CONCURRENCE IN SENATE AMENDMENTS
AB 1802 (Stefani)
As Amended July 2, 2026
Majority vote

SUMMARY

Deletes the sunset date of January 1, 2027, on the ability of governmental agencies, special districts, or nonprofit organizations that manage mitigation lands to also hold and manage the endowments established for the long-term stewardship of those mitigation lands, and requires the California Department of Fish and Wildlife (CDFW) to compile a summary of the status of endowments subject to CDFW's jurisdiction every five years.

Senate Amendments

1) Require, on or before July 1, 2030, and every five years thereafter, CDFW to post on its internet website a summary table providing information on the status of endowments held pursuant to existing law for which either of the following is true:

   a) CDFW provides state oversight of the endowment.

   b) The endowment is held pursuant to a CDFW permitting requirement.

2) Require the summary table to include, but not be limited to, all of the following with respect to each endowment:

   a) The name of the endowment holder.

   b) The location of the endowment property by county.

   c) The number of acres managed for that project.

   d) Whether all applicable annual reports were submitted on time.

3) Require the first summary table to cover the duration from January 1, 2027, to December 31, 2029, inclusive, and require subsequent summary tables to each cover five-year durations.

4) Require CDFW to notify the appropriate legislative policy and fiscal committees of the availability of the summary tables on its internet website.

COMMENTS

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 other governmental entities – can all hold and manage mitigation lands. An endowment to pay for the long-term stewardship of the mitigation lands may also be required.

The entity responsible for the mitigation lands (like a permittee or a bank sponsor) provides the endowment funds to the endowment holder, and the endowment holder then invests and distributes those funds to the mitigation land manager to implement management activities. To administer this provision, CDFW conducts oversight, review, and tracking of endowments. For example, the department tracks self-certification letters and annual fiscal reports provided by endowment holders as required by the Government Code and sends reminder letters when entities miss an annual report. CDFW staff also track and monitor endowments held at the National Fish and Wildlife Foundation (NFWF) governed by a memorandum of understanding between CDFW and NFWF.

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. Prior to the passage of SB 436 and SB 1094, 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 mitigation lands. In some instances, nonprofit organizations held and managed mitigation lands. However, because there was no explicit authority under the law for this arrangement, many public agencies that required mitigation for projects did not use this option for the long-term management of mitigation lands.

In addition, land managers that did hold and manage mitigation lands had to seek reimbursement for their management costs from the public agency that required the mitigation, sometimes experiencing delays in reimbursement payments of up to six months to a year. To resolve this situation, SB 436 and SB 1094 clarified that land managers could hold the mitigation endowment associated with the mitigation lands. These statutes originally contained a sunset date of January 1, 2022, which was extended to January 1, 2027, via SB 716 (McGuire), Chapter 735, Statutes of 2021.

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 Support
The California Council of Land Trusts, sponsor of this bill, writes, "When a private party or public agency seeks a permit for a development project, they may be required to provide funds to set aside lands for mitigation. In addition, the project developer may be required to finance the management or stewardship in perpetuity of those lands dedicated for mitigation. This financial set aside is also known as an endowment. This is a common practice to lessen and offset the adverse effects caused by various uses of public lands by requiring protection of California's plant and wildlife species for future generations.

"Endowments are essential for mitigation as an endowment perpetually replenishes itself through interest earned on principal, ensuring there is funding available for the perpetual stewardship of the land. When mitigation land holders directly manage endowments, habitat management is more responsive and effective, ensures regulatory certainty, and allows infrastructure and development projects to proceed with streamlined compliance. For more than 15 years, the ability for nonprofits and special districts to fund, hold, and manage mitigation management activities has proven to be a vital tool in mitigating the environmental impacts of development projects and ensuring the long-term stewardship of important habitat for some of California's unique floral and fauna."

Arguments in Opposition
None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

1) By deleting the sunset on the ability of specified entities to hold and manage endowments for the stewardship of mitigation lands, this bill would result in the continuation of ongoing costs to the California Department of Fish and Wildlife (CDFW) of an unknown amount, potentially in excess of $150,000 (Fish and Game Preservation Fund [FGPF]).

2) CDFW notes that if this provision in law (including the self-certification mechanism) sunsets in 2027 (absent this bill), the department would incur increased costs – including program staff, management, and legal review – to perform extended review of third-party mitigation fund holders. Therefore, this bill would also result in cost savings.

VOTES:

ASM WATER, PARKS, AND WILDLIFE: 13-0-0
YES: Papan, Jeff Gonzalez, Alanis, Alvarez, Ávila Farías, Bains, Bennett, Boerner, Caloza, Gallagher, Hart, Muratsuchi, Rogers

ASM LOCAL GOVERNMENT: 10-0-0
YES: Carrillo, Ta, Johnson, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

ASM APPROPRIATIONS: 15-0-0
YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ASSEMBLY FLOOR: 74-0-6
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas
ABS, ABST OR NV: Arambula, Chen, Gabriel, Celeste Rodriguez, Ta, Wicks

UPDATED

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