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AMENDED IN ASSEMBLY MAY 22, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 498**

**Introduced by Assembly Member Levine**  
(Coauthors: Senators Hertzberg and Pavley)

February 23, 2015

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An act to amend Sections 1797.5, 1930, and 1930.5 of the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 498, as amended, Levine. Wildlife conservation: wildlife corridors.

Existing law requires the Department of Fish and Wildlife to administer the Significant Natural Areas Program, and requires the department, among other things, to develop and maintain a spatial data system that identifies those areas in the state that are most essential for maintaining habitat connectivity, including wildlife corridors and habitat linkages. Existing law requires the department, contingent upon the provision of certain funding, to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages and prioritize vegetative data development in those areas. Existing law requires the department to seek input from representatives

of other state agencies, local government, federal agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry in determining essential wildlife corridors and habitat linkages.

This bill would declare that it is the policy of the state to encourage, wherever feasible and practicable, voluntary steps to protect the functioning of wildlife corridors through various means, as applicable.

Existing law provides for the establishment of conservation banks, defined as publicly or privately owned and operated sites that are to be conserved and managed for habitat protection purposes in accordance with an agreement with the Department of Fish and Wildlife. Existing law provides for the issuance of credits by a conservation bank to, among other things, reduce adverse impacts to fish or wildlife resources from certain activities. Existing law also provides for the establishment of mitigation banks, as defined.

This bill would include within the authorized purposes of a conservation bank the protection of habitat connectivity for fish and wildlife resources.

~~This bill would provide that a project applicant may receive advance mitigation credits for investing in a mitigation bank that protects habitat connectivity for affected fish and wildlife resources, and would further provide that the fact that a project applicant does not take voluntary steps to protect the functioning of a wildlife corridor prior to initiating the application process for the project shall not be grounds for denying a permit or requiring additional mitigation beyond what is otherwise required by law to mitigate project impacts.~~

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. Section 1797.5 of the Fish and Game Code is
- 2 amended to read:
- 3 1797.5. For the purposes of this chapter, the following terms
- 4 shall have the following meanings:
- 5 (a) “Bank” means a conservation bank, mitigation bank, or
- 6 conservation and mitigation bank.
- 7 (b) “Bank enabling instrument” means a written agreement with
- 8 the department regarding the establishment, use, operation, and
- 9 maintenance of the bank.

1 (c) “Bank sponsor” means the person or entity responsible for  
2 establishing and operating a bank.

3 (d) “Conservation bank” means a publicly or privately owned  
4 and operated site that is to be conserved and managed in accordance  
5 with a written agreement with the department that includes  
6 provisions for the issuance of credits, on which important habitat,  
7 including habitat for threatened, endangered, or other special status  
8 species, exists, has been, or will be created to do any of the  
9 following:

10 (1) Compensate for take or other adverse impacts of activities  
11 authorized pursuant to Chapter 1.5 (commencing with Section  
12 2050) of Division 3.

13 (2) Reduce adverse impacts to fish or wildlife resources from  
14 activities, authorized pursuant to Chapter 6 (commencing with  
15 Section 1600) of Division 2, to less than substantial.

16 (3) Mitigate significant effects on the environment pursuant to  
17 the California Environmental Quality Act (Division 13  
18 (commencing with Section 21000) of the Public Resources Code)  
19 and Guidelines for Implementation of the California Environmental  
20 Quality Act (Chapter 3 (commencing with Section 15000) of  
21 Division 6 of Title 14 of the California Code of Regulations).

22 (4) Establish mitigation in advance of any impacts or effects.

23 (5) To the extent feasible and practicable, protect habitat  
24 connectivity for ~~the affected fish and wildlife resources.~~ *resources*  
25 *for purposes of this section.*

26 (e) “Conservation easement” means a perpetual conservation  
27 easement, as defined by Section 815.1 of the Civil Code, covering  
28 the real property that comprises the bank site.

29 (f) “Mitigation bank” means either of the following:

30 (1) A bank site or mitigation bank site as defined by Section  
31 1777.2.

32 (2) Any publicly or privately owned and operated site, other  
33 than those defined by Section 1777.2, on which wetlands exist,  
34 have been, or will be created, and that is to be conserved and  
35 managed in accordance with a written agreement with the  
36 department for any of the purposes described in paragraphs (1) to  
37 (4), inclusive, of subdivision (d).

38 (g) “Person” has the meaning set forth in subdivision (b) of  
39 Section 711.2.

1 (h) “Prospectus” means a written summary of the proposed bank  
2 containing a sufficient level of detail to support informed  
3 department review and comment.

4 SEC. 2. Section 1930 of the Fish and Game Code is amended  
5 to read:

6 1930. The Legislature finds and declares that:

7 (a) Areas containing diverse ecological and geological  
8 characteristics are vital to the continual health and well-being of  
9 the state’s natural resources and of its citizens.

10 (b) Many habitats and ecosystems that constitute the state’s  
11 natural diversity are in danger of being lost.

12 (c) Connectivity between wildlife habitats is important to the  
13 long-term viability of the state’s biodiversity.

14 (d) Preserving and connecting high-quality habitat for wildlife  
15 can create habitat strongholds.

16 (e) Increasingly fragmented habitats threaten the state’s wildlife  
17 species.

18 (f) There is an opportunity to provide incentive for private  
19 landowners to maintain and perpetuate significant local natural  
20 areas in their natural state.

21 (g) Efforts to preserve natural areas have been fragmented  
22 between federal, state, local, and private sectors.

23 (h) Analysis of the state’s habitat connectivity benefits from the  
24 consideration of all relevant data, including information from  
25 private and public landowners.

26 (i) The department’s existing mapping activities and products  
27 should be developed and sustained.

28 (j) The importance of wildlife corridors to assist in adapting to  
29 climate change has been recognized by such groups as the Western  
30 Governors’ Association, which unanimously approved a policy to  
31 protect wildlife migration corridors and crucial wildlife habitat in  
32 2007. Individual local, state, and federal agencies have also adopted  
33 policies aimed at protecting wildlife corridors and habitat  
34 connectivity, in order to protect ecosystem health and biodiversity  
35 and to improve the resiliency of wildlife and their habitats to  
36 climate change. However, these efforts could be enhanced through  
37 establishment of a statewide policy to protect important wildlife  
38 corridors and habitat linkages where feasible and practicable.

39 SEC. 3. Section 1930.5 of the Fish and Game Code is amended  
40 to read:

1 1930.5. (a) Contingent upon funding being provided by the  
2 Wildlife Conservation Board from moneys available pursuant to  
3 Section 75055 of the Public Resources Code, or from other  
4 appropriate bond funds, upon appropriation by the Legislature, the  
5 department shall investigate, study, and identify those areas in the  
6 state that are most essential as wildlife corridors and habitat  
7 linkages, as well as the impacts to those wildlife corridors from  
8 climate change, and shall prioritize vegetative data development  
9 in these areas.

10 (b) It is the intent of the Legislature that the Wildlife  
11 Conservation Board use various funds to work with the department  
12 to complete a statewide analysis of wildlife corridors and  
13 connectivity to support conservation planning and climate change  
14 adaptation activities.

15 (c) (1) It is the policy of the state to promote the voluntary  
16 protection of wildlife corridors and habitat strongholds in order to  
17 enhance the resiliency of wildlife and their habitats to climate  
18 change, protect biodiversity, and allow for the migration and  
19 movement of species by providing connectivity between habitat  
20 lands. In order to further these goals, it is the policy of the state to  
21 encourage, wherever feasible and practicable, voluntary steps to  
22 protect the functioning of wildlife corridors through various means,  
23 as applicable and to the extent feasible and practicable, those means  
24 may include, but are not limited to:

25 (A) Acquisition or protection of wildlife corridors as open space  
26 through conservation easements.

27 (B) Installing of wildlife-friendly *or directional* fencing.

28 (C) ~~Creation-Siting~~ of mitigation and conservation banks ~~that~~  
29 ~~protect in areas that provide~~ habitat connectivity for affected fish  
30 and wildlife resources.

31 (D) Provision of roadway undercrossings, *overpasses*, oversized  
32 culverts, or bridges to allow for *fish passage and the* movement  
33 of wildlife between habitat areas.

34 (2) ~~Consistent with Chapter 7.9 (commencing with Section~~  
35 ~~1797) of Division 2, a project applicant may receive advance~~  
36 ~~mitigation credits for investing in a mitigation bank that, to the~~  
37 ~~extent feasible and practicable, protects habitat connectivity for~~  
38 ~~affected fish and wildlife resources.~~ The fact that a project applicant  
39 does not take voluntary steps to protect the functioning of a wildlife  
40 corridor prior to initiating the application process for a project

1 shall not be grounds for denying a permit or requiring additional  
 2 mitigation beyond what would be required to mitigate project  
 3 impacts under other applicable laws, including, but not limited to,  
 4 the California Endangered Species Act (Chapter 1.5 (commencing  
 5 with Section 2050) of Division 3) and the California Environmental  
 6 Quality Act (Division 13 (commencing with Section 21000) of  
 7 the Public Resources Code).

8 (d) The Legislature finds and declares that there are a number  
 9 of existing ~~programs, efforts~~, including, but not limited to,  
 10 ~~programs efforts~~ involving working landscapes, ~~such as~~  
 11 ~~timberlands, agricultural lands, and rangelands~~, that are already  
 12 working to achieve the policy described in subdivision (c).

13 (e) Subdivision (c) shall not be construed to create new  
 14 regulatory requirements or modify the requirements of  
 15 *subparagraphs (B) and (E) of paragraph (4) of subdivision (a) of*  
 16 *Section 2820 of the Fish and Game Code, or the California*  
 17 *Environmental Quality Act (Division 13 (commencing with Section*  
 18 *21000) of the Public Resources Code).*

19 (f) For purposes of this ~~chapter, section~~, the following terms  
 20 have the following meanings:

21 (1) “Habitat stronghold” means high-quality habitat that supports  
 22 wildlife in being more resilient to increasing pressures on species  
 23 due to climate change and land development.

24 (2) “Wildlife corridor” means a habitat linkage that joins two  
 25 or more areas of wildlife habitat, allowing for *fish passage or the*  
 26 movement of wildlife from one area to another.