

FISH AND GAME CODE - FGC

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

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

CHAPTER 9. California Wildlife Protection Act of 1990 [2780 - 2799.6]

(Chapter 9 added June 5, 1990, by initiative Proposition 117, Sec. 2.)

ARTICLE 1. General Provisions [2780 - 2781]

(Article 1 added June 5, 1990, by initiative Proposition 117.)

2780.

The people of California find and declare all of the following:

(a) Protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California. As the state's human population increases, there is an urgent need to protect the rapidly disappearing wildlife habitats that support California's unique and varied wildlife resources.

(b) Much of the state's most important deer winter ranges have been destroyed in the last 20 years.

(c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade mountain ranges are increasingly subject to incompatible land uses. In some counties, over 80 percent of the critical winter ranges fall on these lands. The potential for incompatible land uses on these lands is a major threat to the survival of many migratory deer herds.

(d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada, Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana, Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana and other mountains and foothill areas within southern California, is disappearing rapidly. Small and often isolated wildlife populations are forced to depend upon these shrinking habitat areas within the heavily urbanizing areas of this state. Corridors of natural habitat must be preserved to maintain the genetic integrity of California's wildlife.

(e) This chapter shall be implemented in the most expeditious manner. All state officials shall implement this chapter to the fullest extent of their authority in order to preserve, maintain, and enhance California's diverse wildlife heritage and the habitats upon which it depends.

(Added June 5, 1990, by initiative Proposition 117.)

2781.

The people of California find and declare that wildlife and fisheries conservation is in the public interest and that it is necessary to keep certain lands in open space and natural condition to protect significant environmental values of wildlife and native plant habitat, riparian and wetland areas, native oak woodlands, and other open-space lands, and to provide opportunities for the people of California to appreciate and visit natural environments and enjoy California's unique and varied fish and wildlife resources.

It is the intent of the people, in enacting this chapter, that additional funds are needed to protect fish, wildlife, and native plant resources and that the Legislature should provide those funds through bond acts and other appropriate sources.

(Added June 5, 1990, by initiative Proposition 117.)

ARTICLE 2. California Wildlife Protection [2785 - 2799.6]

(Article 2 added June 5, 1990, by initiative Proposition 117.)

2785.

The following definitions govern the construction of this chapter:

(a) "Acquisition" includes but is not limited to, gifts, purchases, leases, easements, the exercise of eminent domain if expressly authorized, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights and other interests.

(b) "Board" means the Wildlife Conservation Board.

(c) "Fund" means the Habitat Conservation Fund created by Section 2786.

(d) "Local agency" means a city, county, city and county, or a district as defined in subdivision (b) of Section 5902 of the Public Resources Code.

(e) "Riparian habitat" means lands which contain habitat which grows close to and which depends upon soil moisture from a nearby freshwater source.

(f) "Southern California" means the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

(g) "Wetlands" means lands which may be covered periodically or permanently with shallow water and which include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

(Added June 5, 1990, by initiative Proposition 117.)

2786.

Except as otherwise expressly provided in paragraph (3) of subdivision (a) of Section 2787, the money in the Habitat Conservation Fund, which is hereby created, shall be used for the following purposes:

- (a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions.
- (b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species.
- (c) The acquisition of habitat to further implement the Habitat Conservation Program pursuant to Article 2 (commencing with Section 2721) excepting Section 2722 and subdivision (a) of Section 2723, and Sections 2724 and 2729.
- (d) The acquisition, enhancement, or restoration of wetlands.
- (e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources.
- (f) The acquisition, restoration, or enhancement of riparian habitat.

(Added June 5, 1990, by initiative Proposition 117.)

2787.

Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, as follows:

- (a) To the Department of Parks and Recreation, four million five hundred thousand dollars (\$4,500,000) annually for allocation as follows:
 - (1) One million five hundred thousand dollars (\$1,500,000) for projects that are located in the Santa Lucia Mountain Range in Monterey County for expenditure by the Department of Parks and Recreation and for grants to the Monterey Peninsula Regional Park District.
 - (2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of the state park system.
 - (3) Two million dollars (\$2,000,000) for 50 percent matching grants to local agencies for projects meeting the purposes specified in Section 2786 and, additionally, for the acquisition of wildlife corridors and urban trails, nature interpretation programs, and other programs which bring urban residents into park and wildlife areas. The grants made pursuant to this subdivision are subject to the conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the Public Resources Code, as nearly as may be practicable.
- (b) To the State Coastal Conservancy, four million dollars (\$4,000,000) annually.
- (c) To the Santa Monica Mountains Conservancy, five million dollars (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990–91 fiscal year. The money shall be used for the purposes specified in Section 2786 for wildlife habitat, and for related open-space projects, within the Santa Monica Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita Woodlands. Of the total amount appropriated pursuant to this subdivision, not

less than a total of ten million dollars (\$10,000,000) shall be spent within the Santa Susana Mountains and the Simi Hills, and not less than a total of ten million dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These funds shall be expended in accordance with Division 23 (commencing with Section 33000) of the Public Resources Code during the operative period of this section as specified in subdivision (f) and in Section 2797. The Legislature may, by statute, extend the period for expenditure of the funds provided by this paragraph.

(d) To the California Tahoe Conservancy, five hundred thousand dollars (\$500,000) annually.

(e) To the board, the balance of the fund.

(f) This section shall become operative on July 1, 1990, and, as of July 1, 2020, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2020, deletes or extends that date.

(Added June 5, 1990, by initiative Proposition 117. Section operative July 1, 1990, by its own provisions.

Repealed as of July 1, 2020, by its own provisions.)

2788.

Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, to the board. This section shall become operative only if, and on the date that, Section 2787 is repealed.

(Added June 5, 1990, by initiative Proposition 117. Section operative, by its own provisions, on July 1, 2020, upon repeal of Section 2787.)

2789.

In areas where habitats are or may become isolated or fragmented, preference shall be given by the agencies expending money from the fund to projects which will serve as corridors linking otherwise separated habitat so that the genetic integrity of wildlife populations will be maintained.

(Added June 5, 1990, by initiative Proposition 117.)

2790.

Each agency receiving money from the fund pursuant to Section 2787 shall report to the board on or before July 1 of each year the amount of money that was expended and the purposes for which the money was expended. The board shall prescribe the information in the agencies reports that it determines is necessary to carry out the requirements of Section 2791.

(Added June 5, 1990, by initiative Proposition 117.)

2791.

The board shall expend the money appropriated to it from the fund subject to the following conditions:

- (a) Not more than one and one-half (1¹/₂) percent shall be expended for administration of this chapter.
- (b) The board shall, to the extent practicable, expend the money in a manner and for projects so that, within each 24-month period, approximately one-third of the total expenditures of the money in the fund, including, until July 1, 2020, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (a) of Section 2786 and approximately two-thirds of the total expenditures of the money in the fund, including, until July 1, 2020, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivisions (b) and (c) of Section 2786.
- (c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and (c) of Section 2786, the board shall, to the extent practicable, expend the money in the fund in a manner and for projects so that, within each 24-month period, approximately six million dollars (\$6,000,000) of the money, including, until July 1, 2020, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (d) of Section 2786.
- (d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and (c) of Section 2786, the board shall, to the extent practicable, expend the money in the fund in a manner and for projects so that, within each 24-month period, approximately six million dollars (\$6,000,000) of the money, including, until July 1, 2020, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (e) and (f) of Section 2786.
- (e) To the extent practicable, the board shall expend the money appropriated to it from the fund in a manner and for projects so that, within each 24-month period, approximately one-half of the total expenditures of the money in the fund, including, until July 1, 2020, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended in northern California and approximately one-half in southern California.
- (f) Subject to the other requirements of this section, the board may allocate not more than two million dollars (\$2,000,000) annually for the purposes of this chapter to one or more State agencies created by the Legislature or the people

which are authorized by other provisions of law to expend funds for the purposes of this chapter.

(Added June 5, 1990, by initiative Proposition 117.)

2792.

If any agency designated in Section 2787 ceases to exist, or is otherwise unable to expend the funds appropriated by Section 2787 to that agency for the period specified, the board or its successor agency shall expend the same funds for the same purpose.

(Added June 5, 1990, by initiative Proposition 117.)

2793.

The board and any other state or local agency that expends any funds appropriated from the fund on environmental enhancement, restoration, or improvement projects shall utilize the services of the California Conservation Corps and local community conservation corps to the extent practicable.

(Added June 5, 1990, by initiative Proposition 117.)

2794.

In implementing this chapter, the state or local agency that manages lands acquired with funds appropriated from the fund shall prepare, with full public participation, a management plan for lands that have been acquired, which plan shall reasonably reduce possible conflicts with neighboring land use and landowners, including agriculturists. The plans shall comply with the California Environmental Quality Act (Division 21 (commencing with Section 21000) of the Public Resources Code).

(Added June 5, 1990, by initiative Proposition 117.)

2795.

(a) The Controller shall annually transfer 10 percent of the funds in the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the Habitat Conservation Fund.

(b) No additional allocation of funds from that account shall be made by the Legislature for purposes of this chapter or for any other natural resource or environmental protection program.

(Added June 5, 1990, by initiative Proposition 117.)

2796.

(a) The Controller shall annually transfer the sum of thirty million dollars (\$30,000,000) from the General Fund to the Habitat Conservation Fund, less any amount transferred to the Habitat Conservation Fund from, but not limited to, the following accounts and funds:

(1) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to the extent authorized by the Tobacco Tax and Health Protection Act of 1988.

(2) The Unallocated Account in the Cigarette and Tobacco Products Surtax Fund pursuant to subdivision (a) of Section 2795.

(3) The California Environmental License Plate Fund.

(4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Any other non-General Fund accounts and funds created by the Legislature or the people for purposes which are consistent with the purposes of this act.

(6) Any bond funds which are authorized by the people after July 1, 1990, which may be used for purposes which are identical to the purposes specified in Section 2786.

(7) The Wildlife Restoration Fund.

(b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, transfers from the Fish and Game Preservation Fund are not transfers for purposes of subdivision (a) and shall not be made to the fund. Transfers of federal, local, or privately donated funds or transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of the Public Resources Code to the fund are not transfers for purposes of subdivision (a).

(c) This section does not limit the amount of funds which may be transferred to the fund or which may be expended for fish and wildlife habitat protection either from the fund or from any other sources.

(d) This section shall become operative on July 1, 1990, shall become inoperative on June 30, 2020, and, as of January 1, 2021, is repealed, unless a later enacted statute, which becomes effective before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added June 5, 1990, by initiative Proposition 117. Section operative July 1, 1990, by its own provisions.

Inoperative June 30, 2020. Repealed as of January 1, 2021, by its own provisions.)

2797.

(a) The people find it necessary to acquire, restore, and improve the rapidly disappearing wildlife habitat of southern California in the quickest and most efficient manner possible using existing governmental resources. Therefore,

notwithstanding Section 33216 of the Public Resources Code, Division 23 (commencing with Section 33000) of the Public Resources Code shall continue in effect for the period that funds may be expended pursuant to subdivision (c) of Section 2787.

This subdivision shall not become operative if, prior to June 6, 1990, Section 33216 of the Public Resources Code has been amended to extend the operative effect of that Division 23 to at least July 1, 1995.

(b) If subdivision (a) of this section does not become operative, the controller shall increase the annual transfer of funds pursuant to subdivision (c) of Section 2787 on a pro rata basis so that the total amount available to the Santa Monica Mountains Conservancy for purposes of this chapter pursuant to that subdivision (c) is fifty million dollars (\$50,000,000). Nothing in this section precludes the Legislature from extending the time for expenditure of funds pursuant to subdivision (c) of Section 2787.

(Added June 5, 1990, by initiative Proposition 117. Subd. (a) is nonoperative by its own conditions, which were satisfied by Stats. 1989, Ch. 696.)

2798.

Acquisitions of real property made pursuant to this chapter shall be done in compliance with the land acquisition law as existing or as hereafter amended and as it applies to the agencies designated in Section 2787, and in compliance with subdivision (a) of Section 5929 of the Public Resources Code.

(Added June 5, 1990, by initiative Proposition 117.)

2799.

Every expenditure made pursuant to this chapter shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(Added June 5, 1990, by initiative Proposition 117.)

2799.5.

Reasonable public access to lands acquired in fee with funds made available pursuant to this chapter shall be provided except when that access may interfere with habitat protection.

(Added June 5, 1990, by initiative Proposition 117.)

2799.6.

Only those amounts of money which are transferred to the fund from the General Fund pursuant to Section 2796 may be reappropriated for purposes of this chapter by a two-thirds vote of the Legislature.

(Added June 5, 1990, by initiative Proposition 117.)