

FISH AND GAME CODE - FGC

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

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

CHAPTER 7. Fish and Wildlife Habitat Enhancement Act of 1984 [2600 - 2651]

(Chapter 7 added by Stats. 1984, Ch. 6, Sec. 1.)

ARTICLE 1. General Provisions [2600 - 2602]

(Article 1 added by Stats. 1984, Ch. 6, Sec. 1.)

2600.

This chapter shall be known and may be cited as the Fish and Wildlife Habitat Enhancement Act of 1984.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2601.

(a) The fundamental requirement for healthy, vigorous populations of fish and wildlife is habitat. Without adequate habitat, efforts to conserve and manage fish and wildlife resources will have limited success.

(b) Assuring adequate habitat, with the resulting increase in the abundance of fish and wildlife, confers substantial benefits on the people of California through the opportunities afforded for the use, enjoyment, and appreciation of fish and wildlife resources, the perpetuation of species of fish and wildlife for their intrinsic and ecological values, and the enhancement of economic activities based on these resources.

(c) Accordingly, the purpose of this chapter is to provide the financial means to correct the most severe deficiencies in fish and wildlife habitat currently found in California through a program of acquisition, enhancement, and development of habitat areas that are most in need of proper conservation and management.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2602.

As used in this chapter, the following terms have the following meanings:

(a) "Acquisition" means the acquisition of any interest in real property.

(b) "Coastal zone" means the coastal zone as defined and mapped pursuant to Section 30103 of the Public Resources Code.

(c) "Local public agency" means a city, county, city and county, regional park or open-space district, recreation and park district, resource conservation district, association of governments, or joint powers agency whose jurisdiction is wholly or partially within the coastal zone or in the San Francisco Bay region.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

ARTICLE 2. Habitat Enhancement Program [2620 - 2627]

(Article 2 added by Stats. 1984, Ch. 6, Sec. 1.)

2620.

All money deposited in the Fish and Wildlife Habitat Enhancement Fund shall be available for appropriation by the Legislature for the following purposes:

(a) Forty million dollars (\$40,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, of lands located outside the coastal zone for the preservation of resources and the management of wildlife and fisheries, in accordance with the following schedule:

(1) Thirty million dollars (\$30,000,000) for the acquisition, enhancement, or development, or any combination thereof, of lands for habitat for wildfowl and other wildlife benefitted by a marsh or aquatic environment.

(2) Ten million dollars (\$10,000,000) for the restoration of waterways for the management of fisheries and the enhancement or development, or both, of habitat for other wildlife.

(b) Five million dollars (\$5,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, of lands for habitat for rare, endangered, and fully protected species.

(c) Thirty million dollars (\$30,000,000) for expenditure by the State Coastal Conservancy for the acquisition, enhancement, or development, or any combination thereof, of marshlands and associated and adjacent lands and the development of associated facilities and for grants to local public agencies for those purposes, in accordance with the following schedule:

(1) Twenty million dollars (\$20,000,000) for grants by the conservancy to local public agencies in the coastal zone and in the San Francisco Bay region for the acquisition, enhancement, or development, or any combination thereof, of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic environment and the improvement of drainage into wetlands to control or retard erosion and sedimentation, and biologically and hydrologically associated upland habitat areas. Of the amount made available pursuant to this

paragraph, not less than five million dollars (\$5,000,000) shall be available for grants for projects in the San Francisco Bay region.

(2) Ten million dollars (\$10,000,000) for expenditure by the conservancy for the purposes authorized in this subdivision.

(d) Ten million dollars (\$10,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, inside the coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic environment.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2621.

An annual amount, not to exceed one hundred thousand dollars (\$100,000), may be appropriated from the funds available pursuant to subdivisions (a) and (d) of Section 2620 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the Wildlife Conservation Board for expenditure for costs incurred by the board in administering this chapter, as provided in this section. The board shall augment, as needed, any amount appropriated pursuant to this section with an appropriation from any other funds available to it. This chapter is not intended, nor shall it be construed, to authorize the Wildlife Conservation Board or the department to establish any additional personnel positions.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2622.

An annual amount, not to exceed two hundred fifty thousand dollars (\$250,000), may be appropriated from the funds available pursuant to subdivision (c) of Section 2620 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the State Coastal Conservancy for expenditure for costs incurred by the conservancy in administering this chapter.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2623.

(a) None of the funds appropriated pursuant to this chapter may be encumbered for any purpose described in Section 1353.

(b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code, the State Coastal Conservancy and the State Public Works Board may not make any acquisition pursuant to the power of eminent domain with any funds appropriated pursuant to this chapter.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2624.

Funds available pursuant to subdivision (b) of Section 2620 may be encumbered only for lands constituting habitat that is subject to destruction, drastic modification, or severe curtailment of habitat values.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2625.

No acquisition shall be undertaken with funds appropriated pursuant to Section 2620 and no grant of funds appropriated pursuant to subdivision (c) of Section 2620 shall be encumbered until all practical alternatives to direct purchase of the full fee title have been considered. The Wildlife Conservation Board and the State Coastal Conservancy shall establish a procedure to assure consideration of alternatives to direct purchase. These alternatives shall include, but not be limited to, the following:

(a) Opportunities for obtaining the land through exchanges of other publicly held lands.

(b) Tax considerations that may pertain to the contemplated transaction.

(c) Utilization of transfers of densities and density bonuses and other available land use controls.

(d) Purchase of less than full fee title.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2626.

(a) All restoration projects which involve the expenditure of funds available pursuant to subdivision (c) of Section 2620 shall be reviewed in accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public Resources Code, as applicable.

(b) Funds available pursuant to subdivision (d) of Section 2620 shall be encumbered in accordance with priorities of the California Coastal Commission.

(c) Of the total amount available pursuant to subdivision (d) of Section 2620, not more than four million dollars (\$4,000,000) may be encumbered for any single acquisition project.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2627.

(a) Funds granted pursuant to subdivision (c) of Section 2620 for any purpose, other than acquisition, shall not be encumbered by the recipient until the conservancy has entered into an agreement sufficient to protect the public interest in any improvements constructed pursuant to this chapter with the entity that exercises legal control of the real property on which the improvement is constructed.

(b) The conservancy shall not disburse any grant until the applicant, or any other appropriate managing or operating entity, has entered into an agreement with the conservancy or its designee, or both, sufficient to assure that the property acquired, enhanced, or developed, and any improvements thereon, shall be managed and operated for the purpose for which the grant was requested. No use of the property that is incompatible with that purpose shall ever be permitted.

(c) The minimum amount for which an application for an individual project may be made is fifteen thousand dollars (\$15,000).

(d) Every application for a grant shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code, funds granted pursuant to subdivision (c) of Section 2620 may be encumbered only for the acquisition, enhancement, or development, or any combination thereof, and the costs incurred by the recipient in planning, preparation of construction documents, fiscal management and accounting, and supervision of construction in connection with the project for which the grant was made. All expenditures made by a recipient of a grant shall be subject to being audited.

(f) Funds granted pursuant to subdivision (c) of Section 2620 shall be available for encumbrance by the recipient for a period of three years after the date when the grant became effective.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

ARTICLE 3. Fiscal Provisions [2640 - 2651]

(Article 3 added by Stats. 1984, Ch. 6, Sec. 1.)

2640.

Bonds in the total amount of eighty-five million dollars (\$85,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest on the bonds as the principal and interest become due and payable.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2641.

There shall be collected each year and in the same manner and at the same time as other state revenue is collected such a sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2642.

There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal and interest on bonds issued and sold pursuant to the provisions of this chapter, as principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 2644, which sum is appropriated without regard to fiscal years.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2643.

The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby created. The money in the fund may be expended only for the purposes specified in this chapter and only pursuant to appropriation by the Legislature in the manner prescribed in this chapter.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2644.

For the purposes of carrying out the provisions of this article, the Director of Finance may, pursuant to appropriate authority in each annual Budget Act, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any moneys made available under this section shall be returned to the General Fund from moneys received from the sale of bonds for the purpose of carrying out the provisions of this chapter. The withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would otherwise have been earned by those sums in the Pooled Money Investment Fund.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2644.5.

Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(Added by Stats. 1991, Ch. 652, Sec. 9.)

2645.

All proposed appropriations for the program shall be included in a section in the Budget Bill for the 1984–85 fiscal year and each succeeding fiscal year for consideration by the Legislature and shall bear the caption “Fish and Wildlife Habitat Enhancement Program.” The section shall contain separate items for each project, each class of projects, or each element of the program for which an appropriation is made.

All appropriations shall be subject to all limitations enacted in the Budget Act and to all fiscal procedures prescribed by law with respect to the expenditure of state funds unless expressly exempted from such laws by a statute enacted by the Legislature. The section in the Budget Act shall contain proposed appropriations only for the program elements and classes of projects contemplated by this chapter, and no funds derived from the bonds authorized by this chapter may be expended pursuant to an appropriation not contained in that section of the Budget Act.

(Amended by Stats. 2001, Ch. 745, Sec. 52. Effective October 12, 2001.)

2646.

The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the Government Code), and all of the provisions of that law are applicable to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full herein.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2647.

Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds authorized by this chapter, the Wildlife Habitat Enhancement Program Finance Committee is hereby created. The committee consists of the Controller, the Director of Finance, and the Treasurer. For purposes of this chapter, this committee is “the committee” as that term is used in the State General Obligation Bond Law, and the Treasurer shall serve as chairman of the committee.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2648.

All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2649.

Commencing with the Budget Bill for the 1995-96 fiscal year, the balance remaining in the fund may be appropriated by the Legislature for expenditure, without regard to the maximum amounts allocated to each element of the program, for any or all elements of the program specified in Section 2620, or any class or classes of projects within those elements that the Legislature deems to be of the highest priority.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2650.

The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)

2651.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

(Added by Stats. 1984, Ch. 6, Sec. 1. Approved June 5, 1984, by adoption of Proposition 19. Operative July 1, 1984.)