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AB-2697 Nesting Bird Habitat Incentive Program: idled agricultural lands. (2017-2018)

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Assembly Bill No. 2697

CHAPTER 588

An act to add Article 9 (commencing with Section 3480) to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, relating to wildlife habitat.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2697, Gallagher. Nesting Bird Habitat Incentive Program: idled agricultural lands.

Existing law establishes the Wildlife Conservation Board within the Department of Fish and Wildlife and requires the board to investigate, study, and determine what areas within the state are most essential and suitable for wildlife production and preservation, and will provide suitable recreation. Existing law also requires the board to ascertain and determine what lands within the state are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for, fishing and hunting. Existing law also authorizes the board to administer various habitat conservation programs.

This bill would require the department to establish the Nesting Bird Habitat Incentive Program, which may include direct payments or other incentives, to encourage landowners to voluntarily cultivate or retain upland cover crops or other upland vegetation on idled lands to provide waterfowl, upland game bird, and other wildlife habitat cover for purposes, including, but not limited to, encouraging the use of idle agricultural lands for wildlife habitat. The bill would authorize the department to develop guidelines and criteria for the program as it deems appropriate. The bill would authorize the department to consult with the Wildlife Conservation Board, the United States Fish and Wildlife Service, the Natural Resources Conservation Service, and nonprofit waterfowl and upland game bird organizations before implementing those provisions, to determine the optimal ways of increasing and enhancing wildlife habitat on idled lands.

The bill would provide that its provisions shall be implemented only if the Water Supply and Water Quality Act of 2018 is approved by the voters at the November 6, 2018, general election or a sufficient amount of federal grants or other funds are secured, as determined by the department, for the purposes of the bill.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 9 (commencing with Section 3480) is added to Chapter 2 of Part 1 of Division 4 of the Fish and Game Code, to read:

Article 9. Nesting Bird Habitat Incentive Program

- 3480.** (a) The department shall establish the Nesting Bird Habitat Incentive Program, which may include direct payments or other incentives, to encourage landowners to voluntarily cultivate or retain upland cover crops or other upland vegetation on idled lands to provide waterfowl, upland game bird, and other wildlife habitat cover, including, but not limited to, for the purposes described in Section 1018 of the Water Code.
- (b) The department may develop guidelines and criteria for the program established under subdivision (a) as it deems appropriate, but shall ensure that it is flexible enough to meet landowner needs. The program shall do all of the following:
- (1) Prohibit a landowner who participates in the program and has committed to leaving the established upland cover crops or other upland vegetation in place after April 1 from engaging in practices such as discing, spraying of herbicides, mowing, chipping, or rolling any vegetation on those idled lands until after July 1, or as late as possible each year, to address waterfowl nesting, upland game bird habitat, and other wildlife needs.
 - (2) Give priority to contracts with landowners that do both of the following:
 - (A) Include lands adjacent to, or in proximity to, waterfowl brood habitat, including, but not limited to, areas flooded during the spring or summer for the cultivation of rice.
 - (B) Establish upland nesting cover over multiple years.
 - (3) Be consistent with waterfowl habitat breeding goals and objectives of the Central Valley Joint Venture Implementation Plan as it may be amended.
 - (4) Allow for one year or multiyear contracts with landowners.
 - (5) Allow for the rotation of fallowed fields to different areas of a landowner's property on an annual basis.
 - (6) Prohibit, in connection with the approval of a transfer, a landowner who participates in the program from diverting or using any water under any basis of right to irrigate land idled in order to provide water for transfer, unless the transfer is approved by the State Water Resources Control Board pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or by the Department of Water Resources pursuant to Article 4 (commencing with Section 1810) of Chapter 11 of Part 2 of Division 2 of the Water Code, and the irrigation of the idled land is expressly authorized under that approval.
 - (7) Allow for activities undertaken or requested by mosquito control agencies to address mosquito production.
- (c) The program may be supported with state or federal grants, state bond moneys, and private grants and donations. Funds may also be used as a state match for related federal conservation programs that provide waterfowl and upland game bird breeding habitat benefits.
- (d) The department may utilize the assistance of the California Waterfowl Habitat Program in implementing the Nesting Bird Habitat Incentive Program, including, but not limited to, establishing program priorities, contract requirements, and monitoring and compliance activities. Nonprofit conservation organizations may also assist in the implementation and delivery of the program to the extent that the department deems appropriate.
- (e) The program may also include agricultural lands not subject to water transfers or lands fallowed for any other legal purpose.
- (f) The department may consult with the Wildlife Conservation Board, the United States Fish and Wildlife Service, the Natural Resources Conservation Service, and nonprofit waterfowl and upland game bird organizations before implementing this section to determine the optimal ways to increase and enhance waterfowl and upland game bird breeding habitat on idled lands.
- (g) Landowners who take voluntary action to cultivate or retain irrigated or nonirrigated cover crops, natural vegetation, or other wildlife habitat on lands fallowed pursuant to the goals of the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) shall also be eligible to participate in the program described in subdivision (a).
- (h) The program is established for waterfowl and other game bird breeding purposes and shall not be used to provide waterfowl wintering habitat, including managed wetland habitat, as defined in paragraph (1) of subdivision (a) of Section 1506.
- (i) This section shall be implemented only if either of the following occur:
- (1) The Water Supply and Water Quality Act of 2018 (Division 38 (commencing with Section 86000) of the Water Code) is approved by the voters at the November 6, 2018, statewide general election.
 - (2) A sufficient amount of federal grants or other funds are secured, as determined by the department, for the purposes of this section.