

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Eduardo Garcia, Chair

AB 878 (Megan Dahle) – As Introduced February 17, 2021

SUBJECT: Wildlife resources: natural community conservation plans: public review and comment

SUMMARY: Allows the public twenty-one business (rather than calendar) days to review and comment on a proposed natural community conservation plan (NCCP) agreement prior to approval of the planning agreement by the Department of Fish and Wildlife (DFW).

EXISTING LAW:

- 1) Authorizes DFW, under the Natural Community Conservation Planning Act, to enter into binding agreements with any person or public entity for the purpose of preparing a NCCP, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species [Fish and Game Code (FGC) § 2800 *et seq.*].
- 2) Requires the public to have twenty-one calendar days to review and comment on a proposed planning agreement before approval of the planning agreement (FGC § 2810).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this Bill.** According to the author, this bill “is clarifying in nature, ensuring that DFW provides a minimum of 21-business days’ notice for public review and comment on a proposed planning agreement.”
- 2) **Background.** The original NCCP Act was enacted in 1991 as an alternative to the species-by-species, project-by-project approach of the federal Endangered Species Act and the California Endangered Species Act. The idea was to develop a program under which landowners and the state could cooperatively develop conservation plans that would protect multiple species and their habitats in return for allowing some take of species by projects in areas covered by the NCCPs.

An NCCP identifies and provides for the regional protection of plants, animals, and their habitats, while allowing compatible economic activity. Working with landowners, environmental organizations, and other interested parties, a local agency oversees the numerous activities that compose the development of an NCCP.

According to the DFW website, there are currently fourteen approved NCCPs (including six subarea plans) and more than twenty NCCPs in various stages of planning (including ten subarea plans), which together cover more than seven million acres and are intended to provide conservation for nearly four hundred special status species and a wide range of natural community types throughout California.

Implementation of the plans is multifaceted. The local jurisdiction ensures that all projects

follow the NCCP's mitigation requirements. As habitat is protected, a caretaker must be identified to carry out management and monitoring. Each caretaker develops management plans to integrate monitoring and research results into management actions that can be adapted to meet the needs of the covered species. The local jurisdictions must track each plan's condition and provide the information to DFW, the U.S. Fish and Wildlife Service (USFWS), and the public at regular intervals.

Benefits of NCCPs. Approved NCCPs provide a degree of long-term certainty for both the plan participants and the species and habitats they cover. The plans are intended to contribute to recovery of listed species, enable compatible economic development, and decrease the need to add new species to the threatened or endangered lists. The plan is the tool that defines how those operating in the plan area can comply with state and federal endangered species laws.

The plan defines mitigation measures, procedures, and monitoring and adaptive management actions. It blends this compliance into the existing local land use planning process, and reduces the need for individual landowners and project proponents to interact with the DFW and the USFWS. As a result, stakeholders know what will be required under the NCCP for individual project approvals, the amount of time the approvals will take, and what their mitigation costs will be. A conservation strategy that meets the NCCP standard to provide for the conservation and management of covered species also receives assurances from the DFW and the USFWS that no additional mitigation will be required.

Public Review Process. This bill provides a longer timeline for the public review of a proposed planning agreement between the DFW and a local entity by expanding the time for public review and comment from 21 calendar days to 21 business days. This public review period is separate from the public review and comment period of at least 60 days for draft documents associated with an NCCP that are being considered for adoption by the plan lead agency.

- 3) **Arguments in Support.** The California Association of Realtors argues that the extension of the public comment period will allow affected community members adequate time to review and comment on the complex NCCPs.
- 4) **Prior and Related Legislation.**

AB 2574 (Dahle, 2020) was identical to this bill. The bill was not heard in Assembly Appropriations Committee.

SB 107 (Sher), Chapter 4, Statutes of 2002, repealed the old NCCP Act; enacted a new NCCP Act, with detailed specifications for preparation and implementation of a NCCP; and expanded the program statewide.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors

Opposition

None on file

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