



April 10, 2017

Honorable Mike McGuire, Senator
State Capitol, Room 5061
Sacramento, CA 95814

Dear Senator McGuire:

Thank you for your correspondence dated February 13, 2017 regarding the 2017 Governor's Budget proposal that begins to address the structural imbalance in the Fish and Game Preservation Fund. Specifically, your correspondence requested additional details regarding the commercial landing fees; actual cost breakdowns for commercial fishing management and law enforcement by species; identification of any federal funds available for this program; and the implicit price deflator calculation since the last landing tax increase. You also requested the rationale for elimination of the Lifetime License Trust Account, the one-time transfer of its \$10.6 million balance to the Fish and Game Preservation Fund, and how the Department of Fish and Wildlife (Department) will continue to fund services to lifetime license holders.

Commercial Fishery Fees

The proposed trailer bill language to update the fees is now posted on the Department of Finance website; a copy is attached for your convenience. Details of the proposed fees are in Section 10 on pages 12-14. The Department's proposal increases fees to the fishing industry that is benefitting from commercially harvesting a public resource managed by the specific state program. The proposal continues the current practice of assessing landing fees by weight. Consequently, the amount of fees paid will automatically adjust based on a fishery's productivity during any year.

The Department's costs of managing commercial fisheries by function is also attached. The Department manages commercial fisheries at the ecosystem level. As reflected in the attached chart, costs for commercial fishery activities exceed \$40.7 million; however, the proposed increased landing fee revenue, projected at \$12.4 million, only supports a portion of the Department's reasonable regulatory costs.

Federal Funding

The Department utilized \$3.5 million in federal funds for commercial fishery management in 2015-16.

Implicit Price Deflator

Most landing fees have not been adjusted since 1993. Applying an annual adjustment using the Implicit Price Deflator for State and Local Government Purchases of Goods and Services would have increased landing fees by approximately 197 percent between 1992-93 and 2015-16.

Lifetime License Trust Account

Currently, revenue from the sale of lifetime hunting and fishing licenses is deposited in the Lifetime Account. Under transfer formulas in existing law, approximately \$100,000 annually is transferred from the Lifetime Account to the non-dedicated Fish and Game Preservation Fund. The low dollar amounts transferred annually have led to a large reserve balance. The rationale in eliminating the Lifetime Account and transferring the balance to the Fish and Game Preservation Fund and various other designated funds, is to mitigate the need for other fee or licensing increases. It is anticipated that ongoing annual revenues of \$750,000 from new lifetime licenses will be deposited in the non-dedicated account, thereby making the funds available for their intended purposes. Making the funds available will not change the Department's level of service to the lifetime license holders.

Finance acknowledges the fee increases for commercial fisheries are significant, but the increases are necessary to align revenues from commercial fishing more closely with expenditures. Consistent with legislative intent expressed in Section 710.5 of the Fish and Game Code, to the extent feasible, the department should be funded by user fees.

Thank you for expressing your concerns and I look forward to working with you during the on-going budget process.

MICHAEL COHEN

Director

By:

A handwritten signature in black ink, appearing to read "Amy M. Costa", is written over the printed name. The signature is fluid and cursive.

AMY M. COSTA

Attachments

icc: FINN, ALMY, MARTIN, MOROZUMI, C/F, SUSPENSE, FILE

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An act to amend Sections 710.5, 711, 1069, 8032.5, 8040, 8041, 8042, 8047, 8051, 8051.4, 8052, 8053, 8057, 8058, 8059, 8060, 8061, 8062, 8063, 8064, 8065, 8067, 8068, 8558, and 15003 of, to amend the heading of Article 7.5 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of, and to repeal Section 8055 of, the Fish and Game Code, to amend Sections 76904, 76905, 78552, 78556, 78557, and 79121 of the Food and Agricultural Code, and to amend Section 7150.5 of the Government Code, relating to commercial fishing.

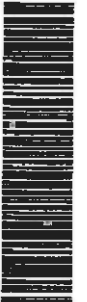


THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 710.5 of the Fish and Game Code is amended to read:

710.5. (a) The Legislature finds and declares that the department continues to be inadequately funded to meet its mandates. While revenues have been declining, the department's responsibilities have increased in order to protect public trust resources in the face of increasing population and resource management demands. The department's revenues have been limited due to a failure to maximize user fees and inadequate non-fee-related funding. The limited department revenues have resulted in the inability of the department to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.

(b) The Legislature further finds and declares that the department has been largely supported by fees paid by those who utilize the resources held in trust by the department. It is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees. All fees collected by the department, including, but not limited to, recreational hunting and fishing licenses, ~~landing taxes, fees,~~ commercial licenses, permits and entitlements, and other fees for use of the resources regulated or managed by the department, are user fees. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of California, these user fees are not subject to Article XIII B of the California Constitution.



(c) The Legislature further finds and declares that user fees are not sufficient to fund all of the department's mandates. To fulfill its mandates, the department must secure a significant increase in reliable funding, in addition to user fees.

SEC. 2. Section 711 of the Fish and Game Code is amended to read:

711. (a) It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(1) The costs of nongame fish and wildlife programs shall be provided annually in the Budget Act by appropriating money from the General Fund, through nongame user fees, and sources other than the Fish and Game Preservation Fund to the department for these purposes.

(2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing ~~taxes, landing fees,~~ license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(4) The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native



Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 shall not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

(6) The costs of a conservation and mitigation banking program, including, but not limited to, costs incurred by the department during its adoption of guidelines for, and the review, approval, establishment, monitoring, and oversight of, banks, shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

(b) The director and the Secretary of the Natural Resources Agency, with the department's annual budget submittal to the Legislature, shall submit a report on the fund condition, including the expenditures and revenue, for all accounts and subaccounts within the Fish and Game Preservation Fund. The department shall also update its cost allocation plan to reflect the costs of program activities.

(c) For purposes of this article, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.



SEC. 3. Section 1069 of the Fish and Game Code is amended to read:

1069. The director may enter into an agreement with the Secretary of Food and Agriculture for the collection of an assessment on behalf of any marketing council or commission for fish or seafood organized under the Food and Agricultural Code. The agreement may authorize the department to collect the assessment in conjunction with the collection of landing ~~taxes~~ fees on those species for which the marketing council or commission is organized. The department shall remit the amount of the assessment collected to the Secretary of Food and Agriculture according to the agreement after making the collection. ~~Prior to~~ Before remitting the assessments, the department may deduct an administrative fee in an amount agreed to with the Secretary of Food and Agriculture to pay the costs of collection and remission of the assessments. The administrative fees shall be deposited in the Fish and Game Preservation Fund.

SEC. 4. Section 8032.5 of the Fish and Game Code is amended to read:

8032.5. Unless otherwise specified, all of the following conditions apply to each commercial fish business license, permit, or other entitlement pursuant to this article:

(a) An application for a commercial fish business license, permit, or other entitlement shall be made on a form containing information as required by the department. The commercial fish business license shall be signed by the holder before use.

(b) Any person who has had a commercial fish business license suspended or revoked shall not engage in that business activity, and shall not receive any other



commercial fish business license, permit, or other entitlement that authorizes engaging in that business activity, while the suspension or revocation is in effect.

(c) The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fish business privileges for a period of time to be determined by the commission for any of the following reasons:

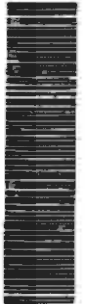
(1) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(2) Any violation of this code, the regulations adopted pursuant ~~thereto~~, to this code, or the terms of the permit or other entitlement by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(3) Any violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(d) A commercial fish business license, permit, or other entitlement is not transferable unless otherwise expressly specified in this code.

(e) Any person who holds a commercial fish business license, permit, or other entitlement, who moves or acquires a new or additional plant, facility, or other place of business for profit involving fish, shall notify the department of the address within three months of commencing business activities at the address.



(f) Each plant, facility, or other place of business in which an activity occurs that is required to be licensed under this article shall have a copy of each required license on display and available for inspection at any time by the department.

(g) Any person licensed pursuant to this article shall provide the department, at the time of application, with the business name, business address, and business telephone number for all locations doing business under the authority of the person's commercial fish business license, permit, or entitlement.

(h) Any person licensed pursuant to this article who is subject to landing-taxes fees, as defined in Section 8041, and who has failed to pay all landing-taxes fees and penalties pursuant to Section 8053, shall not be allowed to renew their commercial fish business license, permit, or entitlement until payment is made in full to the department.

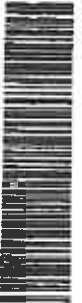
(i) Any person licensed pursuant to this article who is subject to landing-taxes fees, as defined in Section 8041, who fails to submit landing receipts pursuant to Section 8046, may be subject to suspension or revocation of their commercial fish business license, permit, or entitlement.

SEC. 5. The heading of Article 7.5 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code is amended to read:

Article 7.5. ~~Landing-Taxes~~ Fees

SEC. 6. Section 8040 of the Fish and Game Code is amended to read:

8040. The following definitions govern the construction of this article.



(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "~~Landing tax~~ fee" means ~~a privilege tax imposed pursuant to this article. fee imposed on a fish receiver or processor, as described in Section 8041.~~

SEC. 7. Section 8041 of the Fish and Game Code is amended to read:

8041. (a) The following persons shall pay the ~~landing tax~~ fee determined pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the ~~landing tax~~ fee imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a ~~landing tax~~ fee imposed under this article.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the ~~landing tax~~ fee imposed under this article.



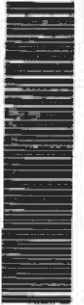
SEC. 8. Section 8042 of the Fish and Game Code is amended to read:

8042. The amount of the landing ~~tax~~ fee under this article shall be determined by multiplying the ~~tax~~ fee rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the ~~tax~~ fee is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the ~~taxes~~ fees shall be adjusted by a conversion factor as determined by the department by regulation.

SEC. 9. Section 8047 of the Fish and Game Code is amended to read:

8047. (a) (1) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be delivered by the licensee to the department on or before the 16th day or the last day of the month in which the fish were landed, whichever date occurs first after landing. A copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish. A person who



sells his or her fish to the ultimate consumer shall complete a landing receipt pursuant to Sections 8043 and 8043.2. Transportation receipts shall be completed at the time the fish are transferred from the fishing vessel.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing ~~tax~~ fee imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(c) (1) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition,



shall fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

(2) The original signed copy of the transportation receipt shall be delivered by the commercial fisherman to the department on or before the 16th day or the last day of the month in which the fish were landed, whichever date occurs first after landing. A copy of the transportation receipt shall be retained by the commercial fisherman who filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of.

(3) The transportation receipt is required only for transit purposes.

(4) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

(5) The transportation book receipt shall be issued to an individual fisherman and is not transferable.

(d) The transportation receipt shall contain all of the following information:

(1) The name of each species of fish, pursuant to Section 8045.

(2) The date and time of the receipt.

(3) The accurate weight of the species of fish being transported. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.



(4) The name and identification number of the fisherman. The signature of the fisherman authorizing transportation.

(5) The name of the person transporting the fish.

(6) The name of the fish business, the fish business identification number, and the corresponding landing receipt number issued by the fish business to the commercial fisherman.

(7) The department registration number of the vessel and the name of the vessel.

(8) The department origin block number where the fish were caught.

(9) The port of first landing.

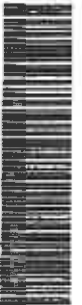
(10) Any other information the department may prescribe.

(e) The numbered transportation receipt forms in each individual transportation receipt book shall be completed sequentially. A voided fish transportation receipt shall have the word "VOID" plainly and noticeably written on the face of the receipt. A voided fish transportation receipt shall be submitted to the department in the same manner as a completed fish transportation receipt is submitted to the department. A commercial fisherman who is no longer conducting business as a licensed fisherman shall forward all unused transportation receipts and transportation receipt books to the department immediately upon terminating his or her business activity.

SEC. 10. Section 8051 of the Fish and Game Code is amended to read:

8051. ~~(a)~~The landing tax fee imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the tax fee rates in the following schedule:

	Rate per pound
(1) All fish, except as otherwise specified in this section	\$0.0013



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(2) Mollusks and crustaceans, excluding squid and crab0125
(3) Crab0019
(4) Squid0019
(5) Salmon, based only on the weight in the round0500
(6) Lobster0125
(7) Abalone0125
(8) Anchovies0013
(9) Sardines0063
(10) Mackerel0013
(11) Halibut0125
(12) Angel shark, based only on the weight in the round0113
(13) Swordfish, based only on the weight in the round0125
(14) Thresher shark, based only on the weight in the round0113
(15) Bonito shark, based only on the weight in the round0113
(16) Herring0125
(17) Sea urchin0013
(18) The following fish:0125
-Barracuda	
-Flying fish	
-Frogs	
-Giant sea bass	
-Saltwater worms	
-White sea bass	
-Yellowtail	



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(b) This section shall become operative on January 1, 1994.

	<u>Rate per</u> <u>pound</u>
<u>Lobster</u>	<u>\$ 1.000</u>
<u>Spot prawn and abalone</u>	<u>\$ 0.750</u>
<u>Salmon and swordfish, based only on the weight in the round</u>	<u>\$ 0.250</u>
<u>Halibut, sea cucumber, white seabass, sheephead, and Dungeness crab</u>	<u>\$ 0.250</u>
<u>Shortspine thornyhead, sablefish, lingcod, and prawns and shrimp (except spot prawn and pink shrimp)</u>	<u>\$ 0.100</u>
<u>Angel, thresher, and bonito sharks, based only on the weight in the round</u>	<u>\$ 0.0725</u>

<u>All fish and invertebrates unless otherwise specified</u>	<u>\$ 0.050</u>
<u>Sea urchin, pink shrimp, smelts, soles, turbot, longspine thornyhead, night smelt, and sanddabs</u>	<u>\$ 0.035</u>
<u>Bonito, flounder, grenadiers, herring, and skates</u>	<u>\$ 0.020</u>
<u>Market squid</u>	<u>\$ 0.0175</u>
<u>Anchovy, mackerel, sardines, and Pacific whiting</u>	<u>\$ 0.0075</u>

SEC. 11. Section 8051.4 of the Fish and Game Code is amended to read:

8051.4. (a) The landing ~~tax~~ fee collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this section. The department may use for administration no more of the landing ~~tax~~ fee collected pursuant to former Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate. Any interest on the revenues from the landing ~~tax~~ fee collected pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

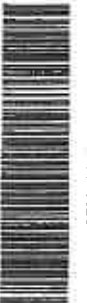
(b) This section shall become operative on January 1, 2012.

SEC. 12. Section 8052 of the Fish and Game Code is amended to read:

8052. Landing ~~taxes~~ fees shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:

(a) Not less than 90 percent of the landing ~~tax~~ fee on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.

(b) Not less than 90 percent of the landing ~~tax~~ fee on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section ~~8560~~ 8561) of Chapter 2.



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SEC. 13. Section 8053 of the Fish and Game Code is amended to read:

8053. ~~(a) Landing taxes fees~~ imposed by this article shall be paid quarterly to the department within 30 days after the close of each quarter.

~~If any landing tax is not paid within 30 days after the close of the quarter for which it is due, 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 and "the date on which the tax became due and payable" means that date 30 days after the close of the quarter for which it is due.~~

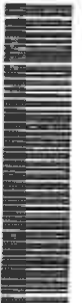
(b) The department may adopt regulations specifying the procedures for collecting landing fees not paid within 30 days after the close of the quarter for which they are due. These procedures may include, but are not limited to, the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code.

SEC. 14. Section 8055 of the Fish and Game Code is repealed.

~~8055. All moneys received as a privilege tax from persons who receive salmon from fishermen under the provisions of this article shall be used only for the purpose of propagating salmon.~~

SEC. 15. Section 8057 of the Fish and Game Code is amended to read:

8057. If the department determines that any tax fee or penalty has been paid more than once or has been erroneously or illegally collected or computed, the



department shall set forth that fact in the records of the department. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

SEC. 16. Section 8058 of the Fish and Game Code is amended to read:

8058. In the event of overpayment of any of the ~~taxes~~ fees imposed by this article, the ~~taxpayer~~ feepayer may file a claim for refund or a claim for credit with the department. No refund or credit shall be approved by the department unless the claim ~~therefor~~ is filed with the department within six months after the close of the calendar year in which the overpayment was made.

SEC. 17. Section 8059 of the Fish and Game Code is amended to read:

8059. Every claim for refund or credit for overpayment of a landing ~~tax~~ fee shall be in writing and shall state the specific grounds upon which the claim is founded.

SEC. 18. Section 8060 of the Fish and Game Code is amended to read:

8060. Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing ~~tax or taxes~~ fee.

SEC. 19. Section 8061 of the Fish and Game Code is amended to read:

8061. Within 30 days after disallowing any claim for refund or credit for overpayment of a landing ~~tax~~ fee in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his address as it appears in the records of the department,



but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

SEC. 20. Section 8062 of the Fish and Game Code is amended to read:

8062. Interest shall be paid upon any overpayment of a landing ~~tax~~ fee at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

SEC. 21. Section 8063 of the Fish and Game Code is amended to read:

8063. If the department determines that any overpayment of a landing ~~tax~~ fee has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

SEC. 22. Section 8064 of the Fish and Game Code is amended to read:

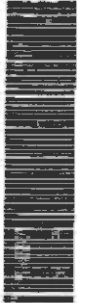
8064. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing ~~tax~~ fee.

SEC. 23. Section 8065 of the Fish and Game Code is amended to read:

8065. No suit or proceeding shall be maintained in any court for the recovery of any amount of landing ~~tax~~ fee alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

SEC. 24. Section 8067 of the Fish and Game Code is amended to read:

8067. If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing ~~tax~~ fee within six months after the claim is filed,



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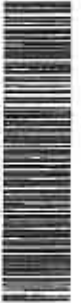
the claimant may, ~~prior to~~ before the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

SEC. 25. Section 8068 of the Fish and Game Code is amended to read:

8068. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing ~~tax~~ fee due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.

SEC. 26. Section 8558 of the Fish and Game Code is amended to read:

8558. (a) There is established a herring research and management account within the Fish and Game Preservation Fund. The funds in the account shall be expended for the purpose of supporting, in consultation with the herring industry pursuant to Section 8555, department evaluations of, and research on, herring populations in San Francisco Bay and those evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City and assisting in enforcement of herring regulations. The evaluations and research shall be for the purpose of (1) determining the annual herring spawning biomass, (2) determining the condition of the herring resource, which may include its habitat, and (3) assisting the commission and the department in the adoption of regulations to ensure a sustainable herring roe fishery. An amount, not to exceed 15 percent of the total funds in the account, may be used for educational purposes regarding herring, herring habitat, and the herring roe fishery.



(b) The funds in the account shall consist of the funds deposited pursuant to Sections 8558.1, 8558.2, and 8558.3, and the funds derived from herring landing ~~taxes~~ fees allocated pursuant to subdivision (a) of Section 8052.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of the funds in the account are met.

SEC. 27. Section 15003 of the Fish and Game Code is amended to read:

15003. (a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees if any, may not exceed the ~~tax~~ rates as provided in Section 8051.

(b) The price per pound ~~for these taxation purposes~~ shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The ~~privilege tax fee~~ imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

SEC. 28. Section 76904 of the Food and Agricultural Code is amended to read:

76904. Sections 8058 to 8070, inclusive, of the Fish and Game Code apply to claims for overpayment of fees to the secretary. For purposes of this section, "department," as used in those sections, means the Department of Food and Agriculture, and "~~landing tax~~² fee" means the fees imposed pursuant to this article.

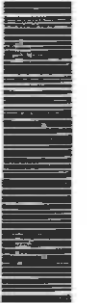
SEC. 29. Section 76905 of the Food and Agricultural Code is amended to read:



76905. After one year after the establishment of the council, and not before the commercial salmon season of 1990, the council may recommend to the secretary an increase over and above the two cents (\$0.02) per pound fee required by Section 76902 for the council to carry out its duties under this chapter. The council shall consider the budget for the council, funding for activities conducted pursuant to Article 6 (commencing with Section 76800) and Article 7 (commencing with Section 76850), as well as the market price of salmon, ~~landing taxes~~ fees imposed by the Department of Fish and Wildlife, assessments charged by marketing associations, and any other relevant factor affecting the economics of the salmon fishery. The council shall, in making any determination to increase fees, consult with marketing associations and, if the recommended increase would exceed seven cents (\$0.07) per pound of salmon sold, the council shall conduct a vote of persons on the secretary's lists established pursuant to Article 9 (commencing with Section 76950) and, if applicable, Article 9.5 (commencing with Section 76961). The secretary may not increase any fee without a majority approval of the voting members of the council.

SEC. 30. Section 78552 of the Food and Agricultural Code is amended to read:

78552. The fees, whether from fishermen or receivers, or both, that are collected pursuant to this article shall be forwarded by the receivers, except as provided under Section 78552.5, directly to the council on behalf of the secretary. The administrative office of the council shall supply forms necessary for the remittance of the fees. The secretary may consult with the Director of Fish and ~~Game~~ Wildlife and enter into agreements with the Department of Fish and ~~Game~~ Wildlife, when he or she deems it necessary and reasonable, to assist in the administration of this article and to ensure



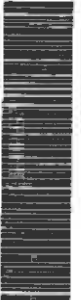
compliance with this article. The secretary and the Director of Fish and ~~Game~~ Wildlife may enter into an interagency agreement on behalf of the council to provide names and addresses of commercial fish businesses selected annually by the Department of Fish and ~~Game~~ Wildlife for fish landing ~~tax~~ fee examinations. The listing of names and addresses is a confidential document.

SEC. 31. Section 78556 of the Food and Agricultural Code is amended to read:

78556. Sections 8058 to 8070, inclusive, of the Fish and Game Code apply to claims for overpayment of fees to the ~~director~~ secretary. For purposes of this section, "department," as used in those sections, means the Department of Food and Agriculture, and "landing ~~tax~~" fee" means the fees imposed pursuant to this article.

SEC. 32. Section 78557 of the Food and Agricultural Code is amended to read:

78557. One year after the establishment of the council, the council may recommend to the ~~director~~ secretary an increase over and above four-tenths of 1 percent of the price per pound paid to the fisherman for each pound of fish or shellfish specified in subdivision (a) of Section 78407 for the council to carry out its duties under this chapter. The council shall consider the budget for the council, funding for activities conducted pursuant to Article 6 (commencing with Section 78525), as well as the market prices of seafood landed in California, landing ~~taxes~~ fees imposed by the Department of Fish and ~~Game~~ Wildlife, and any other relevant factor affecting the economics of the fisheries. The council shall, in making any determination to increase fees, consult with fishermen and receivers and, if the recommended increase would exceed eight-tenths of 1 percent of the market price per pound paid to the fisherman for each pound of fish or shellfish sold, conduct a ballot poll of the fishermen and



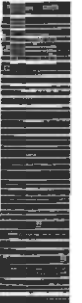
receivers on the ~~director's secretary's~~ list established pursuant to Article 8 (commencing with Section 78575). The ~~director secretary~~ may not increase any fee without the approval of two-thirds the voting members of the council.

SEC. 33. Section 79121 of the Food and Agricultural Code is amended to read:

79121. (a) Every person or entity who handles sea urchin in any quantity shall keep a complete and accurate record of all transactions involving the purchase or sale of sea urchin. The records shall be in a simple form and contain such information as the commission shall prescribe. The records shall be preserved by the handler for a period of three years, and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

(b) The assessment imposed by this article shall be paid consistent with the applicable procedures required for the payment of landing ~~taxes~~ fees pursuant to Article 7.5 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code. The fees imposed shall be paid quarterly pursuant to Section 8053 of the Fish and Game Code. If fees are not paid as required, the commission shall collect amounts owed under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) 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 commission and "the date on which the tax became due and payable" means 30 days after the close of the quarter for which it is due.

(c) Sections 8058 to 8070, inclusive, of the Fish and Game Code, shall apply to claims for overpayment of assessments to the commission. For the purposes of this



subdivision, "department" as used in those sections, means the commission, and "landing tax" fee means the assessment imposed under this article.

SEC. 34. Section 7150.5 of the Government Code is amended to read:

7150.5. "Agency" means:

~~(a) The Department of Fish and Game with respect to a state tax lien created under Section 8048 of the Fish and Game Code.~~

~~(b)~~

(a) The Director of Employment Development with respect to a state tax lien created under Section 1703 of the Unemployment Insurance Code.

~~(c)~~

(b) The Franchise Tax Board with respect to a state tax lien created under Section 19221 of the Revenue and Taxation Code.

~~(d)~~

(c) The State Board of Equalization with respect to a state tax lien created under Section 6757, 8996, 30322, 32363, or 38532 of the Revenue and Taxation Code.

~~(e)~~

(d) The Controller with respect to a state tax lien created under Section 3423 or 3772 of the Public Resources Code or Section 7872 or 16063 of the Revenue and Taxation Code.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____

General Subject: Commercial fishing: landing fees.

Existing law regulating commercial fishing imposes, or authorizes the imposition of, various license, permit, and registration fees. Existing law requires specified persons to pay commercial fishing fees, referred to as a "landing tax," calculated on the total weight of fish delivered, based on a rate-per-pound schedule applicable to specified aquatic species.

This bill would rename the "landing tax" as a "landing fee" and would increase fees in the rate schedule to specified amounts. The bill would make conforming and other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



**Department of Fish and Wildlife
Commercial Fishery Activity Costs
FY 2015-16**

Commercial Fishery Activities Specific Tasks, Services Provided, or Equipment	2015-16 Costs
1. Commercial Fisheries Enforcement - Annual estimated operating expenses for personnel, large boats, small boats, aircraft, forensics, computers and other operational costs. Personnel costs estimates for wildlife officer positions on commercial enforcement activities which include at-sea, dockside, and land-based patrol efforts associated with the criminal justice proceedings. Operational cost include officer training, hiring, facilities, and infrastructure. Equipment cost estimates are based on the annual average replacement costs or the annual depreciation costs.	\$ 13,156,000
2. Marine Region - Personnel, operating/equipment costs, contracts and support services. Costs include salaries and benefits of fulltime employees involved in research, management and outreach activities for the following marine commercial fisheries: groundfish, coastal pelagic species, squid, highly migratory species, salmon, aquaculture, herring, invertebrates (including crabs, prawns, lobsters, urchins, sea cucumbers, and abalone), and several finfish species such as halibut and white seabass. Additional personnel costs are associated with maintaining the commercial landing receipt and logbook databases, and license sales.	\$ 7,305,000
3. Other Statewide Regional Operations - Commercial fishery costs associated with issuance of commercial licenses at Regional offices, responding to public inquiries, coded wire tagging, data analysis and management coordination activities performed by Regional personnel.	\$ 1,025,000
4. Fish and Game Commission - Sets policies and adopts regulations for the commercial fisheries for which it has been granted management authority by the Legislature. Provides guidance on fishery management plan development for some commercial fisheries and certifies CEOA documents. Holds Commission and Marine Resource Committee meetings throughout the state where commercial fishing programs and policies are discussed. Holds permit appeal hearings and issues decisions on these matters. Staff prepare regulatory documents, respond to public comments and inquiries, and fulfill other requirements of the Administrative Procedure Act needed for establishment of commercial fishery regulations.	\$ 150,000
5. Fisheries Branch - Personnel costs associated with assessment, management, policy and rulemaking activities for salmonids, state-wide coded wire tag coordination, and Commercial Salmon Stamp Account administration. The Commercial Salmon Stamp Account provides funds to assist in the recovery of listed salmon stocks and augments yearling salmon rearing at Iron Gate Hatchery, Mokelumne River Hatchery, Merced River Hatchery, and Feather River Hatchery.	\$ 200,000
6. Hatchery Operations - Commercial fishery costs associated with Trinity River Hatchery, Iron Gate Hatchery, Feather River Hatchery, Mokelumne River Hatchery, Nimbus Hatchery, Silverado Fish Operations Base, San Joaquin Hatchery, and Merced River Hatchery. Costs include totals of personnel, operating expenses, and equipment.	\$ 7,800,000
7. Department Administrative Costs - Administration contains central administrative services and activities directly concerned with establishing the policy and methods and controlling the execution of the Department's role in State government. These administrative services and activities include but are not limited to human resources, accounting, budgets, information technology, legal, legislation, Office of Communications, Education and Outreach, etc.	\$ 11,153,000
TOTAL	\$ 40,789,000

Fund	2015-16 Costs
General Fund	\$ 9,799,000
Fish and Game Preservation Fund - Non Dedicated	\$ 20,029,000
Fish and Game Preservation Fund - Dedicated	\$ 1,042,000
Environmental License Plate Fund	\$ 387,000
Federal Trust Fund	\$ 3,527,000
Reimbursement	\$ 6,005,000
TOTAL	\$ 40,789,000