

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Buchanan

February 21, 2013

An act to add ~~Section~~ *Sections 17.5 and 48.5 to the Fish and Game Code, and to add Section 64.5 to the Harbors and Navigation Code, relating to aquatic invasive plants and other aquatic pest plants.*

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Buchanan. Aquatic invasive plants *and other aquatic pest plants*: control and eradication.

Existing law designates the Department of Boating and Waterways as the lead agency of the state for the purpose of cooperating with agencies of the United States and other public agencies in controlling certain invasive plants in the Sacramento-San Joaquin Delta, its tributaries, and the marsh, and authorizes the department to furnish money, services, equipment, and other property for the control of those invasive plants.

This bill would additionally designate the department as the lead agency of the state for the purpose of cooperating with other state and local public agencies and with agencies of the United States in identifying, detecting, controlling, and administering programs to ~~manage and eradicate~~ *manage and, when feasible, eradicate* invasive aquatic plants *and other aquatic pest plants*, as defined, *in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh*. The bill would authorize the department, in consultation with appropriate state, local, and federal agencies, *and after the Department of Fish and Wildlife concurs upon completion of a specified assessment described*

in the bill, to take ~~any such~~ action it determines is necessary to implement statewide management and eradication control and, when feasible, eradication measures for those invasive aquatic plants and other aquatic pest plants.

This bill would require the department to regularly consult with the United States Department of Agriculture, the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the University of California, and other members of the scientific and research communities, and other state agencies with jurisdiction over the control of invasive aquatic plants *and aquatic pest plants*, to determine which species of those plants should be given the highest priority for treatment, ~~and determine the best methods of implementing identification,~~ control *measures*, and *determine any feasible eradication measures*. The bill would also require the department, after consulting with those entities, if it identifies a species of invasive aquatic plant *or other aquatic pest plant* that may need to be ~~treated~~ *controlled*, to notify the Department of Fish and Wildlife of the potential threat from that *invasive aquatic plant or other aquatic pest plant* species. ~~The~~

The bill would require the Department of Fish and Wildlife, after receipt of that notice, in consultation with other appropriate local, state, and federal agencies, to conduct a risk assessment of that invasive aquatic plant or other aquatic pest plant species to determine whether the plant species presents a threat to the environment or economy of the state, as determined by after consideration of specified factors. The bill would require the Department of Fish and Wildlife, after completing that assessment, to report its findings to the department so that the department may take any necessary action to control or and, when feasible, eradicate an invasive aquatic plant or other aquatic pest plant, as authorized under the bill. The bill would also define the terms, “invasive aquatic plant,” “invasive species,” and “aquatic pest plant,” for purposes of the Fish and Game Code.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The spread of ~~aquatic~~ *invasive aquatic plants have and other*
- 4 *aquatic pest plants has* been a continuing problem in the

1 Sacramento-San Joaquin Delta ~~and in waterways and lakes~~
2 ~~throughout the state, its tributaries, and the Suisun Marsh.~~

3 (b) Invasive aquatic plants *and other aquatic pest plants can*
4 ~~obstruct navigation in the state's waterways~~ and pose a threat to
5 fisheries and other ecosystems *in the Sacramento-San Joaquin*
6 *Delta, its tributaries, and the marsh.*

7 (c) Coordinated, early-stage treatment of invasive aquatic plants
8 *and other aquatic pest plants* is critical in controlling and managing
9 those invasive species to protect the state's environment and
10 prevent harm to California's tourism business and economy.

11 (d) Authorizing the Department of Boating and Waterways to
12 cooperate with other state, federal, and local agencies in the
13 identification, *and management, and eradication* of invasive aquatic
14 plants *and other aquatic pest plants*, instead of requiring that the
15 department undertake legislative action each time an agency
16 identifies a new species of invasive aquatic plant *or other aquatic*
17 *pest plant*, would enable the state to more effectively manage and
18 control invasive aquatic plants ~~on a statewide basis~~ *and other*
19 *aquatic pest plants in the Sacramento-San Joaquin Delta, and its*
20 *tributaries, and the Suisun Marsh. Management actions should*
21 *include the control and maintenance of nonproblematic conditions,*
22 *and eradication where feasible and cost-effective.*

23 SEC. 2. Section 17.5 is added to the Fish and Game Code, to
24 read:

25 17.5. "Aquatic pest plant" means a plant or alga that is native
26 to California that can cause environmental harm.

27 SEC. 3. Section 48.5 is added to the Fish and Game Code, to
28 read:

29 48.5. (a) "Invasive aquatic plant" means an aquatic plant or
30 alga that is introduced into the state waters and is determined to
31 be an invasive species through the risk assessment required to be
32 completed by the department pursuant to subdivision (c) of Section
33 64.5 of the Harbors and Navigation Code to be an invasive species,
34 as defined in subdivision (b).

35 (b) "Invasive species" means an organism, that has been
36 introduced into the state through human activity and that is
37 injurious, or likely to cause injury to the state's environment or
38 economy.

1 ~~SEC. 2.~~

2 ~~SEC. 4.~~ Section 64.5 is added to the Harbors and Navigation
3 Code, to read:

4 64.5. (a) The department is designated as the lead agency of
5 the state for the purpose of cooperating with other state and local
6 public agencies, and agencies of the United States in identifying,
7 detecting, controlling, and administering programs to ~~manage and~~
8 ~~eradicate~~ *manage and, when feasible, eradicate* invasive aquatic
9 plants *and other aquatic pest plants in the Sacramento-San Joaquin*
10 *Delta, its tributaries, and the Suisun Marsh.* The department, in
11 consultation with appropriate state, local, and federal agencies,
12 may take ~~any~~ *such* action it determines is necessary, *after the*
13 *Department of Fish and Wildlife concurs upon completion of the*
14 *risk assessment described in subdivision (c), to implement*
15 ~~statewide control and eradication~~ *and, when feasible, eradication*
16 *measures for invasive aquatic plants and other aquatic pest plants.*
17 *Any actions taken to control invasive aquatic plants or aquatic*
18 *pest plants shall be in compliance with all applicable laws and*
19 *regulations and conducted in an environmentally sound manner.*

20 (b) The department shall regularly consult with the United States
21 Department of Agriculture, the United States Fish and Wildlife
22 Service, the National Oceanic and Atmospheric Administration,
23 the University of California, and other members of the scientific
24 and research communities, as well as other state agencies with
25 jurisdiction over the control of invasive aquatic plants *and other*
26 *aquatic pest plants* to determine which species of those plants
27 should be given the highest priority for treatment, ~~and determine~~
28 ~~the best methods of implementing identification,~~ *control measures,*
29 *and determine any feasible eradication measures.*

30 (c) (1) After consulting with the various entities as required in
31 subdivision (b), if the department identifies a species of invasive
32 aquatic plant *or other aquatic pest plant* that may need to be ~~treated~~
33 ~~controlled,~~ it shall notify the Department of Fish and Wildlife of
34 the potential threat from that plant species. After receipt of that
35 notice, the Department of Fish and Wildlife, *in consultation with*
36 *other appropriate local, state, and federal agencies, including,*
37 *but not limited to, the Department of Water Resources, the State*
38 *Water Resources Control Board, the Department of Pesticide*
39 *Regulation, and the Office of Environmental Health Hazard*
40 *Assessment,* shall conduct a risk assessment of the invasive aquatic

1 plant *or other aquatic pest plant* species identified by the
2 department to determine whether the *plant* species presents a threat
3 to the environment ~~or economy of the state~~. *economy*. In making
4 that determination, the department shall *take prompt action to*
5 *minimize detrimental impacts and costs of management, and shall*
6 consider all of the following:

7 (A) Whether the invasive aquatic plant species *or other aquatic*
8 *pest plant* may cause environmental damage, including threats to
9 the health and stability of fisheries, damage to migratory and other
10 birds' access to waterways and nesting areas, deterioration of water
11 quality resulting from plant decay, and harm to native plants.

12 (B) Whether the invasive aquatic plant ~~species~~ *or other aquatic*
13 *pest plant species* may cause harm to the state's economy ~~or~~,
14 infrastructure, *or manmade facilities such as state water storage*
15 *facilities and pumping operations*, by increasing flood risk,
16 threatening water supplies by blocking pumps, canals, and dams
17 necessitating early ~~treatment~~ *control* efforts.

18 (C) Whether the invasive aquatic plant *or other aquatic pest*
19 *plant* species may obstruct navigation and recreational uses of
20 waterways, ~~and cause potential harm to manmade facilities,~~
21 ~~including state water pumping operations.~~

22 (2) *Based on factors specified in subparagraphs (A), (B), and*
23 *(C) of paragraph (1) and any other environmental or economic*
24 *impacts, the risk assessment shall specify whether the plant species*
25 *under consideration has been determined to be an invasive aquatic*
26 *plant or other aquatic pest plant, or neither of those types of plants.*
27 *Findings from the risk assessment shall be documented in a way*
28 *that makes clear the severity and types of impacts caused by a*
29 *plant species determined to be an invasive aquatic plant or other*
30 *aquatic pest plant.*

31 ~~(2)~~

32 (3) After completing the risk assessment ~~of aquatic invasive~~
33 ~~plants~~ required by paragraph (1), the Department of Fish and
34 Wildlife shall report its findings to the department so that the
35 department may take any necessary action to control ~~or eradicate~~
36 ~~an~~, *and when feasible, eradicate an* invasive aquatic plant *or other*
37 *aquatic pest plant*, as authorized under subdivision (a).

38 (d) (1) For purposes of this section, "invasive aquatic plant"
39 means an aquatic plant or alga that is introduced into the state
40 waters and is determined *through the risk assessment completed*

1 *pursuant to subdivision (c) to be an invasive species because it is*
2 *known to be or likely to be injurious or harmful to wetland habitats*
3 *or waters of California such as rivers, streams, lakes, reservoirs,*
4 *irrigation systems, and flood control systems, as defined in*
5 *paragraph (2).*

6 (2) For purposes of this section, “invasive *species*” means an
7 organism, ~~including a species of plant,~~ that has been introduced
8 into the state through human activity and that is injurious, or likely
9 to cause injury to the state’s environment or economy.

10 (3) *For the purposes of this section, an “aquatic pest plant”*
11 *means a plant or alga that is native to California that can cause*
12 *environmental harm.*

13 (e) *This section does not require the department to attempt*
14 *eradication of any of the plants specified in Section 64.*