

ASSEMBLY BILL

No. 1443

Introduced by Committee on Water, Parks and Wildlife (Huffman (Chair), Fuller (Vice Chair), Arambula, Tom Berryhill, Blumenfield, Caballero, Fletcher, Bonnie Lowenthal, John A. Perez, Salas, and Yamada)

February 27, 2009

An act to add Sections 392, 393, 2020, 12014, and 12022 to the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 1443, as introduced, Committee on Water, Parks and Wildlife.
Fish and wildlife: enforcement

(1) Existing law provides for reciprocal agreements with adjoining states with regard to fishing rights and law enforcement.

This bill would authorize the Director of Fish and Game, or a designated representative, to enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency to promote expeditious and effective law enforcement service to the public, and assistance between the members of the department and those agencies, in areas adjacent to the borders of this state and each of the adjoining states. The bill would deem any regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency a peace officer in this state, if specified conditions are met.

(2) Under existing law, except as expressly provided otherwise, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is a misdemeanor.

This bill would provide that it is unlawful to violate specific regulations adopted by the department and the commission, thereby imposing a state-mandated local program by creating new crimes.

(3) Under existing law, the violation of certain provisions of the code are subject to administrative penalties.

This bill would authorize the department, after the expiration of the time period to appeal an administrative penalty, to apply to the clerk of the appropriate court for a judgment to collect the administrative civil penalty.

(4) Existing law prescribes fines and penalties for specific violations of the code and regulations adopted pursuant to the code.

This bill would authorize certain presiding court officials to assess investigation costs, as described, against any person who is convicted of a violation relating to commercial activity or otherwise of sufficient significance to warrant cost recovery.

(5) 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: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 392 is added to the Fish and Game Code,
2 to read:

3 392. (a) The director, or a designated representative, may enter
4 into reciprocal operational agreements with authorized
5 representatives of any Oregon, Nevada, or Arizona state law
6 enforcement agency, including, but not limited to, the Oregon State
7 Police, the Nevada Department of Wildlife, and the Arizona Game
8 and Fish Department, to promote expeditious and effective law
9 enforcement service to the public, and assistance between the
10 members of the department and those agencies, in areas adjacent
11 to the borders of this state and each of the adjoining states pursuant
12 to Section 393.

13 (b) The reciprocal operational agreement shall be in writing and
14 may cover the reciprocal exchange of law enforcement services,

resources, facilities, and any other necessary and proper matters between the department and the respective agency.

(c) Any agreement shall specify all of the following:

(1) The involved departments, divisions, or units of the agencies.

(2) The duration and purpose of the agreement.

(3) Responsibility for damages.

(4) The method of financing any joint or cooperative undertaking.

(5) The methods to be employed to terminate an agreement.

(d) The director may establish operational procedures in implementation of any reciprocal operational agreement that are necessary to achieve the purposes of the agreement.

SEC. 2. Section 393 is added to the Fish and Game Code, to read:

393. (a) Any regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish Department, is a peace officer in this state if all of the following conditions are met:

(1) The officer is providing, or attempting to provide, law enforcement services within this state, within a distance of up to 50 statute miles of the contiguous border of this state and the state employing the officer, or within waters offshore of this state in the Exclusive Economic Zone.

(2) The officer is providing, or attempting to provide, law enforcement services pursuant to either of the following:

(A) In response to a request for services initiated by a member of the department.

(B) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by a member of the Department of Fish and Game is impractical to obtain under the circumstances. In those situations, the officer shall obtain authorization as soon as practical.

(3) The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the Department of Fish and Game in response to misdemeanor or felony criminal activity, pursuant to the authority of a peace officer as provided in subdivision (e) of Section 830.2 of the Penal Code,

1 or, in the event of emergency incidents or other similar public
2 safety problems, whether or not a member of the department is
3 present at the scene of the event.

4 (4) An agreement pursuant to Section 392 is in effect between
5 the Department of Fish and Game and the agency of the adjoining
6 state employing the officer, the officer acts in accordance with that
7 agreement, and the agreement specifies that the officer and
8 employing agency of the adjoining state shall be subject to the
9 same civil immunities and liabilities as a peace officer and his or
10 her employing agency in this state.

11 (5) The officer receives no separate compensation from this
12 state for providing law enforcement services within this state.

13 (6) The adjoining state employing the officer confers similar
14 rights and authority upon a member of the department who renders
15 assistance within that state.

16 (b) Notwithstanding any other provision of law, any person who
17 is acting as a peace officer in this state in the manner described in
18 this section shall be deemed to have met the requirements of
19 Section 1031 of the Government Code and the selection and
20 training standards of the Commission on Peace Officer Standards
21 and Training if the officer has completed the basic training required
22 for peace officers in his or her state.

23 (c) A peace officer of an adjoining state shall not provide
24 services within a California jurisdiction during any period in which
25 officers of the department are involved in a labor dispute that
26 results in a formal work slowdown or stoppage.

27 SEC. 3. Section 2020 is added to the Fish and Game Code, to
28 read:

29 2020. It is unlawful to violate any provision of Division 1
30 (commencing with Section 1.04) of Title 14 of the California Code
31 of Regulations. Violation of such a provision may be charged as
32 a violation of this section or of the specific section of Title 14
33 provision, and shall be punishable as provided in Section 12000.

34 SEC. 4. Section 12014 is added to the Fish and Game Code,
35 to read:

36 12014. After the expiration of the time period to appeal an
37 administrative penalty imposed pursuant to Sections 2301, 2302,
38 2582, or 2583, or any other provision of this code, the department
39 may apply to the clerk of the appropriate court for a judgment to
40 collect the administrative civil penalty. The application, including

1 a certified copy of the order imposing the civil penalty, a hearing
2 officer's decision, if any, or a settlement agreement, if any, shall
3 constitute a sufficient showing to warrant issuance of the judgment.
4 The court clerk shall enter the judgment immediately in conformity
5 with the application. The judgment so entered has the same force
6 and effect as, and is subject to all the provisions of law relating
7 to, a judgment in a civil action, and may be enforced in the same
8 manner as any other judgment of the court in which it is entered.

9 SEC. 5. Section 12022 is added to the Fish and Game Code,
10 to read:

11 12022. A judge, court commissioner, hearing officer, or other
12 presiding court official may assess investigation costs, payable to
13 the department, against any person who is convicted of violating
14 any section within this code or any regulation adopted pursuant to
15 this code relating to commercial activity, or of a violation that the
16 presiding court official determines to be of sufficient significance
17 to warrant cost recovery. For purposes of this section,
18 "investigation costs" are those costs incurred by the department
19 that are in any way associated with the violation. Investigation
20 costs include, but are not limited to, sworn and nonsworn employee
21 salaries, travel expenses, vehicle mileage, aircraft time, vessel
22 time, laboratory expenses, storage, contracts, witness fees,
23 administrative overhead, equipment rentals, equipment purchases,
24 and any other expenses deemed to be reasonable by the judge or
25 court official. All revenues of assessments imposed pursuant to
26 this section shall be deposited in the Fish and Game Preservation
27 Fund in the State Treasury.

28 SEC. 6. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.