

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 13, 2009
POSITION: Neutral, note concerns
SPONSOR: Defenders of Wildlife

BILL NUMBER: SB 448
AUTHOR: F. Pavley

BILL SUMMARY: Safe Harbor Agreement Program Act

The federal and state Endangered Species Acts (ESA) regulate the take of candidate, threatened, and endangered species. Existing state law limits the ability of the Department of Fish and Game (DFG) to enter into voluntary agreements with private landowners to manage their lands. This bill would enact the California State Safe Harbor Agreement Program (SSHAP) Act to encourage landowners to manage their lands in a way that furthers the ESA's conservation goals.

FISCAL SUMMARY

The bill would result in costs to review SSHAP applications, establish baseline habitat and species data, and monitor and enforce the agreements. According to the DFG, program costs would depend on the level of participation by landowners. There would also be some savings to the DFG's Lake and Streambed Alteration Agreement program. A provision of the SSHAP authorizes the DFG to promulgate implementing regulations, but the DFG does not appear to have authority to assess a fee to cover program costs. To the extent there is significant program participation, the bill could result in General Fund costs.

COMMENTS

Finance is neutral on the bill because it would provide a tool to the DFG to further the conservation goals of the ESA, but we are concerned about potential General Fund costs if the DFG is not able to absorb any new workload that results from the program.

The DFG is currently able to enter into agreements with landowners to encourage wildlife conservation efforts on wetlands and for waterfowl. There is also a program for agricultural land that is similar to the federal Safe Harbor Agreement (SHA) program. The SSHAP would be similar to the federal SHA, and provide the necessary statutory authorization for the DFG to implement a broad program that goes beyond agricultural land. The SSHAP would provide the following incentives for landowners to improve habitat:

- The SSHAP establishes a baseline level of habitat, and landowners enrolled in the program would be able to return to that baseline without penalty. Currently, if a landowner improves habitat and subsequently applies for an incidental take permit for a project, the landowner is held to the higher standard.
A landowner enrolled in the program would be authorized to accidentally or incidentally take listed species to improve habitat. Currently, landowners are required to provide the necessary notification, pay associated fees, and conduct any necessary mitigation. This creates a financial hardship.

Much of the state's habitat for listed species is not owned or controlled by the state. It is the intent of the SSHAP to remove some of the barriers that prevent private landowners from participating in collaborative efforts to protect habitat for listed species.

(Continued)

Analyst/Principal (0634) M. Almy Date Program Budget Manager Karen Finn Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011	
3600/Dept FishGam	SO	No		-----	See Fiscal Summary	-----			0001