

Senate Bill No. 798

CHAPTER 683

An act to amend Section 338 of the Code of Civil Procedure, to amend Sections 205.1, 714, 1050.8, 1053.5, 1055.1, 1056, 1059, 1764, 3050, 7149.2, 7149.3, 7150, 7860, 12002.2.1, 12153, and 13005 of, and to repeal Sections 1053, 1055, 1055.4, 1055.5, 1060, 1070, 3682, 3700, 6596, 7149, 7149.4, 7180, 7181, 7182, 7183, 7184, and 7186 of, the Fish and Game Code, to amend Section 113 of the Government Code, to amend Sections 741, 8301, 30301.2, 30304, and 30315 of, and to repeal Section 30310.5 of, the Public Resources Code, and to amend Sections 1026, 1055, 1228.1, 1228.2, 1228.3, 1228.6, 1229, 1229.1, 1243, 1260, 1427, 1430, 1437, 1440, 1701.2, 1703, 1726, 1727, and 1736 of, and to repeal Sections 1126.2, 2862, 2863, and 2866 of, the Water Code, relating to natural resources.

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Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 798, Committee on Natural Resources and Water. Natural resources.

(1) Existing law authorizes the Fish and Game Commission to establish, by regulation, an automatic process to conform its sport fishing regulations to federal regulations.

This bill would clarify that specified laws relating to administrative regulations and rulemaking do not apply to the conforming action implemented pursuant to the automatic process described above.

An existing regulation defines the Automated License Data System as an automated system that replaces the Department of Fish and Wildlife's paper license inventory system. Existing law generally prohibits a person from obtaining from the department more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by law, as provided, except under certain conditions. Existing law authorizes a person, as provided, to submit an application to the department, to be a license agent to issue licenses, permits, reservations, tags, and other entitlements. Existing law requires these authorized license agents to remit to the department the specified fees for these licenses, permits, reservations, tags, and other entitlements, as provided. Existing law authorizes the department to accept from any authorized license agent an affidavit for settlement of its account in lieu of licenses, permits, reservations, tags, and other entitlements that have been lost or destroyed if the license agent meets specified criteria. Existing law provides that the above provisions and various other provisions apply only to those licenses, permits, reservations, tags, or other entitlements that are not issued through the Automated License Data System.

This bill would delete those provisions and would make conforming changes.

(2) Existing law provides that the sovereignty and jurisdiction of the state extends to all places within its boundaries, as established by the Constitution. Existing law provides that the extent of the jurisdiction over places that have been or may be ceded to, purchased, or condemned by the United States is qualified by the terms of the cession or the laws under which the purchase or condemnation is made. Existing law provides that the state has accepted the retrocession of jurisdiction over certain lands, including the Presidio in the City and County of San Francisco.

Existing law provides that the Legislature consents to the retrocession of jurisdiction by the United States over land within the state, subject to certain conditions, including that the State Lands Commission holds a hearing to determine whether acceptance of the retrocession is in the best interest of the state.

This bill would provide that the Legislature, acting through the State Lands Commission, consents to the retrocession of jurisdiction by the United States over land within the state subject to additional conditions, including that a notice of the proposed retrocession has been given to the clerk for the board of supervisors of the county in which the federal lands are located, as provided, and that the United States has agreed to bear all costs and expenses incurred by the State Lands Commission in making the retrocession. The bill would also require the acceptance of the retrocession to be made at a publicly noticed meeting of the commission.

Existing law requires, among other things, the commission to make rules and regulations governing the conditions and procedures of the hearings on retrocession.

This bill would delete these requirements.

Existing law authorizes the Governor to convey certain state lands to the United States for the site of a lighthouse, beacon, or other aid to navigation. Existing law provides that after the conveyance, the United States has jurisdiction over the tract, subject to the right of the state to have concurrent jurisdiction, as provided.

This bill would delete that provision.

(3) Existing law requires the State Board of Forestry and Fire Protection to appoint a Range Management Advisory Committee and requires 2 members on the board to be from the general public, as provided, and for one member to be nominated by the Watershed Fire Council of Southern California.

This bill would instead require 3 members to be from the general public, as provided, and would delete the nomination from the Watershed Fire Council of Southern California.

(4) Existing law establishes the California Coastal Commission and prescribes the membership of the commission. Existing law requires the board of supervisors and city selection committee of each county within a coastal region to nominate supervisors or city council members who reside in the region for appointment by the Governor, the Senate Committee on

Rules, or the Speaker of the Assembly to serve on the commission. Existing law also authorizes any member of the commission, subject to the confirmation of his or her appointing power, to appoint an alternate member to represent the member at any commission meeting. Existing law requires the commission to meet at least once a month at a place convenient to the public.

This bill would authorize the board of supervisors and city selection committee of each county within a coastal region, to also nominate mayors who reside in the region to serve on the commission, as provided. The bill would specify that an alternate for a locally elected official need not also be a local government official. The bill would require the commission to meet at least 11 times annually and would require that each meeting occur not more than 45 days after the previous meeting.

Existing law provides that no law precludes or prevents the appointment, as a public member, to the commission of any person who is not a locally elected official.

This bill would delete that provision.

(5) Existing law declares that the diversion or use of water other than as authorized by specified provisions of law is a trespass. Existing law authorizes the executive director of the State Water Resources Control Board to issue a complaint to a person who violates certain use and diversion of water provisions and subjects the violator to administrative civil liability. Existing law requires that the complaint be served by personal notice or certified mail and inform the party served that the party may request a hearing not later than 20 days from the date the party was served.

This bill would specify that the board is authorized to adopt an order setting administrative civil liability based on the allegations set forth in the complaint without a hearing if the party does not sign a written request for a hearing that is delivered to, or received by mail by, the board within 20 days after the date the party was served.

(6) Existing law allows a person to apply for, and the board to issue, a temporary permit for diversion and use of water, subject to certain restrictions. Existing law allows a permittee or licensee who has an urgent need to change a point of diversion, place of use, or purpose of use to petition for, and the board to issue, a temporary change order, subject to certain restrictions. Existing law provides that the authorization for a temporary permit or a temporary change order automatically expires 180 days after the date of issuance.

This bill would provide that the authorization for a temporary permit or a temporary change order automatically expires 180 days after the authorization takes effect. This bill would provide that the 180-day period does not include any time required for monitoring, reporting, or mitigation before or after the authorization to divert or use water under the temporary permit or temporary change order.

(7) Existing law requires the board, prior to adopting other general conditions for small irrigation use, and no later than June 30, 2012, to adopt general conditions for small irrigation use for facilities used for frost

protection in a prescribed area, unless the board determines that sufficient funds are not available for that purpose.

This bill would eliminate this provision.

(8) Under existing law, all fees, expenses, and penalties collected by the board under certain provisions relating to water rights determinations are deposited in the Water Rights Fund. The moneys in the Water Rights Fund are available, upon appropriation by the Legislature, for, among other things, the administration of the board's water rights program.

Existing law also establishes the Water Resources Control Board Revolving Fund for similar purposes relating to rights determinations. Existing law requires the Department of Finance to review the status of the fund to determine whether there are excess amounts of money not needed to carry out these provisions and, if there are excess amounts of money, to notify the Controller to transfer the excess money to the General Fund.

This bill would repeal the provisions relating to the Water Resources Control Board Revolving Fund.

(9) This bill would make various nonsubstantive changes, including repealing obsolete provisions.

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

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) (1) An action for taking, detaining, or injuring goods or chattels, including actions for the specific recovery of personal property.

(2) The cause of action in the case of theft, as described in Section 484 of the Penal Code, of an article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency that originally investigated the theft.

(3) (A) Notwithstanding paragraphs (1) and (2), an action for the specific recovery of a work of fine art brought against a museum, gallery, auctioneer, or dealer, in the case of an unlawful taking or theft, as described in Section 484 of the Penal Code, of a work of fine art, including a taking or theft by means of fraud or duress, shall be commenced within six years of the actual discovery by the claimant or his or her agent, of both of the following:

(i) The identity and the whereabouts of the work of fine art. In the case where there is a possibility of misidentification of the object of fine art in question, the identity can be satisfied by the identification of facts sufficient to determine that the work of fine art is likely to be the work of fine art that was unlawfully taken or stolen.

(ii) Information or facts that are sufficient to indicate that the claimant has a claim for a possessory interest in the work of fine art that was unlawfully taken or stolen.

(B) This paragraph shall apply to all pending and future actions commenced on or before December 31, 2017, including an action dismissed based on the expiration of statutes of limitation in effect prior to the date of enactment of this statute if the judgment in that action is not yet final or if the time for filing an appeal from a decision on that action has not expired, provided that the action concerns a work of fine art that was taken within 100 years prior to the date of enactment of this statute.

(C) For purposes of this paragraph:

(i) “Actual discovery,” notwithstanding Section 19 of the Civil Code, does not include constructive knowledge imputed by law.

(ii) “Auctioneer” means an individual who is engaged in, or who by advertising or otherwise holds himself or herself out as being available to engage in, the calling for, the recognition of, and the acceptance of, offers for the purchase of goods at an auction as defined in subdivision (b) of Section 1812.601 of the Civil Code.

(iii) “Dealer” means a person who holds a valid seller’s permit and who is actively and principally engaged in, or conducting the business of, selling works of fine art.

(iv) “Duress” means a threat of force, violence, danger, or retribution against an owner of the work of fine art in question, or his or her family member, sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act that otherwise would not have been performed or to acquiesce to an act to which he or she would otherwise not have acquiesced.

(v) “Fine art” has the same meaning as defined in paragraph (1) of subdivision (d) of Section 982 of the Civil Code.

(vi) “Museum or gallery” shall include any public or private organization or foundation operating as a museum or gallery.

(4) Section 361 shall not apply to an action brought pursuant to paragraph (3).

(5) A party in an action to which paragraph (3) applies may raise all equitable and legal affirmative defenses and doctrines, including, without limitation, laches and unclean hands.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that a cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing the action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(l) An action commenced under Section 1602, 1615, or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

(n) An action commencing under Section 51.7 of the Civil Code.

SEC. 2. Section 205.1 of the Fish and Game Code is amended to read:

205.1. (a) The commission may establish by regulation an automatic process to conform its sport fishing regulations to federal regulations.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to conforming actions implemented pursuant to the automatic process specified in subdivision (a).

(c) The department shall provide public notice of a conforming action implemented pursuant to this section.

SEC. 3. Section 714 of the Fish and Game Code is amended to read:

714. (a) In addition to Section 3031, 3031.2, 7149.05, or 7149.2 and notwithstanding Section 3037, the department shall issue lifetime sportsman's licenses pursuant to this section. A lifetime sportsman's license

authorizes the taking of birds, mammals, fish, reptiles, or amphibia anywhere in this state in accordance with law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted pursuant to this code. A lifetime sportsman's license is not transferable. A lifetime sportsman's license does not include any special tags, stamps, or other entitlements.

(b) A lifetime sportsman's license may be issued to residents, as follows:

(1) To a person 62 years of age or over upon payment of a base fee of seven hundred thirty dollars (\$730).

(2) To a person 40 years of age or over and less than 62 years of age upon payment of a base fee of one thousand eighty dollars (\$1,080).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of one thousand two hundred dollars (\$1,200).

(4) To a person less than 10 years of age upon payment of a base fee of seven hundred thirty dollars (\$730).

(c) This section does not require a person less than 16 years of age to obtain a license to take fish, reptiles, or amphibia for purposes other than profit or to obtain a license to take birds or mammals, except as required by law.

(d) This section does not exempt an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sport hunting or sport fishing.

(e) Upon payment of a base fee of four hundred forty-five dollars (\$445), a person holding a lifetime hunting license or lifetime sportsman's license shall be issued annually one deer tag application pursuant to subdivision (a) of Section 4332 and five wild pig tags issued pursuant to Section 4654. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) Upon payment of a base fee of two hundred ten dollars (\$210), a person holding a lifetime hunting license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a state duck stamp or validation issued pursuant to Section 3700.1 and an upland game bird stamp or validation issued pursuant to Section 3682.1. Lifetime privileges issued pursuant to this subdivision are not transferable.

(g) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

(h) The commission shall adjust the amount of the fees specified in subdivision (g), as necessary, to fully recover, but not exceed, all reasonable administrative implementation costs of the department and the commission relating to those licenses.

SEC. 4. Section 1050.8 of the Fish and Game Code is amended to read:

1050.8. (a) The department may issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting, fishing, and resource conservation, subject to all of the following:

(1) A commemorative license may be designed and produced as the department may determine and shall be clearly marked and identified as a

commemorative license, rendering it invalid for the take of any mammal, bird, fish, reptile, or amphibian.

(2) A commemorative license shall not confer any rights, privileges, or other entitlements to any person purchasing or in possession of such a license.

(3) Subdivision (a) of Section 1052, Section 1053.1, Article 2 (commencing with Section 3031) of Chapter 1 of Part 1 of Division 4, and Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6 do not apply to the purchase of a commemorative license. A commemorative license shall not qualify as evidence required in subdivision (a) of Section 3050.

(b) All funds derived from the sale of commemorative licenses shall be deposited in the Fish and Game Preservation Fund.

SEC. 5. Section 1053 of the Fish and Game Code is repealed.

SEC. 6. Section 1053.5 of the Fish and Game Code is amended to read:

1053.5. Applicants for hunting licenses pursuant to subdivision (a) of Section 1053.1 shall first satisfactorily complete a hunter education equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year's hunting license.

SEC. 7. Section 1055 of the Fish and Game Code is repealed.

SEC. 8. Section 1055.1 of the Fish and Game Code is amended to read:

1055.1. (a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department to be a license agent to issue licenses, permits, reservations, tags, or other entitlements.

(b) A person shall only be authorized to be a license agent to issue licenses, permits, reservations, tags, and other entitlements, upon the written approval of the department.

(c) The department may provide licenses, permits, reservations, tags, or other entitlements to authorized license agents and shall collect, prior to delivery, an amount equal to the fees for all licenses, permits, reservations, tags and other entitlements provided. Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from Sections 1056, 1057, and 1059. Any licenses, permits, reservations, tags, or other entitlements provided pursuant to this subdivision that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination thereof, within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(d) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for any license, permit, reservation, tag, and other entitlement issued by the license agent in an amount that is 5 percent of the face value of the item rounded to the nearest five cents (\$0.05).

(e) The handling charge added pursuant to subdivision (d) shall be incorporated into the total amount collected for issuing the license, permit,

reservation, tag, and other entitlement, but the handling charge shall not be included when determining license fees in accordance with Section 713. A license agent may issue any license, permit, reservation, tag, or other entitlement for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements issued.

(f) The handling charge required by subdivision (d) is the license agent's only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing any license, permit, reservation, tag, or other entitlement authorized pursuant to this section.

(g) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 714, 3031.2, and 7149.2. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code. An agent authorized to issue lifetime sport fishing licenses, lifetime hunting licenses, and lifetime sportsman's licenses under this subdivision is exempt from subdivisions (d) and (f). The license agent shall remit to the department the fees from the sale of lifetime licenses as defined in Sections 714, 3031.2, and 7149.2.

(h) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 9. Section 1055.4 of the Fish and Game Code is repealed.

SEC. 10. Section 1055.5 of the Fish and Game Code is repealed.

SEC. 11. Section 1056 of the Fish and Game Code is amended to read:

1056. A license agent who fails to transmit the fees or accounting reports required by Section 1055.6 not later than 60 days following the due date as specified by the department may be required to execute, in favor of the department, a bond, payable to the department, in a sum determined by the department in order to continue as a license agent. The bond shall secure the accurate accounting and payment to the department of the funds collected and the performance of the duties imposed upon the license agent by this article.

SEC. 12. Section 1059 of the Fish and Game Code is amended to read:

1059. (a) The failure or refusal of any license agent to account for licenses, permits, reservations, tags, and other entitlements, or any fees received from their issuance as required by Section 1055.6 or upon demand by an authorized representative of the department is a misdemeanor.

(b) In addition to subdivision (a), any license agent who fails to remit fees to the department on or before the date required by Section 1055.6 shall pay interest and penalties prescribed for sales and use taxes and, except as otherwise provided in this code, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section

6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, “board” means the department.

SEC. 13. Section 1060 of the Fish and Game Code is repealed.

SEC. 14. Section 1070 of the Fish and Game Code is repealed.

SEC. 15. Section 1764 of the Fish and Game Code is amended to read:

1764. (a) The director shall designate those particular areas of land managed by the department at which possession of a valid annual wildlife pass or day use pass shall be required. No designation shall be effective until a management plan for the area has been presented at a public meeting and the plan has been approved by the director.

(b) No person shall enter the designated area unless that person possesses an annual wildlife area pass or a day use pass issued pursuant to Section 1765, a valid hunting license issued pursuant to Section 3031, a valid trapping license issued pursuant to Section 4006, or a valid sport fishing license issued pursuant to Section 7149.05, 7150, or 7151, or that person is a member of a tour by an organized youth or school group that has been issued a day use pass.

(c) Notwithstanding subdivision (b), possession of a license or pass shall not be required of any person who:

- (1) Is passing through the area on a public right-of-way.
- (2) Possesses authorization by the commission or the department to conduct scientific or educational research.
- (3) Is discharging duties in the course of employment, as specified by the department.
- (4) Possesses written authorization from the department to enter the area for a specific purpose.

SEC. 16. Section 3050 of the Fish and Game Code is amended to read:

3050. (a) No hunting license may be issued to any person unless he or she presents to the person authorized to issue that license any of the following:

- (1) Evidence that he or she has held a hunting license issued by this state in a prior year.
- (2) Evidence that he or she holds a current hunting license, or a hunting license issued in either of the two previous hunting years by another state or province.
- (3) A certificate of completion of a course in hunter education, principles of conservation, and sportsmanship, as provided in this article. A hunter education instruction validation stamp shall be permanently affixed to certificates of completion that have been issued before January 1, 2008.
- (4) A certificate of successful completion of a hunter education course in another state or province.
- (5) Evidence of completion of a course in hunter education, principles of conservation, and sportsmanship, which the commission may, by regulation, require.

(b) The evidence required in subdivision (a) shall be forwarded to the department.

(c) Subdivision (a) does not apply to any person purchasing a hunting license under paragraph (5) of subdivision (a) of Section 3031. However, that license shall not qualify as evidence required in subdivision (a) of this section.

SEC. 17. Section 3682 of the Fish and Game Code is repealed.

SEC. 18. Section 3700 of the Fish and Game Code is repealed.

SEC. 19. Section 6596 of the Fish and Game Code is repealed.

SEC. 20. Section 7149 of the Fish and Game Code is repealed.

SEC. 21. Section 7149.2 of the Fish and Game Code is amended to read:

7149.2. (a) In addition to Sections 714 and 7149.05, the department shall issue a lifetime sport fishing license under this section. A lifetime sport fishing license authorizes the taking of fish, amphibians, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sport fishing license is not transferable. A lifetime sport fishing license does not include any special tags, stamps, or fees.

(b) A lifetime sport fishing license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars (\$365).

(2) To a person 40 years of age or over and less than 62 years of age, upon payment of a base fee of five hundred forty dollars (\$540).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of six hundred dollars (\$600).

(4) To a person less than 10 years of age upon payment of a base fee of three hundred sixty-five dollars (\$365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take fish, amphibians, or reptiles for purposes other than profit.

(d) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sport fishing.

(e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person holding a lifetime sport fishing license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a second-rod stamp or validation issued pursuant to Section 7149.45, a sport fishing ocean enhancement stamp or validation issued pursuant to subdivision (a) of Section 6596.1, one steelhead trout report restoration card issued pursuant to Section 7380, and one salmon punchcard issued pursuant to regulations adopted by the commission. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 22. Section 7149.3 of the Fish and Game Code is amended to read:

7149.3. Notwithstanding Section 7149.05, a sport fishing license is not required for a resident to take a rattlesnake (genus *Crotalus* or *Sistrurus*).

SEC. 23. Section 7149.4 of the Fish and Game Code is repealed.

SEC. 24. Section 7150 of the Fish and Game Code is amended to read:

7150. (a) Upon application to the department's headquarters office in Sacramento and payment of a base fee of four dollars (\$4), as adjusted pursuant to Section 713, the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sport fishing license that is valid for one year as specified in paragraphs (1) and (2) of subdivision (a) of Section 7149.05 and that authorizes the licensee to take any fish, reptile, or amphibians anywhere in this state as otherwise authorized pursuant to this code and regulations adopted pursuant thereto for purposes other than profit:

(1) A disabled veteran having a 50 percent or greater service-connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A member of the military who is a "recovering service member" pursuant to Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181). A person shall be eligible for a reduced fee sport fishing license pursuant to this paragraph upon the submission of a letter, online or in hardcopy, to the department from that person's commanding officer or from a military medical doctor stating that the person is a recovering service member.

(3) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12200 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12200 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section. The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee sport fishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee sport fishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraphs (1) and (2) of subdivision (a). The department shall not issue a reduced fee sport fishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for that license.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the fishing license years beginning on or after January 1, 1996.

SEC. 25. Section 7180 of the Fish and Game Code is repealed.

SEC. 26. Section 7181 of the Fish and Game Code is repealed.

SEC. 27. Section 7182 of the Fish and Game Code is repealed.

SEC. 28. Section 7183 of the Fish and Game Code is repealed.

SEC. 29. Section 7184 of the Fish and Game Code is repealed.

SEC. 30. Section 7186 of the Fish and Game Code is repealed.

SEC. 31. Section 7860 of the Fish and Game Code is amended to read:

7860. (a) Except as provided in subdivision (f) or (g), no person who is 18 years of age or more and less than 70 years of age, on or before April 1 of the current license year, shall take salmon for commercial purposes or be on board a vessel on which salmon are taken for commercial purposes while salmon are being taken or transported unless that person has a commercial fishing salmon stamp issued pursuant to this section affixed to his or her commercial fishing license.

(b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are taken for commercial purposes shall not permit a person on board that vessel while salmon are being taken or transported unless that person was less than 18 years of age or 70 years of age or more on April 1 of the current license year or that person has a commercial fishing salmon stamp affixed to the person's commercial fishing license.

(c) Except as provided in this subdivision, the department shall issue a commercial fishing salmon stamp upon application therefor and payment of the fee of eighty-five dollars (\$85). For any commercial salmon season preceded by a commercial salmon season in which the commercial troll salmon landings in this state equal or exceed 3,000,000 pounds dressed weight, as determined by the department, the fee shall be increased by twelve dollars and fifty cents (\$12.50) for every 250,000 pounds over 3,000,000 pounds of dressed weight landings, except that the total fees as adjusted shall not exceed two hundred sixty dollars (\$260).

(d) A commercial fishing salmon stamp is valid during the commercial salmon season of the year in which it was issued.

(e) Upon application and payment of an additional fee equal to that prescribed in subdivision (c), the department may issue an additional commercial fishing salmon stamp for a crewmember to the owner or operator of a vessel who holds a commercial fishing salmon stamp.

(f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel and take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the vessel registration number of the vessel is entered and on which the crewmember who is

exempted by this subdivision is designated by the last entered name and commercial fishing license number.

(g) Persons who are exempt from the license requirements, or who are not required to be licensed, pursuant to Section 7850, are exempt from the requirements of this section.

SEC. 32. Section 12002.2.1 of the Fish and Game Code is amended to read:

12002.2.1. (a) Notwithstanding any other provision of law, a violation of any of the following is an infraction, punishable by a fine of not less than fifty dollars (\$50), or more than two hundred fifty dollars (\$250), for a first offense:

- (1) Subdivision (a) of Section 6596.1.
- (2) Subdivision (a) of Section 7149.45.
- (3) Subdivision (b) of Section 7180.1.
- (4) Section 1.18 of Title 14 of the California Code of Regulations.

(b) If a person is convicted of a violation of any of the sections listed in subdivision (a) within five years of a separate offense resulting in a conviction of a violation of any of those sections, that person shall be punished by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500).

(c) If a person convicted of a violation of any of the sections listed in subdivision (a) produces in court the applicable sport fishing ocean enhancement stamp, sport fishing ocean enhancement validation, second rod sport fishing stamp, second rod sport fishing validation, Colorado River special use stamp, Colorado River special use validation, Bay-Delta Sport Fishing Enhancement Stamp or Bay-Delta Sport Fishing Enhancement validation issued pursuant to this code and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation to twenty-five dollars (\$25).

SEC. 33. Section 12153 of the Fish and Game Code is amended to read:

12153. A commercial fishing license is forfeited for the violation of Sections 1050.1 to 1060, inclusive, or Section 2012, or of any of the provisions of this code relating to the use of nets.

SEC. 34. Section 13005 of the Fish and Game Code is amended to read:

13005. (a) Notwithstanding Section 13001, the fees collected from lifetime sportsman's licenses and privileges issued pursuant to Section 714, lifetime hunting licenses and privileges issued pursuant to Section 3031.2, and lifetime sport fishing licenses and privileges issued pursuant to Section 7149.2 shall be deposited as follows:

(1) Twenty dollars (\$20) from the initial issuance of each lifetime license shall be deposited in the Fish and Game Preservation Fund for use in accordance with Section 711.

(2) The balance of the fees collected shall be deposited in the Lifetime License Trust Account which is hereby created in the Fish and Game Preservation Fund. Except as provided in this section, that principal amount

of the money in the account from the fee for a lifetime license shall not be used, except for investment.

(b) The money in the Lifetime License Trust Account may be transferred and invested through the Surplus Money Investment Fund and all interest shall accrue to the account pursuant to subdivision (g) of Section 16475 of the Government Code.

(c) Upon issuance of a lifetime license or lifetime privilege issued pursuant to Section 714, 3031.2, or 7149.2, the department shall transfer the following amounts from the Lifetime License Trust Account to the Fish and Game Preservation Fund:

(1) Twenty-nine dollars and twenty-five cents (\$29.25) for an annual resident hunting license or an annual resident sport fishing license.

(2) Seven dollars and twenty-five cents (\$7.25) for a junior hunting license.

(3) Nine dollars and twenty-five cents (\$9.25) for one second-rod stamp or validation issued pursuant to Section 7149.45.

(4) Two dollars and fifty cents (\$2.50) for one sport fishing ocean enhancement stamp or validation issued pursuant to subdivision (a) of Section 6596.1.

(5) Three dollars and seventy-five cents (\$3.75) for one steelhead trout catch report-restoration card issued pursuant to Section 7380.

(6) One dollar (\$1) for one salmon punchcard issued pursuant to regulations adopted by the commission.

(7) Nineteen dollars and twenty-five cents (\$19.25) for a deer tag application issued pursuant to subdivision (a) of Section 4332.

(8) Eight dollars and seventy-five cents (\$8.75) for five wild pig tags issued pursuant to Section 4654.

(9) Ten dollars (\$10) for one state duck stamp or validation issued pursuant to Section 3700.1.

(10) Six dollars and twenty-five cents (\$6.25) for one upland game bird stamp or validation issued pursuant to Section 3682.1.

SEC. 35. Section 113 of the Government Code is amended to read:

113. The Legislature, acting through the State Lands Commission, hereby consents to the retrocession of jurisdiction by the United States over land within this state upon and subject to each and all of the following express conditions:

(a) The United States must in writing have requested state acceptance of the retrocession, and unless there is an officer of the United States empowered by a United States statute to retrocede jurisdiction, the request shall be by the act of Congress. The retrocession may return all jurisdiction to the state or may provide for concurrent jurisdiction.

(b) The proposed retrocession is in the best interest of the state.

(c) A notice of the proposed retrocession has been given to the clerk for the board of supervisors of each county in which the federal lands are located at least 15 days before the proposed retrocession is considered by the State Lands Commission.

(d) The United States has agreed to bear all costs and expenses incurred by the State Lands Commission in making the retrocession.

(e) The acceptance of the retrocession shall be made at a publicly noticed meeting of the State Lands Commission. The determination of the State Lands Commission shall be final and the retrocession of jurisdiction accepted shall become effective when certified copies of its orders or resolutions have been recorded in the office of the county recorder of each county in which any part of the land is situated. The State Lands Commission shall keep copies of its orders or resolutions and make them available to the public upon request.

SEC. 36. Section 741 of the Public Resources Code is amended to read:

741. (a) The board shall appoint a Range Management Advisory Committee and shall consult with the advisory committee on rangeland resource issues under consideration by the board.

(b) The advisory committee shall consist of 11 members, who shall be selected as follows:

(1) Three members of the general public, who have an interest and background in the conservation of range resources or special knowledge in the protection of range and brushland soils and watersheds.

(2) One member nominated by the California Association of Resource Conservation Districts.

(3) Seven members nominated by organizations representing owners of range and brushlands.

(c) Members of the advisory committee shall serve without compensation.

(d) The Secretary of the Natural Resources Agency, the Secretary for Environmental Protection, and the Secretary of Food and Agriculture shall notify the advisory committee of, and are encouraged to consult with the advisory committee on, rangeland resource issues that are under consideration by the Natural Resources Agency, the California Environmental Protection Agency, and the Department of Food and Agriculture, respectively.

SEC. 37. Section 8301 of the Public Resources Code is amended to read:

8301. The Governor, on application therefor by a duly authorized agent, may convey to the United States a tract of land that does not exceed 10 acres, belonging to the state and covered by navigable waters, for the site of a lighthouse, beacon, or other aid to navigation.

SEC. 38. Section 30301.2 of the Public Resources Code is amended to read:

30301.2. (a) The appointments of the Governor, the Senate Committee on Rules, and the Speaker of the Assembly, pursuant to subdivision (e) of Section 30301, shall be made as prescribed in this section. Within 45 days from the date of receipt of a request for nominations by the appointing authority, the board of supervisors and city selection committee of each county within the region shall nominate supervisors, mayors, or city council members who reside in the region from which the Governor, the Senate Committee on Rules, or the Speaker of the Assembly shall appoint a replacement. In regions composed of three counties, the board of supervisors

and the city selection committee in each county within the region shall each nominate one or more supervisors and one or more mayors or city council members. In regions composed of two counties, the board of supervisors and the city selection committee in each county within the region shall each nominate not less than two supervisors and not less than two mayors or city council members. In regions composed of one county, the board of supervisors and the city selection committee in the county shall each nominate not less than three supervisors and not less than three mayors or city council members. Immediately upon selecting the nominees, the board of supervisors and the city selection committee shall send the names of the nominees to either the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, whoever will appoint the replacement.

(b) Within 30 days from the date of receipt of the names of the nominees pursuant to subdivision (a), the Governor, the Speaker of the Assembly, or the Senate Committee on Rules, whoever will appoint the replacement, shall either appoint one of the nominees or notify the boards of supervisors and city selection committees within the region that none of the nominees are acceptable and request the boards of supervisors and city selection committees to make additional nominations. Within 45 days from the date of receipt of a notice rejecting all of the nominees, the boards of supervisors and city selection committees within the region shall nominate and send to the appointing authority the names of additional nominees in accordance with subdivision (a). Upon receipt of the names of those additional nominees, the appointing authority shall appoint one of the nominees.

SEC. 39. Section 30304 of the Public Resources Code is amended to read:

30304. Any member of the commission may, subject to the confirmation of his or her appointing power, appoint an alternate member to represent him or her at any commission meeting. An alternate for a locally elected official need not also be a locally elected official. An alternate may serve prior to confirmation for a period not to exceed 90 days from the date of appointment unless and until confirmation is specifically refused. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties as a member of the commission, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

All provisions of law relating to conflicts of interest that are applicable to a member shall apply to an alternate member. Whenever a member has, or is known to have, a conflict of interest on any matter, the member's alternate is not eligible to vote on that matter.

SEC. 40. Section 30310.5 of the Public Resources Code is repealed.

SEC. 41. Section 30315 of the Public Resources Code is amended to read:

30315. (a) The commission shall meet at least 11 times annually at a place convenient to the public. Each meeting shall occur not more than 45 days after the previous meeting. All meetings of the commission shall be open to the public.

(b) A majority of the total appointed membership of the commission shall constitute a quorum. An action taken by the commission under this division requires a majority vote of the members present at the meeting of the commission, with a quorum being present, unless otherwise specifically provided for in this division.

SEC. 42. Section 1026 of the Water Code is amended to read:

1026. The lead agency shall not approve a water lease until 30 days after the board provides written public notice, including notice by personal delivery or registered mail to legal users of water which may be affected by the lease, as identified by the board, the Department of Fish and Wildlife, and any party requesting special notice of water leases pursuant to this chapter. The water lessor shall pay a reasonable fee, in an amount determined by the state board, for the cost of providing the notice.

SEC. 43. Section 1055 of the Water Code is amended to read:

1055. (a) The executive director of the board may issue a complaint to any person or entity on which administrative civil liability may be imposed pursuant to Section 1052, Article 4 (commencing with Section 1845) of Chapter 12 of Part 2 of Division 2, or Section 5107. The complaint shall allege the act or failure to act that constitutes a trespass or violation, the provision of law authorizing civil liability to be imposed, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified mail. The complaint shall inform the party served that the party may request a hearing not later than 20 days from the date the party was served and that the board may adopt an order setting administrative civil liability based on the allegations set forth in the complaint without a hearing if the party does not sign a written request for a hearing that is delivered to, or received by mail by, the board within 20 days after the date the party was served. The hearing shall be before the board or a member of the board, in accordance with Section 183.

(c) The board, after any necessary hearing, may adopt an order setting administrative civil liability, or determining that a liability shall not be imposed.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof and payment shall be made.

SEC. 44. Section 1126.2 of the Water Code is repealed.

SEC. 45. Section 1228.1 of the Water Code is amended to read:

1228.1. (a) The Legislature finds and declares that it is in the public interest to provide a timely, efficient, and economic procedure for the acquisition of rights to appropriate water for a small domestic use, including incidental stock watering and irrigation uses, a small irrigation use, and for a livestock stockpond subject to prior rights.

(b) As used in this article:

(1) "Small domestic use" means a domestic use, as that use is defined by board rule, or a use for aesthetic, fire protection, recreational, or fish and wildlife purposes that is associated with a dwelling or other facility for

human occupation, that does not exceed direct diversion of 4,500 gallons per day or diversion to storage of 10 acre-feet per year.

(2) “Small irrigation use” means either of the following:

(A) An irrigation use, heat control use, or frost protection use, not to exceed diversion to storage of 20 acre-feet per year, including impoundment for incidental aesthetic, fire protection, recreational, or fish and wildlife purposes.

(B) An irrigation use not to exceed direct diversion of 42,000 gallons per day, up to a maximum of 20 acre-feet per year.

(3) “Livestock stockpond” means a water impoundment structure constructed for livestock watering use not to exceed direct diversion of 4,500 gallons per day, or diversion to storage of 10 acre-feet per year, as that use is defined by the board, and including impoundment for incidental aesthetic, fire protection, recreational, or fish and wildlife purposes.

SEC. 46. Section 1228.2 of the Water Code is amended to read:

1228.2. (a) (1) Subject to subdivision (b), a person may obtain a right to appropriate water for a small domestic, small irrigation, or livestock stockpond use upon first registering the use with the board and thereafter applying the water to reasonable and beneficial use with due diligence.

(2) With regard to an appropriation for small domestic use, a registration shall not be filed for a facility served by or used pursuant to a permit or license for domestic or municipal use, and not more than one small domestic use registration shall be in effect at any time for any facility. A small domestic use registration and a livestock stockpond use registration may be in effect for the same facility if the total combined water use covered by the registrations does not exceed 10 acre-feet per year.

(3) With regard to an appropriation for small irrigation use, more than one registration may be in effect at any time for a registrant if the diversion or storage facilities subject to registration for a registrant do not exceed the ratio of one per 20 irrigated acres, and if the total water use on all acreage covered by the registrations, including any water use based on other rights, does not exceed 100 acre-feet per year.

(4) A small domestic use registration and a small irrigation use registration, or a livestock stockpond use registration and a small irrigation use registration, may be in effect for the same facility only if the total combined water use covered by the registrations does not exceed 20 acre-feet per year.

(5) With regard to an appropriation for livestock stockpond use, more than one registration may be in effect at any time for a registrant if stockponds subject to registration for that registrant do not exceed the ratio of one per 50 acres.

(b) Initiation of rights to appropriate water pursuant to this article shall be subject to Article 1.3 (commencing with Section 1205), relating to fully appropriated stream systems. The board shall not accept a registration of water use which proposes as a source of water supply a stream system which has been unconditionally declared by the board to be fully appropriated pursuant to Section 1205, except that subdivision (b) of Section 1206,

relating to conditional declarations of fully appropriated stream systems, shall apply to registration of water use pursuant to this article, and the board shall accept those registrations where consistent with the conditions specified in the declaration.

(c) The board shall annually prepare and post on its Internet Web site information summarizing the location, nature, and amount of water appropriated pursuant to this article. The information shall include a description of the availability of unappropriated water in those stream systems which may become fully appropriated within the next reporting period.

(d) If a registration is filed with a source of supply on a stream system that the most recent report submitted under subdivision (c) identifies as a stream system that may become fully appropriated within the next reporting period, the registration shall not take effect unless the board finds that unappropriated water is available for the appropriation proposed by the registration. If the board finds that unappropriated water is not available to supply the proposed appropriation, the board shall, following notice and hearing, determine whether that stream system should be declared fully appropriated pursuant to Article 1.3 (commencing with Section 1205).

SEC. 47. Section 1228.3 of the Water Code is amended to read:

1228.3. (a) Registration of water use pursuant to this article shall be made upon a form prescribed by the board. The registration form shall set forth all of the following:

- (1) The name and post office address of the registrant.
- (2) The source of water supply.
- (3) The nature and amount of the proposed use.
- (4) The proposed place of diversion.
- (5) The place where it is intended to use the water.
- (6) The time for completion of construction of diversion works and for complete application of the water to the proposed use.
- (7) A certification that the registrant has contacted a representative of the Department of Fish and Wildlife designated by that department for that purpose, has provided information to that department that is set forth in the registration form, and has agreed to comply with all lawful conditions, including, but not limited to, conditions upon the construction and operation of diversion works, required by the Department of Fish and Wildlife. The certification shall include a copy of any conditions required by the Department of Fish and Wildlife pursuant to this paragraph.

(8) Any other information that may reasonably be required by the board.

(b) Registration of water use shall be deemed completed on the date that the form, executed in substantial compliance with the requirements of this section, and the registration fee specified in Section 1525 are received by the board.

(c) The board shall issue monthly a list of registrations filed under this article during the preceding calendar month. This list shall contain the information required by paragraphs (1) to (6), inclusive, of subdivision (a). The list shall set forth a date prior to which an interested person may file a

written protest in opposition to the approval of a stockpond registration. That date shall be not later than 30 days from the date on which the list is issued. The board shall mail the monthly list of registrations filed to a person who requests the list.

(d) Prior to the date set forth on the list required under subdivision (c), an interested person may file with the board a written protest in opposition to the approval of a stockpond registration. The protest shall clearly set forth the protestant's objections to the registered use based on interference with prior rights. The protest shall be served on the registrant by the protestant by mailing a duplicate copy of the protest to the registrant, or through service undertaken in another manner determined to be adequate by the board. The procedures set forth in Article 1.5 (commencing with Section 1345) of Chapter 5 shall be used for reviewing a protested registration.

SEC. 48. Section 1228.6 of the Water Code is amended to read:

1228.6. (a) The board shall establish, and may from time to time revise, reasonable general conditions to which all appropriations made pursuant to this article shall be subject. The conditions shall include, but shall not be limited to, the following:

- (1) The appropriation is subject to prior rights.
- (2) All conditions lawfully required by the Department of Fish and Wildlife are conditions upon the appropriations.
- (3) Diversion works shall be constructed and water applied to beneficial use with due diligence.
- (4) Registration shall be renewed and water use reported pursuant to law and to the rules of the board.

(b) Immediately upon registration pursuant to Section 1228.3, renewal of registration pursuant to Section 1228.5, or amended registration pursuant to Section 1228.7, the board shall provide the registrant with a written document setting forth the conditions required by this section, and the perfection and exercise of rights acquired pursuant to this article shall at all times be subject to those conditions.

(c) The conditions required by this section shall be deemed "terms and conditions" within the meaning of Section 1825 and the expression of legislative intent contained in that section shall be applicable thereto. The authority of the board to enforce the terms and conditions of permits and licenses to appropriate water, and to prevent the unlawful diversion of water, including, but not limited to, provisions regarding cease and desist orders and the revocation of permits and licenses, shall be applicable to appropriations initiated or perfected pursuant to this article.

SEC. 49. Section 1229 of the Water Code is amended to read:

1229. (a) The board is not required to adopt general conditions for small irrigation use pursuant to subdivision (a) of Section 1228.6 until the board determines that funds are available for that purpose.

(b) A registration for small irrigation use pursuant to this article is not authorized until the board establishes general conditions for small irrigation use pursuant to subdivision (a) of Section 1228.6 to protect instream beneficial uses.

(c) The board may establish general conditions for some methods of diversion or categories of small irrigation use before establishing general conditions for other methods or categories, in which case a registration for small irrigation use is authorized only for those methods or categories for which the board has established the general conditions for the protection of instream beneficial uses.

SEC. 50. Section 1229.1 of the Water Code is amended to read:

1229.1. (a) This article does not apply to those stream segments for which the Director of Fish and Wildlife establishes proposed streamflow requirements pursuant to Section 10002 of the Public Resources Code, notwithstanding the July 1, 1989, deadline for preparation of the requirements.

(b) Notwithstanding subdivision (a), this article applies to a registration filed before the Director of Fish and Wildlife establishes proposed streamflow requirements for the source of water supply for the registration. The conditions for renewal under subdivision (c) of Section 1228.5 may include any conditions the Department of Fish and Wildlife determines to be necessary to protect stream-related fish and wildlife resources on a source of water supply for which the Director of Fish and Wildlife has established proposed streamflow requirements pursuant to Section 10002 of the Public Resources Code.

SEC. 51. Section 1243 of the Water Code is amended to read:

1243. (a) The use of water for recreation and preservation and enhancement of fish and wildlife resources is a beneficial use of water. In determining the amount of water available for appropriation for other beneficial uses, the board shall take into account, when it is in the public interest, the amounts of water required for recreation and the preservation and enhancement of fish and wildlife resources.

(b) The board shall notify the Department of Fish and Wildlife of an application for a permit to appropriate water. The Department of Fish and Wildlife shall recommend the amounts of water, if any, required for the preservation and enhancement of fish and wildlife resources and shall report its findings to the board.

(c) This section does not affect riparian rights.

SEC. 52. Section 1260 of the Water Code is amended to read:

1260. An application for a permit to appropriate water shall set forth all of the following:

- (a) The name and post office address of the applicant.
- (b) The source of water supply.
- (c) The nature and amount of the proposed use.
- (d) The location and description of the proposed headworks, ditch canal, and other works.
- (e) The proposed place of diversion.
- (f) The place where it is intended to use the water.
- (g) The time within which it is proposed to begin construction.
- (h) The time required for completion of the construction.

(i) The time for the complete application of the water to the proposed use.

(j) All data and information reasonably available to applicant or that can be obtained from the Department of Fish and Wildlife concerning the extent, if any, to which fish and wildlife would be affected by the appropriation, and a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the appropriation.

(k) Sufficient information to demonstrate a reasonable likelihood that unappropriated water is available for the proposed appropriation.

SEC. 53. Section 1427 of the Water Code is amended to read:

1427. Before making the findings required by Section 1425, the board shall do all of the following:

(a) Review available records, files, and decisions that relate to the availability of water from the source at the proposed point of diversion to serve the proposed temporary diversion and use, and that relate to the rights of downstream users.

(b) Consult with representatives of the Department of Fish and Wildlife.

(c) Make a field investigation, if necessary or desirable in the opinion of the board.

SEC. 54. Section 1430 of the Water Code is amended to read:

1430. A temporary permit issued under this chapter shall not result in the creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the board. The authorization to divert and use water under a temporary permit shall automatically expire 180 days after the authorization takes effect, unless an earlier date is specified or the temporary permit is revoked. The 180-day period does not include any time required for monitoring, reporting, or mitigation before or after the authorization to divert or use water under the temporary permit.

SEC. 55. Section 1437 of the Water Code is amended to read:

1437. Before making the findings required by Section 1435, the board shall review available records, files, and decisions that relate to the rights of other legal users of water, consult with representatives of the Department of Fish and Wildlife, and make a field investigation if the investigation is necessary or desirable in the opinion of the board.

SEC. 56. Section 1440 of the Water Code is amended to read:

1440. A temporary change order issued under this chapter shall not result in the creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the board. The authorization to divert and use water under a temporary change order shall automatically expire 180 days after the authorization takes effect, unless an earlier date is specified or the temporary change order is revoked. The 180-day period does not include any time required for monitoring, reporting, or mitigation before or after the authorization to divert or use water under the temporary change order.

SEC. 57. Section 1701.2 of the Water Code is amended to read:

1701.2. A petition for change in a permit or license shall meet all of the following requirements:

- (a) State the name and address of the petitioner.
- (b) Be signed by the petitioner, or the petitioner's agent or attorney.
- (c) Include all information reasonably available to the petitioner, or that can be obtained from the Department of Fish and Wildlife, concerning the extent, if any, to which fish and wildlife would be affected by the change, and a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change.
- (d) Include sufficient information to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water.
- (e) Contain other appropriate information and be in the form required by applicable regulations.

SEC. 58. Section 1703 of the Water Code is amended to read:

1703. After filing a petition for permission to make a change, the petitioner, in case the board so requires, shall cause notice thereof to be given or published in the manner prescribed by the board. In all cases the petitioner shall notify the Department of Fish and Wildlife in writing of the proposed change.

SEC. 59. Section 1726 of the Water Code is amended to read:

1726. (a) (1) A permittee or licensee who proposes a temporary change shall submit to the board a petition to change the terms of the permit or license as required to accomplish the proposed temporary change. The petition for a temporary change shall be filed by the permittee or licensee. If the proposed temporary change is for the benefit of a contractor or user supplied directly or indirectly by the permittee or licensee, the permittee or licensee may authorize the contractor or user to participate as a copetitioner. The permittee or licensee shall identify any copetitioner in the petition.

(2) A contractor or user described in paragraph (1), whether or not designated as a copetitioner, and the person to whom the water is proposed to be transferred, shall be named as parties to the proceeding, with the same rights to receive notices, respond to board determinations, and petition for writ of mandate as the petitioner.

(b) A petition shall include both of the following:

(1) Reference to the permit or license that serves as the basis for the water transfer.

(2) A written description of the changes in water storage, timing, and point of diversion, place and purpose of use, timing and point of return flow, and water quality of instream flows that are likely to occur as a result of the proposed temporary change.

(c) A petitioner shall provide a copy of the petition to the Department of Fish and Wildlife, the board of supervisors of the county or counties in which the petitioner currently stores or uses the water subject to the petition, and the board of supervisors of the county or counties to which the water is proposed to be transferred.

(d) Within 10 days of the date of submission of a petition to the board, the petitioner shall publish in not less than one newspaper of general

circulation, in the county or counties in which the petitioner currently stores or uses the water subject to the petition, a notice of the petition and a brief description of the terms of the proposed temporary change. The board shall, in a timely manner, provide to the petitioner a list of water right holders of record on file with the board who may be affected by the transfer, and the petitioner shall provide written notice to those water right holders not later than 10 days after the date on which the petition is submitted. The board shall post the notice of petition on its Internet Web site not later than 10 days after the date on which the petition is submitted. The notice of the petition shall specify the date on which comments are due. The board may impose on the petitioner any other notice requirement it determines to be necessary.

(e) Within 10 days of the date of receipt of a petition, the board shall commence an investigation of the proposed temporary change. Pursuant to that investigation, the board shall determine if the water proposed to be transferred would have been consumptively used or stored pursuant to the petitioner's permit or license in the absence of the proposed transfer or conserved pursuant to Section 1011. The board also shall evaluate the changes in water storage, timing and point of diversion, place and purpose of use, timing and point of return flow, water quality, and instream flows, and other changes that are likely to occur as a result of the proposed temporary change.

(f) Water users that may be affected by a proposed temporary change and any other interested party may file a written comment regarding a petition with the board. Comments shall be filed not later than 30 days after the date that the notice was published pursuant to subdivision (d). The board shall evaluate and take into consideration all comments that are filed in a timely manner.

(g) (1) Except as specified in paragraphs (2) and (3), the board shall render a decision on the petition not later than 35 days after the date that investigation commenced or the date that the notice was published, whichever is later. The board's decision shall be in accordance with the substantive standards set forth in Section 1727. The board shall explain its decision in writing and shall send copies of the decision to the petitioner, the Department of Fish and Wildlife, the board of supervisors of the county or counties described in subdivision (c), the proposed transferee, and any party who has filed a written comment in accordance with subdivision (f).

(2) If comments are filed in accordance with subdivision (f), or for any other good cause, the board may extend the date of its decision for up to 20 days.

(3) If the board or the petitioner determines that an additional extension of time for a decision is necessary for the board to make the findings required by Section 1727, or that a hearing is necessary for the board to make those findings, the board may extend the time for a decision with the consent of the petitioner. If the petitioner agrees to a hearing, the board shall identify the issues for which additional evidence is required and shall fix a time and place for the hearing. The board shall provide notice of the time, place, and

subject matter of the hearing to the petitioner, the Department of Fish and Wildlife, the board of supervisors of the county or counties described in subdivision (c), the water right holders of record identified pursuant to subdivision (d), the proposed transferee, and any party who has filed a written comment in accordance with subdivision (f).

SEC. 60. Section 1727 of the Water Code is amended to read:

1727. (a) The board shall review a petition for a temporary change of water rights in accordance with this section.

(b) The board shall approve a temporary change if it determines that a preponderance of the evidence shows both of the following:

(1) The proposed temporary change would not injure any legal user of the water, during any potential hydrologic condition that the board determines is likely to occur during the proposed change, through significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, or reduction in return flows.

(2) The proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

(c) The petitioner shall have the burden of establishing that a proposed temporary change would comply with paragraphs (1) and (2) of subdivision (b). If the board determines that that petitioner has established a prima facie case, the burden of proof shall shift to any party that has filed a comment pursuant to subdivision (f) of Section 1726 to prove that the proposed temporary change would not comply with paragraphs (1) and (2) of subdivision (b). The board may make a determination required by this subdivision without a hearing.

(d) In reviewing a petition for a temporary change, the board shall not modify any term or condition of the petitioner's permit or license, including those terms that protect other legal users of water, fish, wildlife, and other instream beneficial uses, except as necessary to carry out the temporary change in accordance with this article.

(e) In applying the standards set forth in paragraphs (1) and (2) of subdivision (b), the board shall not deny, or place conditions on, a temporary change to avoid or mitigate impacts that are not caused by the temporary change. Neither the Department of Fish and Wildlife, nor any other state agency that comments on the proposed temporary change, shall propose conditions to mitigate effects on fish, wildlife, or other instream beneficial uses that are not caused by the proposed temporary change. This subdivision does not limit the board, the Department of Fish and Wildlife, or any other state agency, in proceedings pursuant to any provision of law other than this article.

SEC. 61. Section 1736 of the Water Code is amended to read:

1736. The board, after providing notice and opportunity for a hearing, including, but not limited to, written notice to, and an opportunity for review and recommendation by, the Department of Fish and Wildlife, may approve such a petition for a long-term transfer where the change would not result in substantial injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

- SEC. 62. Section 2862 of the Water Code is repealed.
- SEC. 63. Section 2863 of the Water Code is repealed.
- SEC. 64. Section 2866 of the Water Code is repealed.