

## **FISH AND GAME CODE - FGC**

### **DIVISION 3. FISH AND GAME GENERALLY [2000 - 2948]**

*( Division 3 enacted by Stats. 1957, Ch. 456. )*

#### **CHAPTER 8. Fisheries Restoration [2760 - 2765]**

*( Chapter 8 added by Stats. 1985, Ch. 1236, Sec. 1. )*

##### **2760.**

This chapter shall be known and may be cited as the Keene-Nielsen Fisheries Restoration Act of 1985.

*(Amended by Stats. 1986, Ch. 867, Sec. 1.)*

##### **2761.**

The Legislature finds and declares as follows:

- (a) Many of California's significant fish and wildlife resources in inland and coastal waters have declined as the result of many development projects which have provided valuable economic growth.
- (b) Fish and wildlife have been adversely affected by water developments that have significantly altered water flows in many of California's rivers and streams, thereby affecting fish and wildlife, their habitat, adjacent riparian habitat, spawning areas, and migration routes.
- (c) Fish and wildlife are important public resources with significant economical, environmental, recreational, aesthetic, and educational values.
- (d) California intends to make reasonable efforts to prevent further declines in fish and wildlife, to restore fish and wildlife to historic levels where possible, and to enhance fish and wildlife resources where possible.
- (e) Protection of, and an increase in, the naturally spawning salmon and steelhead trout resources of the state would provide a valuable public resource to the residents, a large statewide economic benefit, and would, in addition, provide employment opportunities not otherwise available to the citizens of this state, particularly in rural areas of underemployment.
- (f) The protection of, and increase in, the naturally spawning salmon and steelhead trout resources of the state should be accomplished primarily through the improvement of stream habitat.
- (g) The Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Ch. 8 (commencing with Sec. 6900), Pt. 1, Div. 6), declares that it is the policy of the state to increase the state's salmon and steelhead trout resources, and directs the department to develop a plan and program that strives to double the salmon and steelhead trout resources.

*(Amended by Stats. 1990, Ch. 1671, Sec. 1.)*

2762.

(a) The Fisheries Restoration Account is hereby created in the Fish and Game Preservation Fund. The moneys in the Fisheries Restoration Account are hereby appropriated to the department for expenditure in fiscal years 1991–92 to 1993–94, inclusive, pursuant to subdivision (b).

(b) The moneys in the Fisheries Restoration Account may be expended for the construction, operation, and administration of projects designated in the plan developed by the department in accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Ch. 8 (commencing with Sec. 6900), Pt. 1, Div. 6), and projects designed to restore and maintain fishery resources and their habitat that have been damaged by past water diversions and projects and other development activities. Expenditures shall not be authorized for a project to be funded under this subdivision before a date which is 30 days after the department has furnished a copy of the proposal for the project to be funded, together with supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee. These projects shall have as their primary objective the restoration of fishery resources identified in the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act. Projects may include, but shall not be limited to, watershed assessments, fisheries restoration planning, acquisition of lands, restoration of habitat, restoration or creation of spawning areas, construction of fish screens or fish ladders, stream rehabilitation, and installation of pollution control facilities. Projects for restoration or creation of spawning areas shall utilize natural spawning rather than hatcheries to the extent possible.

Under no circumstances shall any water project be absolved under this subdivision of any mitigation requirements which are placed upon it under existing law.

No land shall be acquired pursuant to this chapter by eminent domain proceedings.

(c) Priority for funding shall be given to projects that employ fishermen, fish processing workers, and others who are unemployed or underemployed due to the elimination of a commercial fishing season as a result of restrictions imposed by federal regulations. This priority shall remain in effect only as long as those restrictions are in force.

(d) Expenditures shall not be authorized for multiyear projects funded under subdivision (b) before a date which is 30 days after the department has submitted an annual progress report on the project and a copy of the work schedule for subsequent year funding of the project to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee.

(e) The department shall conduct a preproject and postproject evaluation on each project recommended in the plan and program developed by the

department in accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act for which money has been appropriated from the Fisheries Restoration Account.

(f) The department may expend not more than 5 percent of the funds annually appropriated from the Fisheries Restoration Account for the administration of projects.

(g) The department may contract for services for the purpose of conducting a preproject and postproject evaluation or for the administration of projects.

(h) The department shall, during the last fiscal year of funding, conduct a review of all previous and ongoing projects to determine if the elements of the plan and program developed by the department pursuant to the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act are being met, including the goal of doubling the 1988 population of salmon and steelhead trout, as declared in Section 6902.

*(Amended by Stats. 1993, Ch. 617, Sec. 3. Effective October 1, 1993.)*

#### 2762.2.

The department may advance partial finding, of up to 50 percent of the amount contracted for, to contractors for projects under subdivision (b) of Section 2762 if the director finds the organization meets all of the following requirements:

- (1) It has a previously demonstrated record of successfully completing one or more fishery restoration projects funded under contract with the department.
- (2) It utilizes generally accepted accounting procedures.
- (3) It demonstrates that the project can be accomplished more efficiently and economically with partial funding advanced at the initiation of the project.

*(Added by Stats. 1987, Ch. 937, Sec. 1.)*

#### 2762.5.

In addition to subdivision (b) of Section 2762, the moneys in the Fisheries Restoration Account may be expended, upon appropriation by the Legislature, by the department to fund the administrative costs of the Advisory Committee on Salmon and Steelhead Trout.

*(Added by Stats. 1986, Ch. 212, Sec. 1. Effective June 27, 1986.)*

#### 2762.6.

The department shall, after consultation with the Advisory Committee on Salmon and Steelhead Trout, allocate that amount of moneys appropriated to the department from the Public Resources Account in the Cigarette and Tobacco

Products Surtax Fund which the department determines to be necessary to pay the costs for the advisory committee.

*(Added by Stats. 1989, Ch. 1400, Sec. 4. Effective October 2, 1989.)*

### 2763.

The director shall consult with the Resources Agency, the Department of Water Resources, the State Water Resources Control Board, the State Coastal Conservancy, the San Francisco Bay Conservation and Development Commission, and the California Coastal Commission in determining projects proposed for funding pursuant to Section 2762.

*(Added by Stats. 1985, Ch. 1236, Sec. 1. Effective September 30, 1985.)*

### 2764.

The director shall consult with other responsible state agencies and appropriate fishery advisory committees, including, but not limited to, the Advisory Committee on Salmon and Steelhead Trout and the Striped Bass Stamp Advisory Committee, in developing projects to be funded pursuant to Section 2762.

*(Added by Stats. 1985, Ch. 1236, Sec. 1. Effective September 30, 1985.)*

### 2765.

The California Water Commission, in any recommendation it may make to the Congress of the United States on funding for water projects, shall include recommendations for studies, programs, and facilities necessary to correct fish and wildlife problems caused, fully or partially, by federal water facilities and operation, including, but not limited to, all of the following:

- (a) The Red Bluff Dam.
- (b) The Trinity and Lewiston Dams.
- (c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the Sacramento-San Joaquin Delta from adverse water quality effects caused by the federal Central Valley Project.
- (d) The Kesterson Reservoir and the San Luis Drain.

*(Amended by Stats. 2006, Ch. 538, Sec. 183. Effective January 1, 2007.)*