

SENATE THIRD READING
SB 790 (Stern and Cortese)
As Amended August 30, 2021
Majority vote

SUMMARY

Authorizes the Department of Fish and Wildlife (DFW), to approve compensatory mitigation credits for wildlife connectivity actions taken under the conservation and mitigation banking program or the regional conservation investment strategy (RCIS) program.

Major Provisions

- 1) Requires a wildlife connectivity action to meet specified requirements, including that the action permanently protect all real property comprising the wildlife connectivity action, where feasible.
- 2) Outlines factors the DFW may consider when it determines the value of compensatory mitigation credits.
- 3) Authorizes a compensatory mitigation credit created under the authority granted by this bill to be used to fulfill, in whole or in part, compensatory mitigation requirements established under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency.
- 4) Authorizes the DFW to adopt guidelines and criteria to aid in the implementation of these provisions and would exempt the development, adoption, or amendment of these guidelines or criteria from the Administrative Procedure Act.
- 5) Defines, for the purposes of this bill, "compensatory mitigation credit," "long-term durability," "permanently protect" or "permanent protection," and "wildlife connectivity action."
- 6) Makes various findings and declarations about climate change, land use change, and the importance of wildlife corridors and connectivity between existing core habitat areas.

COMMENTS

Intact biological corridors help maintain healthy populations of plants and animals by allowing genetic exchange, species migration, and repopulation following catastrophes. Infrastructure such as wildlife crossings decrease incidents of fatal collisions by giving animals an alternate route to cross busy transportation infrastructure. A crossing is typically an underpass or an overpass that allows animals to cross from one side of the road to the other. Barriers to fish passage (such as culverts that carry a stream under a road) prevent aquatic species from reaching the upstream habitat where they breed and grow. The removal of dams and increasing culvert size can return upstream access for fish species.

Wildlife-vehicle collisions. Wildlife-vehicle collisions are a significant threat to public health and safety, and result in numerous animal fatalities. According to data from the California Highway Patrol (CHP), approximately 8,000 large game wildlife-vehicle collisions have occurred statewide over the last six years resulting in over 1,500 injuries and at least 24 fatalities to

motorists and passengers. For context, there are on the order of 500,000 traffic accidents annually statewide.

However, it is important to note that the CHP does not have information on every collision and not all collisions are reported. In contrast to the CHP data, researchers at the University of California, Davis Road Ecology Center estimate that about 20,000 California vehicles collide with deer annually, accounting for about 90 percent of wildlife collisions. Researchers believe approximately 100 mountain lions are killed each year while crossing roads and highways across the state. State Farm Insurance estimated that California had more than 23,000 collisions with large wildlife a year based on insurance claim rates for 2017-2018.

The Road Ecology Center estimates that the total cost of reported wildlife-vehicle collisions for 2017 was at least \$300 million and could be as high as \$600 million if accidents claimed to insurance companies but not reported to law enforcement are included. Based on Road Ecology Center data, the number of reported wildlife-vehicle collisions and their costs have increased over the past few years.

Fish passage barriers. Man-made barriers to salmonid migration include road/stream crossings, irrigation diversions, and dams. Road/stream crossings are extremely numerous and often cross multiple road ownerships within a watershed. Passage impediments and delays in migration affect both adult and juvenile fish. SB 857 (Kuehl), Chapter 589, Statutes of 2005, requires the Department of Transportation (Caltrans) to complete an assessment of potential barriers to anadromous fish prior to commencing any project using state or federal transportation funds. Caltrans is required to report on progress to address barriers to fish passage, and its most recent report states that in 2018 Caltrans completed remediation activities at five fish passage barrier locations, improving access to an estimated 31 miles of salmonid habitat.

Priority wildlife barriers. In 2020, the DFW released a list of priority wildlife movement barriers in the state. The segments represent barriers to migration of big game as well as mountain lion, fox, bobcat, kit fox, fisher, badger, California tiger salamander, California red-legged frog and arroyo toad, among others. Of the 61 highest priority segments, 58 were part of the state highway system. The three other segments were a railway, a road, and a canal. The total length of the priority segments identified is 610 miles.

According to the Author

According to the author: "As Californians respond to the changing nature of our state due to natural events, such as fires, drought, and flooding, the impact of these same events on wildlife are often overlooked. In recent years the changing face of our state has resulted in changing migration patterns and habitats for much of California's wildlife. In seeking out shelter, food, and water, wildlife will risk crossing roads and railways which results in expensive vehicle collisions, injury, and death. The wildlife-vehicle collisions reported in 2018 alone caused 314 instances of injury, an estimated 5 deaths, and over \$230 million in economic and social costs in California. It is critical that we take steps to ensure that wildlife can migrate safely to prevent further harm to California's unique biodiversity as well, and prevent additional harm to California residents."

Arguments in Support

A coalition letter from wildlife organizations, conservation organizations, local park districts, and open space districts state that this bill gives the DFW authority to provide "an incentive to

retrofit existing highway infrastructure with wildlife passage features by issuing compensatory mitigation credits that can be used for future projects requiring environmental mitigation."

A large coalition of similar types of organizations writes with a support if amended position and requests amendments to: 1) require the DFW to update its list of priority wildlife movement barriers; 2) authorize Caltrans to plan, design, and implement connectivity projects and consider project impacts on wildlife movement; 3) require the creation of a roadkill data collection program; and 4) strengthen the state's policy promoting wildlife corridors and habitat strongholds beyond voluntary steps.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Unknown, likely moderate, costs to the DFW for permitting and banking, coordinating connectivity crediting activities, and project review and approvals.
- 2) Caltrans notes the department could realize project time savings and cost savings through the bill's environmental mitigation programs. Caltrans estimates its costs to assist with establishing those programs would be minor and absorbable.

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Melendez

ASM WATER, PARKS, AND WILDLIFE: 13-0-2

YES: Eduardo Garcia, Megan Dahle, Bigelow, Friedman, Cristina Garcia, Kalra, Levine, Nguyen, Blanca Rubio, Salas, Smith, Villapudua, Ward

ABS, ABST OR NV: Bennett, Muratsuchi

ASM TRANSPORTATION: 15-0-0

YES: Friedman, Fong, Berman, Cunningham, Daly, Davies, Gipson, Kalra, Lee, Medina, Nazarian, Nguyen, Luz Rivas, Ward, Wicks

ASM APPROPRIATIONS: 12-0-4

YES: Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

ABS, ABST OR NV: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: August 30, 2021

CONSULTANT: Keith Cialino / W., P., & W. / (916) 319-2096

FN: 0001341