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AB-1949 Fisheries: California Ocean Resources Enhancement and Hatchery Program. (2019-2020)

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Assembly Bill No. 1949

CHAPTER 345

An act to amend Sections 6590, 6591, 6592, 6593, 6594, 6595, and 6597 of, to add Sections 6594.1, 6594.3, 6594.5, and 6596.3 to, to repeal Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6 of, and to repeal and add Section 6598 of, the Fish and Game Code, relating to fisheries.

[Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1949, Boerner Horvath. Fisheries: California Ocean Resources Enhancement and Hatchery Program.

(1) Existing law establishes the California Ocean Resources Enhancement and Hatchery Program for the purpose of basic and applied research on the artificial propagation, rearing, stocking, and distribution of adversely affected marine fish species that are important to sport or commercial fishing in ocean waters south of Point Arguello. Existing law provides funding for the program from the revenues derived from fees for sport fishing or commercial fishing ocean enhancement validations, which are required of persons taking fish, as specified, in those ocean waters. Under existing law, the program is administered by the Director of Fish and Wildlife with the advice and assistance of the Ocean Resources Enhancement Advisory Panel. Existing law specifies the membership of the advisory panel and establishes a specified appointing authority for each member of the advisory panel. Existing law prohibits financing of any part of the program unless it has been approved by the director and by a majority of the members of the advisory panel.

This bill would expand the purpose of the program to encompass any marine fish species important to sport and commercial fishing. The bill would revise provisions relating to the advisory panel by, among other things, specifying which members are voting members, by adding a voting member representing the public or nongovernmental organization interests, or both, by providing for an alternate member to be designated for each voting member, and by establishing 3-year terms for each member and alternate member. The bill would require all members and alternate members to be appointed by the director after soliciting nominations for members and evaluating certain criteria. The bill would eliminate the advisory panel's nonadvisory functions, including the power to approve financing of any part of the program.

The bill would require the director to establish an independent scientific advisory committee consisting of members appointed by the director with expertise in specified scientific areas, as provided. The bill would require the committee to provide advice to the director and the advisory panel and provide recommendations on specified matters relating to the program. From funds made available to the program, the bill would provide for the compensation of each member of the committee in an amount of \$100 for each day of service with a limit of \$500 per calendar year and would provide for each member's actual and necessary expenses. The bill would require the director to convene an annual public meeting where the committee would be required to present information regarding its evaluation of aspects of program science it completed during the preceding year and an outlook for future program activities.

The bill would require the director, in the operation of the program, to consider the findings and results of a specified evaluation of the program. On or before July 1, 2027, the bill would require the director to submit a report to the relevant budget and policy committees of the Legislature and the Legislative Analyst's Office regarding the status of the program and the program's progress towards achieving its goals and objectives. The bill would require the report to include other specified information, including the findings of the committee.

The bill would require the director to provide for the solicitation of input from every person who purchases a sport fishing or commercial fishing ocean enhancement validation on the direction of the program.

(2) Existing law authorizes the Department of Fish and Wildlife to contract with private nonprofit organizations that meet certain criteria to conduct research projects for purposes of the California Ocean Resources Enhancement and Hatchery Program. Existing law authorizes the department to enter into one or more agreements to accept services from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department.

This bill would expand the department's contracting authority under the program by authorizing the department to contract with any public or private entity to conduct research projects. The bill would also specifically authorize the department to accept volunteer assistance for program operations, provided that volunteers do not displace existing state employees. The bill would require all research and research results conducted through the program to be publicly available.

(3) This bill would repeal the California Ocean Resources Enhancement and Hatchery Program on January 1, 2028.

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

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

SECTION 1. Section 6590 of the Fish and Game Code is amended to read:

6590. The Legislature finds and declares all of the following:

(a) Substantial declines in various species of desirable fish that are caught in southern California ocean waters have adversely affected sport and commercial fishing and their related industries.

(b) The purpose of this article is to determine if hatchery-released fish can enhance certain stocks of desirable species and contribute to research and scientific understanding of marine hatchery operations and benefits.

(c) Funding for the program is most appropriately borne by a special fund derived from user fees on sport and commercial fishermen who stand to directly benefit from the resurgence of depressed marine fisheries.

(d) The department has continuing resource management, administrative, and policy review responsibility in marine resources issues.

(e) Volunteers from the recreational fishing community have developed and operated grow-out facilities with private funding. These volunteer activities greatly enhance the effectiveness of the program and are fully compatible with the overall program objectives.

(f) As white sea bass hatchery production is established, additional grow-out facilities will be required and coordination between these facilities will be necessary. The ocean resources enhancement advisory panel may encourage contracts to carry out coordination activities and recommend to the director that this coordination remain a high priority. Those coordination activities may be funded with fees collected by the department pursuant to this article.

(g) The use of federal matching funds, including sportfish restoration account funds, shall be a high priority for use to match state dollars for this program.

(h) The department may benefit from contracting with other public or private entities to further the purposes of this article.

SEC. 2. Section 6591 of the Fish and Game Code is amended to read:

6591. For purposes of this article, the following definitions apply:

(a) "Advisory panel" means the Ocean Resources Enhancement Advisory Panel established pursuant to Section 6594.

(b) "Committee" means the independent scientific advisory committee established pursuant to Section 6594.1.

(c) "Program" means the California Ocean Resources Enhancement and Hatchery Program established by this article.

SEC. 3. Section 6592 of the Fish and Game Code is amended to read:

6592. There is hereby established in state government the California Ocean Resources Enhancement and Hatchery Program. The purpose of the program is to advance research on the artificial propagation, rearing, stocking, and distribution of marine fish species that are important to sport and commercial fishing in the ocean waters off the coast of California south of a line extending due west from Point Arguello, including research on the efficacy of artificial enhancement of stocks of these marine fish species through hatchery production.

SEC. 4. Section 6593 of the Fish and Game Code is amended to read:

6593. (a) The program is administered by the director with the advice of the advisory panel and the committee.

(b) A person shall not serve on the advisory panel or the committee if that person is receiving research funding from the program.

(c) The director may appoint, with the advice of the advisory panel, a program manager to assist in administering the program.

(d) The director shall consider the advice of the advisory panel regarding program administration, including the expenditure of fee revenue and other sources of program funding.

SEC. 5. Section 6594 of the Fish and Game Code is amended to read:

6594. (a) To advise the director in establishing policy and direction for the program, the director shall establish the Ocean Resources Enhancement Advisory Panel.

(b) The advisory panel shall consist of the following members, all of whom shall be residents of California:

(1) One nonvoting member representing the department.

(2) One nonvoting member representing the California Sea Grant program.

(3) Two voting members representing the southern California commercial fishing industry.

(4) One voting member representing the southern California commercial passenger fishing vessel industry.

(5) Three voting members representing the southern California sport fishing industry.

(6) One voting member representing the southern California aquaculture industry.

(7) One voting member representing the public or nongovernmental organization interests, or both.

(c) There shall be a designated alternate member for each voting member of the advisory panel.

(d) The director shall appoint members and alternate members of the advisory panel after soliciting nominations for members and evaluating the experience, demonstrated program knowledge, and relevant stakeholder support of nominees.

(e) Each appointment of a member or alternate member shall be for a term of three years. There shall be no limit on the number of terms a member may serve on the advisory panel.

SEC. 6. Section 6594.1 is added to the Fish and Game Code, to read:

6594.1. (a) In order to foster a transparent and collaborative approach between the public, the advisory panel, and the director, and to advise the director and the advisory panel regarding the program, the director shall establish an independent scientific advisory committee.

(b) The committee shall consist of members who collectively have expertise in the following areas:

(1) Fish genetics.

(2) Fish health.

(3) Marine aquaculture.

(4) Fish population biology or dynamics.

(5) Benthic or water quality.

(6) Stock enhancement or fish hatchery science.

(c) The committee may also include members who have expertise in other areas that the director determines to be relevant to the program.

(d) The committee shall provide advice to the director and the advisory panel in order to help ensure the scientific integrity and transparency in science-based decisionmaking of program activities. The committee shall provide recommendations on all of the following:

(1) Ensuring the documentation of the program's scientific accomplishments, if needed.

(2) Prioritizing program research activities based upon an independent evaluation of program research needs and a consideration of the report described in subdivision (a) of Section 6594.5. In providing this recommendation, the committee shall consider at least all of the following:

(A) Systematic data collection in order to inform adaptive management of the program's enhancement activities.

(B) The impacts of the program's enhancement activities.

(C) The incorporation of best practices in hatchery science to, among other things, maintain the genetic diversity of stocked species.

(3) Identifying candidate focal species for enhancement or research potential.

(4) Developing quantitative criteria, benchmarks, and timelines to be used in evaluating the program and its activities.

(e) Each member of the committee shall receive one hundred dollars (\$100) for each day of actual service performed in carrying out their official duties, but the amount of compensation for any one member shall not exceed the sum of five hundred dollars (\$500) for any calendar year. In addition to this compensation, the members of the committee shall receive their actual and necessary expenses incurred in the performance of their duties. The compensation and expenses provided in this subdivision shall be paid from funds made available to the program pursuant to Section 6595.

(f) The establishment of the committee pursuant to this section does not limit the director's discretion to seek scientific and technical advice regarding the program from other sources.

(g) Department personnel shall provide support for the committee's efforts, as applicable and needed.

(h) The director shall appoint members to the committee. The director shall determine the number of members to serve on the committee. Members of the committee shall serve at the pleasure of the director.

SEC. 7. Section 6594.3 is added to the Fish and Game Code, to read:

6594.3. The director shall convene an annual public meeting where the committee shall present information regarding its evaluation of aspects of program science it completed during the preceding year and an outlook for future program activities. At the meeting, the director shall provide information on the program's compliance with any permitting requirements and the results of information solicited pursuant to Section 6596.3.

SEC. 8. Section 6594.5 is added to the Fish and Game Code, to read:

6594.5. (a) The director shall consider the findings and results of the evaluation of the program conducted by California Sea Grant submitted to the department on December 12, 2017, in the report "Evaluation of the Ocean Resources Enhancement and Hatchery Program," Publication no. CASG-17-010 in the operation of the program.

(b) (1) On or before July 1, 2027, the director shall submit a report to the relevant budget and policy committees of the Legislature and the Legislative Analyst's Office regarding the status of the program and the program's progress towards achieving its goals and objectives. The report shall include information regarding the findings of the committee, and incorporate, as applicable, information related to the program from the outcome of the service-based budget review conducted pursuant to Section 712.1.

(2) The requirement for submitting a report imposed under paragraph (1) is inoperative on July 1, 2031, pursuant to Section 10231.5 of the Government Code.

SEC. 9. Section 6595 of the Fish and Game Code is amended to read:

6595. (a) All fees collected by the department pursuant to this article, and any interest earned on those fees, shall be deposited in the Fish and Game Preservation Fund and shall be available, upon appropriation by the Legislature, solely for purposes of the

program. The department shall maintain the internal accountability necessary to ensure that expenditures of these funds meet the requirements and restrictions of the purposes of the program.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the Fish and Game Preservation Fund pursuant to this article, may be appropriated for the administration of the program, including any reasonable and necessary expenses incurred by members of the advisory panel in the discharge of their duties pursuant to this article and the compensation and expenses provided for the members of the committee pursuant to subdivision (e) of Section 6594.1.

SEC. 10. Section 6596.3 is added to the Fish and Game Code, to read:

6596.3. The director shall provide for the solicitation of input from every person who pays a fee pursuant to Section 6596.1 on the direction of the program. The director may contract with a public or private entity to undertake this solicitation.

SEC. 11. Section 6597 of the Fish and Game Code is amended to read:

6597. (a) The department may contract with any public or private entity to conduct research projects pursuant to this article.

(b) The department may accept volunteer assistance for program operations, including, but not limited to, assistance with regard to grow-out facilities, provided that volunteers do not displace existing state employees.

(c) All research and research results conducted through the program shall be publicly available.

SEC. 12. Section 6598 of the Fish and Game Code is repealed.

SEC. 13. Section 6598 is added to the Fish and Game Code, to read:

6598. This article shall remain in effect only until January 1, 2028, and as of that date is repealed.