
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Josh Becker, Chair

2025 - 2026 Regular

Bill No: AB 1802 **Hearing Date:** June 23, 2026
Author: Stefani
Version: February 10, 2026 Introduced
Urgency: No **Fiscal:** Yes
Consultant: Katharine Moore

Subject: Land use: mitigation lands

SUMMARY

This bill would remove the sunset on the ability of a governmental agency, nonprofit organization, or a special district that manages mitigation lands to also hold and manage the endowments established for long-term stewardship of those lands.

BACKGROUND AND EXISTING LAW

Mitigation lands

The California Department of Fish and Wildlife (CDFW) is the state's trustee agency for the state's plant, fish and wildlife. In certain circumstances, a project applicant may be required to transfer an interest in real property to CDFW or to another entity to mitigate the impact that the project will have on fish and wildlife resources in order to obtain a necessary project permit from CDFW. The interest in real property may involve a transfer of fee title, the granting of a conservation easement, or both. Nonprofit organizations, such as land trusts, special districts, or governmental entities can all hold and manage these mitigation lands. An endowment to pay for the long-term stewardship of the mitigation lands may also be required.

Two bills – SB 436 (Kehoe, Chapter 590, Statutes of 2011) and SB 1094 (Kehoe, Chapter 705, Statutes of 2012) – established a set of requirements for mitigation agreements and the entities that may hold endowments dedicated to mitigation lands. Before these two bills became law, there was a lack of clarity about who could hold and manage mitigation lands and any associated endowment set up to cover the long-term management costs of the mitigation lands. In some instances, nonprofit organizations held and managed mitigation lands, but there was no explicit authority under the law for this arrangement. At least in part due to this, many public agencies did not seek endowments for the long-term management of mitigation lands. Further, land managers that held and managed mitigation lands had to seek reimbursement for their management costs from the public agency that required the mitigation. This could result in reimbursement delays of six months to one year. Following the passage of the two bills, land managers were authorized to hold mitigation endowments associated with the mitigation lands.

Existing law:

- 1) Authorizes a state or local agency that requires property to be protected in order to mitigate impacts from a development project to identify how funding needs for the long-term stewardship of the mitigation property will be met. Authorizes the state or

local agency to require that an endowment be established for this purpose. (Government Code §65966)

- 2) Authorizes a state or local agency to authorize certain entities to hold title to and manage property transferred pursuant to required mitigation for the permitting of a development project under the Planning and Zoning Law, as provided. (Government Code §65967)
 - a) Eligible entities include a governmental entity, special district, a nonprofit organization, a for-profit entity, or a person, among others.
 - b) If a state or local agency is required to protect property to mitigate an adverse impact on natural resources, the agency may take any action that the agency deems necessary in order to meet its mitigation obligations, including holding an endowment, as provided.
 - c) “Endowment” means the funds that are conveyed solely for the long-term stewardship, including long-term management, of a mitigation property, and held appropriately to that end, as specified. Endowments do not include funds conveyed for meeting short-term performance objectives of a project.
- 3) Provides that an endowment may be held by the same entity that holds the property held for mitigation purposes in certain circumstances, or held by certain other entities, as specified. (Government Code §65968)
- 4) Requires the holder of an endowment to certify to the project proponent or the holder of the mitigation property or a conservation easement and the local or state agency that required the endowment that it meets specified requirements. These requirements include the holder’s use of generally accepted accounting practices, the holder’s capacity to effectively manage the mitigation funds and achieve reasonable rates of return from the investment of those funds, among other things. (Government Code §65968)
- 5) Sunsets on January 1, 2027, the authority of a governmental entity, special district, or nonprofit organization that hold the property held for mitigation purposes to also hold the endowment for the property, as provided. (Government Code §65968)

PROPOSED LAW

This bill would remove the sunset on the ability of a governmental agency, nonprofit organization, or a special district that manages mitigation lands to also hold and manages the endowments established for long-term stewardship of those lands.

ARGUMENTS IN SUPPORT

According to the author, “For more than 15 years, allowing nonprofits and special districts to fund, hold, and manage mitigation has proven to be a vital tool to reduce environmental impacts of development projects and ensure the long-term stewardship of California’s unique habitats and wildlife. When mitigation land holders directly manage endowments, habitat management is more responsive and effective, ensures regulatory certainty, and supports streamlined compliance in infrastructure and development projects. AB 1802 removes the sunset on this existing authority, ensuring continuity for the organizations responsible for protecting and stewarding mitigation lands.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

This bill is double-referred. This bill is referred to both this Committee and the Senate Local Government Committee. This Committee is the Committee of first referral. Elements of this bill under the jurisdiction of the Senate Local Government Committee are included here for completeness and context only and will be discussed before that Committee.

Senate Office of Research review. In the fall, Committee staff asked the Senate Office of Research (SOR) to review CDFW's implementation of this endowment program in view of the looming sunset. SOR's review was positive. However, SOR noted that there were instances where the required submittal of an annual report to CDFW¹ was delinquent or skipped. Some entities were repeat offenders. CDFW's practice is to not authorize an entity that has a missing or delinquent report to hold an additional endowment until missing information is provided. CDFW also reported that a comprehensive database is under development that will include endowments for mitigation lands.

One of the purposes of a sunset is to provide an opportunity for legislative oversight of the implementation of the program with the sunset. Removal of the sunset may therefore result in less scrutiny of a program. However, the development of the CDFW database provides an opportunity, despite the removal of the sunset, to provide legislative oversight of this program.

In view of this, the Committee may wish to add a periodic legislative report containing information on the endowments starting in five years. [Amendment #1]

Commitments by the author. Due to the vagaries of the legislative policy committee calendar and the time needed to process amendments, the committee amendments the author commits to in this Committee will be formally taken in the Senate Local Government Committee.

Recent related legislation

SB 716 (McGuire, Chapter 735, Statutes of 2021) extends the sunset until January 1, 2027, on the ability of governmental agencies, nonprofit organizations, special districts that manage mitigation lands to also hold and manage the endowments established for long-term stewardship of those lands.

SB 1094 (Kehoe, Chapter 705, Statutes of 2012) allows certain community foundations and congressionally chartered foundations to hold endowment accounts for mitigation lands, and expands and modifies the conditions all endowment holders must abide by.

SB 436 (Kehoe, Chapter 590, Statutes of 2011) authorizes a state or local agency to allow a qualified and approved nonprofit organization or special district to hold property

¹ Only holders of endowments and mitigation lands that stem from CDFW permitting and from CDFW mitigation banks are required to report to CDFW.

and long-term stewardship funds to mitigate adverse impacts to natural resources caused by a permitted development project. Sunsets this authority on January 1, 2022.

SUGGESTED AMENDMENTS

AMENDMENT 1

Add a new section to the Government Code in the same chapter:

65968.X

On or before July 1, 2030 and every five years thereafter, the Department of Fish and Wildlife shall produce a summary table providing information on the status of endowments held pursuant to this chapter where the Department of Fish and Wildlife provides state oversight of the endowment or the endowment is held pursuant to a Department of Fish and Wildlife permitting requirement. The first summary table shall include the time period January 1, 2027 through December 31, 2029, inclusive, and subsequent summary tables shall include five years of information each. Each summary table shall include, but is not limited to, the name of each endowment holder, the location of the endowment property by county, number of acres managed for that project, and whether the annual reports were submitted on time. The Department of Fish and Wildlife shall post the summary table online on its internet website and notify the appropriate legislative policy and fiscal committees that the summary table is available there.

SUPPORT

- California Council of Land Trusts (sponsor)
- County of Placer
- Eastern Sierra Land Trust
- Elkhorn Slough Foundation
- Feather River Land Trust
- Filoli
- John Muir Land Trust
- Kings River Land Trust
- Lake County Land Trust
- Marin Agricultural Land Trust
- Placer Land Trust
- Rivers & Lands Conservancy
- Sacramento Valley Conservancy
- Sequoia Riverlands Trust
- Sierra Business Council
- Sierra County Land Trust
- Sierra Foothill Conservancy
- Sierra Nevada Alliance
- Siskiyou Land Trust
- Solano Land Trust
- Sonoma Land Trust
- The Land Trust of Santa Barbara County
- Tri-Valley Conservancy
- Truckee Donner Land Trust

OPPOSITION
None received

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