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SB-62 Endangered species: accidental take associated with routine and ongoing agricultural activities: state safe harbor agreements. (2019-2020)

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Senate Bill No. 62

CHAPTER 137

An act to amend Section 2087 of, and to repeal Section 2089.26 of, the Fish and Game Code, relating to endangered species.

[Approved by Governor July 30, 2019. Filed with Secretary of State July 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 62, Dodd. Endangered species: accidental take associated with routine and ongoing agricultural activities: state safe harbor agreements.

(1) Existing law, the California Endangered Species Act, prohibits the taking of an endangered or threatened species, except in certain situations. Under the act, the Department of Fish and Wildlife may authorize the take of listed species pursuant to an incidental take permit if the take is incidental to an otherwise lawful activity, the impacts are minimized and fully mitigated, and the issuance of the permit would not jeopardize the continued existence of the species. The act requires the department to adopt regulations for the issuance of incidental take permits. Existing law also provides that a violation of the Fish and Game Code is a crime.

The act also provides, until January 1, 2020, that the accidental take of candidate, threatened, or endangered species resulting from an act that occurs on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by the act.

This bill would extend this exception to January 1, 2024, and would limit this exception to an act by a person acting as a farmer or rancher, a bona fide employee of a farmer or rancher, or an individual otherwise contracted by a farmer or rancher. The bill would also require a person, when an accidental take is known to occur under these provisions, to report the take to the department within 10 days. By creating a new reporting requirement, the violation of which would be a crime, the bill would impose a state-mandated local program.

(2) The California State Safe Harbor Agreement Program Act establishes a program, until January 1, 2020, to encourage landowners to manage their lands voluntarily, by means of state safe harbor agreements approved by the Department of Fish and Wildlife, to benefit endangered, threatened, or candidate species without being subject to additional regulatory restrictions as a result of their conservation efforts.

This bill would make these provisions permanent. By making the provisions of the act permanent, the violation of which would be a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 2087 of the Fish and Game Code is amended to read:

2087. (a) An accidental take of a candidate, threatened, or endangered species resulting from an act by a person acting as a farmer or rancher, a bona fide employee of a farmer or rancher, or an individual otherwise contracted by a farmer or rancher that occurs on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.

(b) When an accidental take is known to occur under subdivision (a), the person shall report the take to the department within 10 days.

(c) For purposes of this section, "accidental" means unintended or unforeseen.

(d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024, deletes or extends that date.

SEC. 2. Section 2089.26 of the Fish and Game Code is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.