal injury, property loss, business loss, or other economic loss resulting from the Lake Davis Northern Pike Eradication Project against the State of California, its agencies, officers, or employees, shall be deemed to be an application under this part and is subject to the provisions set forth in this part. Additionally, any application made pursuant to this part shall be deemed to be in compliance with Part 3 (commencing with Section 900).

(f) Notwithstanding any other provision of law, the resolution or denial of an application pursuant to this part is a condition precedent to the filing of any action for personal injury, property damage, business loss, or other economic loss, resulting from the Lake Davis Project in any court of the State of California, against the State of California, its agencies, officers, or employees. Any suit filed by an applicant in any court of this state against the State of California or its agencies, officers, or employees shall be stayed pending resolution or denial of the application.

998.3. (a) If the office of the Attorney General or its designee determines that an applicant pursuant to this part is eligible for



compensation, upon receipt of all information it deems necessary to evaluate the applicant's loss, it shall make an offer in an amount it deems to be just and fair.

(b) The offer shall be made to the applicant in writing, who shall either accept or reject the offer in writing within 30 days of receipt thereof. Failure to respond to the offer shall be deemed a rejection. If the applicant accepts the offer, the applicant shall be deemed to have waived all other legal remedies against the State of California, its agencies, officers, and employees. If the applicant rejects the offer, all other legal remedies may be pursued against the State of California, its agencies, officers, and employees. Any notice of offer or rejection shall contain the notice required pursuant to subdivision (b) of Section 911.8.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide essential relief to the City of Portola, the County of Plumas, and its businesses and citizens for losses sustained as a result of the Lake Davis Northern Pike Eradication Project that took place on or about October 15, 1997, it is necessary for this act to take effect immediately.

