

Date of Hearing: August 19, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

SB 790 (Stern) – As Amended July 7, 2021

Policy Committee:	Water, Parks and Wildlife	Vote:	13 - 0
	Transportation		15 - 0

Urgency: No	State Mandated Local Program: No	Reimbursable: No
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SUMMARY:

This bill requires the Department of Fish and Wildlife (DFW), in consultation with the Department of Transportation (Caltrans), to provide compensatory mitigation credits to support planning and modifications of transportation projects that improve local and regional habitat connectivity and result in fish passage, wildlife connectivity and other environmental improvements. Among other provisions, this bill:

- 1) Defines environmental improvements to include, but not be limited to an overpass or underpass, vegetation management, directional fencing and barrier modification.
- 2) Limits the number of transportation projects DFW may provide compensatory mitigation credits to no more than 10 projects per fiscal year and no more than two projects in each Caltrans region. Defines a transportation project as a project to construct or improve a portion of the state highway system. Requires Caltrans to use the compensatory mitigation credits in the same region in which the credits were issued.
- 3) Requires DFW, in determining the value of compensatory mitigation credits for actions taken by Caltrans, to consider specified wildlife, habitat, roadway and terrestrial factors.
- 4) Authorizes Caltrans to receive compensatory mitigation credits for actions taken to improve fish and wildlife connectivity in excess of legally required mitigation in accordance with the provisions of the bill.
- 5) Authorizes DFW to develop an in-lieu fee program as part of the implementation of the compensatory mitigation credit program or as part of similar programs it administers, where feasible.
- 6) Authorizes Caltrans to use compensatory mitigation credits to satisfy obligations required by the California Environmental Quality Act (CEQA), the California Endangered Species Act (CESA) and the Lake and Streambed Alteration Program.

FISCAL EFFECT:

- 1) DFW estimates costs of \$615,000 in 2021-22 and \$1 million annually thereafter (General Fund) to support staff positions (two in 2021-22 and five ongoing) for Habitat Conservation Planning Branch 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.

COMMENTS:

- 1) **Purpose.** According to the author, this bill is intended to both prevent harm to California's unique biodiversity and prevent wild-life vehicular crossings by encouraging Caltrans to incorporate fish passage and wildlife connectivity in its state highway construction and improvement projects.
- 2) **Background.** AB 1282 (Mullin), Chapter 643, Statutes of 2017, established a transportation permitting task force. The task force report, issued in June 2020, included recommendations to accelerate much-needed transportation infrastructure projects while furthering the missions of both transportation and environmental protection agencies. This bill seeks to implement some of the recommendations of the report related to facilitating mitigation, including the establishment of a crediting framework for projects that result in fish passage and wildlife connectivity and other environmental improvement.
- 3) **DFW Budget.** The Fish and Game Preservation Fund (FGPF) is among the department's largest funding sources, providing roughly one-fifth of overall DFW resources. The fund receives revenues from a variety of fees, including recreational hunting and fishing license and permit fees. Expenditures from the FGPF support many of the department's core activities, including various wildlife conservation efforts, law enforcement, management of both department-owned lands as well as inland and coastal fisheries and oversight over the state's commercial fishing industries. In recent years, expenditures from the FGPF have exceeded its revenues by roughly \$20 million annually. This gap developed in large part because the state has created new costs for the fund without adding an equivalent amount of new revenues.

In fiscal year 2018-19, the Legislature augmented DFW's budget by roughly \$30 million, with about \$23 million of this amount expiring in 2021-22.

DFW recently completed a service-based budget (SBB) review that identified gaps between the department's "mission" level of service (defined as the service standards and essential activities required for DFW to meet its mission and statutory requirements) and its current service levels.

DFW determined current services are less than one-third of mission levels in most areas. The largest shortfall is in the species and habitat conservation service area. CDFW staff currently spend about 750,000 hours per year on species and habitat conservation activities, compared to the 2.9 million hours that the department estimates would be needed to meet its mission in this area. The second largest shortfall is the Permitting and Environmental Protection service area. This bill would likely impact both of these service areas.

Since Caltrans is a beneficiary of this bill, the author may wish to consider whether Caltrans should share in the costs of administering the program.