

Assembly Bill No. 763

CHAPTER 330

An act to add Section 64.5 to the Harbors and Navigation Code, relating to aquatic invasive plants.

[Approved by Governor September 23, 2013. Filed with Secretary of State September 23, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 763, Buchanan. Aquatic invasive plants: control and eradication.

Existing law designates the Division 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 division to furnish money, services, equipment, and other property for the control of those invasive plants.

This bill would additionally designate the division as the lead agency of the state for the purpose of cooperating with other state, local, and federal agencies in identifying, detecting, controlling, and administering programs to manage invasive aquatic plants, as defined, in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh. The bill would authorize the division, in consultation with appropriate state, local, and federal agencies, and upon concurrence from the Department of Fish and Wildlife following the completion of a specified assessment described in the bill, to take such action it determines is necessary to implement control and, when feasible, eradication measures for those invasive aquatic plants.

This bill would require the division 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 authority over the control of invasive aquatic plants, to determine which species of those plants should be given the highest priority for management and to determine the best control, and, when feasible, eradication measures. The bill would also require the division, after consulting with those entities, if it identifies a species of aquatic plant that may be invasive and need to be controlled or eradicated, to notify the Department of Fish and Wildlife of the potential threat from that aquatic plant.

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 aquatic plant species to determine whether the plant species presents a threat to the environment, economy, or human health, as determined after consideration of specified

factors. The bill would require the risk assessment to specify whether the aquatic plant under consideration has been determined to be an invasive aquatic plant. The bill would require the Department of Fish and Wildlife, within 60 days after completing that assessment, to report its findings to the division so that the division may take any necessary action to control and, when feasible, eradicate an invasive aquatic plant, as authorized under the bill.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The spread of invasive aquatic plants is a continuing problem in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh.

(b) Invasive aquatic plants impact the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh by creating navigational obstructions and hazards for boats and other watercraft; impairing recreational activities such as swimming, fishing, and hunting; damaging water supply infrastructure and flood protection systems; altering water quality; and degrading the physical and chemical characteristics of fish and wildlife habitat.

(c) Coordinated, early-stage response to introductions of invasive aquatic plants is critical to long-term control and management of those invasive species to protect the state's environment, economy, and human health from harmful impacts of those invasive species.

(d) Authorizing the Division of Boating and Waterways to cooperate with other state, federal, and local agencies in the identification and management of invasive aquatic plants in lieu of requiring that the division undertake legislative action each time a new species of invasive aquatic plant is identified, would enable the state to manage and control invasive aquatic plants in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh in a more cost-efficient and effective manner than is currently implemented.

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

64.5. (a) The division is designated as the lead agency of the state for the purpose of cooperating with other state, local, and federal agencies in identifying, detecting, controlling, and administering programs to manage invasive aquatic plants in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh. The division, in consultation with appropriate state, local, and federal agencies, may take such action it determines is necessary, upon concurrence from the Department of Fish and Wildlife following the completion of the risk assessment described in subdivision (c), to implement control and, when feasible, eradication measures for invasive aquatic plants. Any actions taken to control invasive aquatic plants shall be in compliance with all applicable laws and regulations and conducted in an environmentally sound manner.

(b) The division shall 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, as well as other state agencies with authority over the control of invasive aquatic plants to determine which species of those plants should be given the highest priority for management and determine the best control and, when feasible, eradication measures.

(c) (1) After consulting with the various entities as required in subdivision (b), if the division identifies a species of aquatic plant that may be invasive and need to be controlled or eradicated, the division shall notify the Department of Fish and Wildlife of the potential threat from that aquatic plant species. After receipt of that notice, the Department of Fish and Wildlife, in consultation with other appropriate local, state, and federal agencies, including, but not limited to, the Department of Food and Agriculture, the Department of Water Resources, the State Water Resources Control Board, the Department of Pesticide Regulation, and the Office of Environmental Health Hazard Assessment, shall conduct a risk assessment of the aquatic plant species identified by the division to determine whether the plant species is invasive and presents a threat to the environment, economy, or human health. In making that determination, the Department of Fish and Wildlife shall take prompt action to minimize detrimental impacts and costs of management, and shall consider all of the following:

(A) Whether the aquatic plant species may obstruct navigation and recreational uses of waterways.

(B) Whether the aquatic plant species may cause environmental damage, including threats to the health and stability of fisheries, impairment to birds' access to waterways and nesting, roosting, and foraging areas, deterioration of water quality resulting from plant decay, and harm to native plants.

(C) Whether the aquatic plant species may cause harm to the state's economy, infrastructure, or manmade facilities such as state water storage facilities and pumping operations, by increasing flood risk, threatening water supplies by blocking pumps, canals, and dams necessitating early control efforts.

(2) Based on factors specified in subparagraphs (A), (B), and (C) of paragraph (1) and any other environmental, economic, or human health impacts, the risk assessment shall specify whether the plant species under consideration has been determined to be an invasive aquatic plant. Findings from the risk assessment shall be documented in a way that clearly describes the severity and types of impacts caused by a plant species determined to be an invasive aquatic plant.

(3) Within 60 days after completing the risk assessment required by paragraph (1), the Department of Fish and Wildlife shall report its findings to the division so that the division may take any necessary action to control and, when feasible, eradicate an invasive aquatic plant, as authorized under subdivision (a).

(d) For purposes of this section, “invasive aquatic plant” means an aquatic plant or algae species, including its seeds, fragments, and other biological materials capable of propagating that species, whose proliferation or dominant colonization of an area causes or is likely to cause economic or environmental harm or harm to human health.

(e) Aquatic plants shall be determined to be invasive through the risk assessment required to be completed by the Department of Fish and Wildlife in consultation with the division and other state, local, and federal agencies pursuant to subdivision (c).