

AMENDED IN SENATE SEPTEMBER 4, 2001

AMENDED IN SENATE JUNE 26, 2001

AMENDED IN ASSEMBLY APRIL 26, 2001

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1561

Introduced by Assembly Member Kelley

February 23, 2001

~~An act to add Section 12567 to the Water Code, relating to water. An act to add Chapter 13 (commencing with Section 2960) to Division 3 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1561, as amended, Kelley. Colorado River Water.

(1) Existing law authorizes the taking of endangered, threatened, and candidate species under certain circumstances.

This bill would authorize the Department of Fish and Game and the Fish and Game Commission to authorize the taking of certain birds and fully protected species if the taking is related to (a) the implementation of any component of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada and approved by the department, (b) the implementation of any component of the May 11, 2000, working draft of the California Colorado River Water Use Plan, or (c) the effects of any covered activities as described in the Water Conservation and Transfer Project

Habitat Conservation Plan prepared by the Imperial Irrigation District for the purpose of obtaining compliance with the California Endangered Species Act for certain water transfers.

The bill also would deem certain statutory requirements, including requirements of the California Endangered Species Act, relating to impacts or potential impacts at the Salton Sea on any species resulting from conservation measures, water transfers, and any other actions carried out in furtherance of a specified agreement, satisfied as of January 1, 2002, and for the period that the specified agreement is in effect. This provision would not be operative if the specified agreement is not executed on or before December 31, 2002.

The operation of the provisions described above would be suspended if a specified feasibility study required by federal law relating to the Salton Sea is not completed by December 31, 2002. Those provisions then would again become operative when the study is completed.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and to the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code and to pay the compensation and expenses of the commissioners and employees of the commission.

By authorizing the commission and the department to undertake new duties, this bill would make an appropriation.

~~Under existing law, the state undertakes environmental and water supply planning with regard to the Colorado River.~~

~~Existing law authorizes the taking of endangered, threatened, and candidate species under certain circumstances.~~

~~This bill would require the Secretary of the Resources Agency, on or before April 1, 2002, to submit a progress report on the implementation of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada and approved by the Department of Fish and Game to specified legislative committees. The bill would also make related findings and declarations.~~

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

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

- 1 ~~SECTION 1. The Legislature hereby finds and declares all of~~
- 2 *SECTION 1. Chapter 13 (commencing with Section 2960) is*
- 3 *added to Division 3 of the Fish and Game Code, to read:*
- 4

CHAPTER 13. COLORADO RIVER WATER

2960. “Quantification Settlement Agreement,” for purposes of this chapter, means the agreement with that title among the Quantification Settlement Agreement parties, the provisions of which are substantially as described in the draft Quantification Settlement Agreement dated December 12, 2000, and submitted for public review by the Quantification Settlement Agreement parties.

2961. (a) The commission or the department may authorize the taking of any species identified in Section 3503.5, 3505, 3511, 4700, 5050, or 5515 if the taking is related to any of the following:

(1) The implementation of any component of the Lower Colorado River Multi-Species Conservation Program established by the States of California, Arizona, and Nevada, and approved by the department.

(2) The implementation of any component of the May 11, 2000, working draft of the California Colorado River Water Use Plan prepared by the Colorado River Board of California to transition California to its basic annual Colorado River apportionment of 4.4 million acre feet, and as that plan may be amended by that board.

(3) The effects of any “Covered Activities” as described in the Water Conservation and Transfer Project Habitat Conservation Plan prepared by the Imperial Irrigation District for the purpose of obtaining compliance with the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050)) for the Quantification Settlement Agreement water transfers.

(b) Except as otherwise provided in this chapter, the taking of any species enumerated in subdivision (a) shall be authorized under the same conditions as the commission or the department may authorize the taking of an endangered, threatened, or candidate species pursuant to Chapter 1.5 (commencing with Section 2050) or Chapter 10 (commencing with Section 2800).

2962. (a) All requirements of the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050)), and Sections 3503.5, 3505, 3511, 4700, 5050, and 5515 relating to impacts or potential impacts at the Salton Sea on any species, resulting from conservation measures, water transfers, and any other actions carried out in furtherance of the Quantification

1 *Settlement Agreement are deemed satisfied as of January 1, 2002,*
2 *and for the period that the Quantification Settlement Agreement is*
3 *in effect. Any such impacts to the Salton Sea shall be addressed by*
4 *the feasibility study conducted pursuant to Section 101(b) of the*
5 *Salton Sea Reclamation Act of 1998 (P.L. 105-372). If the*
6 *Quantification Settlement Agreement is not executed on or before*
7 *December 31, 2002, this section shall not be operative.*

8 *(b) Nothing in this section alters existing law regarding*
9 *compliance with the California Endangered Species Act (Chapter*
10 *1.5 (commencing with Section 2050)) for impacts or potential*
11 *impacts of the Quantification Settlement Agreement that may*
12 *occur at a location other than the Salton Sea.*

13 *2963. If the feasibility study described in Section 101(b) of the*
14 *Salton Sea Reclamation Act of 1998 (P.L. 105-372) is not*
15 *completed by December 31, 2002, the operation of Sections 2961*
16 *and 2962 is suspended on that date until the feasibility study is*
17 *completed, at which time Sections 2961 and 2962 shall again*
18 *become operative.*

19 ~~the following:~~

20 ~~(a) Representatives from Arizona, California, and Nevada,~~
21 ~~along with various stakeholders and water and power agencies~~
22 ~~along the lower Colorado River, have formed a regional~~
23 ~~partnership, which is developing a first of its kind multispecies~~
24 ~~conservation program aimed at protecting sensitive, threatened,~~
25 ~~and endangered species of fish and wildlife, and their respective~~
26 ~~habitats.~~

27 ~~(b) Planned for implementation over a 50-year period, the~~
28 ~~comprehensive multispecies conservation program will address~~
29 ~~future federal agency consultation needs under the federal~~
30 ~~Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.),~~
31 ~~nonfederal agency needs for endangered species incidental take~~
32 ~~authorization under federal Endangered Species Act, and~~
33 ~~California agency needs for incidental take authorization under the~~
34 ~~California Endangered Species Act (Chapter 1.5 (commencing~~
35 ~~with Section 2050) of Division 3 of the Fish and Game Code) and~~
36 ~~the Natural Community Conservation Planning Act (Chapter 10~~
37 ~~(commencing with Section 2800) of Division 3 of the Fish and~~
38 ~~Game Code).~~

39 ~~(c) Approximately 100 candidate and sensitive species listed~~
40 ~~pursuant to the federal and state endangered species acts and the~~

1 aquatic, wetland, riparian and upland area habitats associated with
2 those species, will be addressed in the conservation program. The
3 conservation program covers the main stem of the lower Colorado
4 River from below Glen Canyon Dam to the southerly international
5 boundary with Mexico. The program planning area includes the
6 historic floodplain and reservoir full-pool elevations.

7 SEC. 2. ~~Section 12567 is added to the Water Code, to read:~~

8 ~~12567. On or before April 1, 2002, the Secretary of the~~
9 ~~Resources Agency shall submit a progress report on the~~
10 ~~implementation of the Lower Colorado River Multi-Species~~
11 ~~Conservation Program that is established by the States of~~
12 ~~California, Arizona, and Nevada and approved by the California~~
13 ~~Department of Fish and Game to the chairpersons of each of the~~
14 ~~following committees:~~

15 ~~(a) Senate Agriculture and Water Resources Committee.~~

16 ~~(b) Senate Natural Resources and Wildlife Committee.~~

17 ~~(c) Assembly Natural Resources Committee.~~

18 ~~(d) Assembly Water, Parks and Wildlife Committee.~~

