AMENDED IN ASSEMBLY APRIL 15, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

california legislature—2009–10 regular session

ASSEMBLY BILL No. 571

Introduced by Assembly Member Saldana

February 25, 2009

An act to amend Section 8254 of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

legislative counsel's digest

AB 571, as amended, Saldana. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is $265.

This bill, commencing April 1, 2010, and until March 31, 2015, would increase the permit fee for a lobster permit to $565. Under the bill, $300 of the permit fee would be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account, which the bill would create. The bill would continuously appropriate money in the account to the Ocean Protection Council to fund specified projects and programs that support long-term conservation or improved management, or both, of the California spiny lobster fishery. The bill would require the council to appoint a 5-member Lobster Management Enhancement Advisory Committee to recommend

to the council projects and programs and budgets for the expenditure of account moneys. Those lobster management enhancement provisions would be repealed on January 1, 2014.

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

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

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

(a) California's spiny lobster fishery is an important component of California's marine ecosystem, as well as an important source of jobs for California fishermen and fisherwomen and food for consumers.

(b) California's commercial and recreational lobster fishermen and fisherwomen, primarily through associations, should participate in the development and implementation of new approaches to managing lobster fishing. Those approaches should be designed to ensure economical and sustainable fishing.

(c) California's lobster fishing associations will greatly benefit from an established mechanism that will provide a steady source of funds for projects that promote the long-term conservation and improved management of the California spiny lobster fishery.

SEC. 2. Section 8254 of the Fish and Game Code is amended to read:

8254. (a) Lobsters shall not be taken for commercial purposes except under a valid lobster permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission.

(b) Every person who takes, assists in taking, possesses, or transports lobsters for commercial purposes while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters for commercial purposes, shall have a valid lobster permit.

(c) Except as provided in Section 8254.5, the permit fee for a lobster permit is two hundred sixty-five dollars ($265).

(d) The fee for a lobster crewmember permit is one hundred twenty-five dollars ($125).

(e) For the purposes of this section, it is prima facie evidence that lobster is taken for commercial purposes if the possession of lobster is more than three times the sport bag limit.

SEC. 3. Section 8254.5 is added to the Fish and Game Code, to read:

8254.5. (a) Notwithstanding subdivision (c) of Section 8254, commencing April 1, 2010, the permit fee for a lobster permit shall be five hundred sixty-five dollars ($565). Three hundred dollars ($300) of the permit fee is a surcharge and shall be known as the Lobster Management Enhancement Supplement. The department shall deposit Lobster Management Enhancement Supplement revenues in the Lobster Management Enhancement Account pursuant to Section 8262.

(b) This section shall become inoperative on March 31, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Article 5.5 (commencing with Section 8260) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 5.5. Lobster Management Enhancement Supplement

8260. As used in this article:

(a) "Account" means the Lobster Management Enhancement Account established in Section 8262.

(b) "Committee" means the Lobster Management Enhancement Advisory Committee established pursuant to Section 8263.

(c) "Council" means the Ocean Protection Council established in Section 35600 of the Public Resources Code.

8262. (a) Lobster Management Enhancement Supplement revenues received by the department pursuant to Section 8254.5, and any interest earned on those revenues, shall be deposited monthly in the Lobster Management Enhancement Account, which is hereby established as a separate account of the California Ocean Protection Trust Fund in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the account is continuously appropriated to the council for projects and programs to improve lobster conservation and management consistent with subdivision (b).

(b) Projects and programs recommended by the committee shall support long-term conservation or improved management, or both, of the California spiny lobster fishery, consistent with Section 35650 of the Public Resources Code. Potential projects and programs include, but are not limited to, all of the following:

(1) Purchasing lobster permits or trap certificates to address overcapitalization in the fishery.

(2) Obtaining Marine Stewardship Council sustainability certification.

(3) Implementing new management approaches that optimize catch per unit effort and create incentives for ecosystem improvement.

(4) Repaying ~~any California Fisheries Fund loans~~ *loans for lobster fishery management improvement projects*.

(5) Conducting research leading to informed and strategic management of the fishery.

(6) Planning and development of a lobster fishery management plan.

(c) Moneys in the account shall not be expended for a project or program unless the expenditure has been approved by both the Secretary of the Ocean Protection Council and a majority of the members of the committee.

(d) Department administrative overhead, collection, or other charges shall not exceed 1 percent of the annual expenditures from the account.

(e) Council administrative overhead, collection, or other charges shall not exceed 1 percent of the annual expenditures from the account.

8263. (a) The council shall appoint a Lobster Management Enhancement Advisory Committee, consisting of five members, as follows.

(1) One member, with an alternate, representative of the state's commercial lobster fishermen and fisherwomen.

(2) Two members, each with an alternate, selected from the membership of the California Lobster and Trap Fishermen's Association. This subdivision does not prohibit persons selected pursuant to paragraph (1) from also being a member of the California Lobster and Trap Fishermen's Association.

(3) The Secretary of the Ocean Protection Council, or his or her designee.

(4) The director, or his or her designee.

(b) The committee members selected pursuant to paragraphs (1) and (2) of subdivision (a) and their alternates shall be selected by the Secretary of the Ocean Protection Council from names of persons submitted by licensed California commercial lobster fishermen and fisherwomen. The Secretary of the Ocean Protection Council shall appoint persons to the committee who possess knowledge and experience in subjects that are of specific value to the committee.

(c) The committee members selected pursuant to paragraphs (1) and (2) of subdivision (a) or their alternates shall receive actual and necessary traveling expenses incurred in conformance with reimbursement procedures established by the council. Travel expenses shall be paid from the account.

(d) A term of appointment to the committee shall not be more than five years.

(e) The committee shall recommend to the council projects and programs consistent with subdivision (b) of Section 8262 and budgets for the expenditure of moneys received pursuant to this article.

(f) The council shall prepare and submit to the committee *and to the Legislature* an annual report that includes both of the following:

(1) An accounting of funds deposited into and expended from the account, including, but not limited to, the number of permits sold, revenues generated, moneys expended, and the status and actual project expenditures of projects or programs funded pursuant to this article.

(2) A statement of the council's reasoning in cases in which the council does not follow committee recommendations made pursuant to subdivision (e).

(g) In furtherance of the purposes articulated in subdivision (c) of Section 8262, the council may contract with, or offer grants to, nonprofit commercial fishery organizations.

(h) The council may act as fiscal agent for the committee.

8264. The council may receive funds for deposit in the account, for purposes of this article, from sources other than the sale of commercial fishing lobster permits, including, but not limited to, grants from the federal government, grants from private foundations, money disbursed from court settlements, and donations and bequests from individuals. Additional funds received pursuant to this section shall not be deposited in the account unless the person or entity providing the funds specifically designates in writing, prior to or at the time of transmittal of the funds to the council, that the funds are intended solely for deposit to that account.

8265. This article shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

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