

AMENDED IN ASSEMBLY APRIL 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 379**

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**Introduced by Assembly Member Gallagher**

February 1, 2021

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An act to amend ~~Section 1350~~ *Sections 1348, 1350, 1352, and 1501.5* of the Fish and Game Code, and to amend Section 5096.516 of the Public Resources Code, relating to conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 379, as amended, Gallagher. Wildlife conservation: conservation lands.

(1) The Wildlife Conservation Law of 1947 establishes the Wildlife Conservation Board in the Department of Fish and Wildlife. Existing law requires the board to investigate, study, and determine the areas in the state that are most suitable for certain wildlife-related purposes.

*Existing law requires the board to authorize the acquisition of real property, rights in real property, water, or water rights, as specified. Existing law authorizes the board to authorize the department to, among other things, accept federal grants and receive financial support from public or private sources, lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies, and acquire former wildlife habitat real property and restore and sell the real property to private owners, local governmental agencies, or state departments and agencies.*

*This bill would also authorize the board to grant funds to, and enter into agreements, loans, or contracts with, a California Native American tribe to the same extent as any public or private entity as authorized under specified laws. The bill would authorize the board to authorize*

*the department to also accept federal grants and other financial support from California Native American tribes, and to also lease degraded potential wildlife habitat real property and sell former wildlife habitat real property to California Native American tribes. The bill would also make conforming changes.*

Existing law authorizes the department, with the approval of the board, to enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and authorizes such other department or agency of this state, local agency, or nonprofit organization, and each of them to construct, manage, or maintain those facilities pursuant to the agreement. Existing law authorizes the board to make grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for various purposes in connection with fish and wildlife habitats.

This bill would authorize the department to also enter into that type of agreement with a California Native American tribe. The bill would also authorize the board to make grants or loans to California Native American tribes for various purposes in connection with fish and wildlife habitats.

*Existing law authorizes the department to enter into contracts for fish and wildlife habitat preservation, restoration, and enhancement with public and private entities, and to grant funds for fish and wildlife habitat preservation, restoration, and enhancement to public agencies, Indian tribes, and nonprofit entities, whenever the department finds that doing so would assist in meeting its duty to preserve, protect, and restore fish and wildlife.*

*This bill would authorize the department to also enter into those contracts with California Native American tribes, and to instead grant funds for fish and wildlife education, public use and access, and habitat preservation, restoration, and enhancement, and to California Native American tribes instead of Indian tribes. The bill would also authorize the department to grant funds to, and enter into agreements, loans, or contracts with, a California Native American tribe to the same extent as any public or private entity as authorized under specified laws.*

(2) Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law prohibits, with specified exceptions, conservation lands from being sold to another owner, or having possession and control transferred to another agency, unless

specified actions occur. Existing law requires proceeds from the sale or transfer of conservation lands to be used solely for certain purposes, including the acquisition of wildlife habitat to further the purposes of the Wildlife Conservation Law of 1947.

This bill would also exempt from these provisions the sale or transfer of conservation lands to California Native American tribes to improve conservation management, public access, historic preservation, or to protect or enhance the biological value of conservation lands.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1348 of the Fish and Game Code is*  
2     *amended to read:*

3     1348. (a) The board shall authorize the acquisition of real  
4     property, rights in real property, water, or water rights as may be  
5     necessary to carry out the purposes of this chapter. The board may  
6     authorize acquisition by the department, but the department shall  
7     not acquire any property pursuant to this subdivision by eminent  
8     domain proceedings except that property as may be necessary to  
9     provide access roads or rights-of-way to areas to be used for fishing  
10    the coastal waters of the Pacific Ocean, and then only if the board  
11    of supervisors of the affected county has agreed by resolution to  
12    those proceedings for each parcel of land, and has further agreed  
13    by resolution to maintain the road or right-of-way. The board may  
14    authorize acquisition by the State Public Works Board, which may  
15    effect acquisitions pursuant to the Property Acquisition Law, Part  
16    11 (commencing with Section 15850) of Division 3 of Title 2 of  
17    the Government Code.

18    (b) For the purposes of this chapter and Chapter 4.1  
19    (commencing with Section 1385), the board may authorize the  
20    acquisition of interests in real property and water rights by means  
21    of gifts, purchases, leases, easements, the transfer or exchange of  
22    property for other property of like value, transfers of development  
23    rights or credits, and purchases of development rights, conservation  
24    easements, and other interests.

25    (c) *The board may grant funds to, and enter into agreements,*  
26    *loans, or contracts with, a California Native American tribe, as*  
27    *defined in Section 21073 of the Public Resources Code, to the*

1 *same extent as any public or private entity as authorized in Sections*  
2 *1364, 1374, 1390, and 1416.*

3 (e)

4 (d) To further implement this chapter and Chapter 4.1  
5 (commencing with Section 1385), the board may authorize the  
6 department to do any of the following:

7 (1) Accept federal grants and receive gifts, donations,  
8 subventions, rents, royalties, and other financial support from  
9 public or private ~~sources~~. *sources or California Native American*  
10 *tribes*. Proceeds received from any of these sources shall be  
11 deposited in the Wildlife Restoration Fund.

12 (2) Notwithstanding any other provision of law, lease, sell,  
13 exchange, or otherwise transfer any real property, interest in real  
14 property, or option acquired by or held under the jurisdiction of  
15 the board or the department. Except as provided in Section 1355,  
16 proceeds from transactions entered into pursuant to this paragraph  
17 shall be deposited in the Wildlife Restoration Fund.

18 (3) Lease degraded potential wildlife habitat real property to  
19 nonprofit organizations, local governmental agencies, *California*  
20 *Native American tribes*, or state and federal agencies if the lessee  
21 agrees to restore the real property to its highest possible wildlife  
22 habitat value and maintain the real property at that highest possible  
23 wildlife habitat value. If feasible, during the period of lease, the  
24 board may require that the real property be open to the public for  
25 compatible recreational opportunities. Proceeds from any lease or  
26 rental and interest thereon shall be deposited in the Wildlife  
27 Restoration Fund.

28 (4) Acquire former wildlife habitat real property, including  
29 riparian habitat real property, restore and sell the real property, or  
30 any interest therein, to private owners, local governmental agencies,  
31 *California Native American tribes*, or state departments and  
32 agencies, or exchange the property for other real property, if a  
33 written and recorded agreement is first secured to keep and  
34 maintain the real property as wildlife habitat in perpetuity. The  
35 agreement shall contain a reversion if the real property sold or  
36 exchanged is not maintained as wildlife habitat. The agreement  
37 containing the reversion shall be set forth in any conveyance  
38 transferring any real property, interest in real property, or option  
39 subject to this section. Proceeds from the sales shall be deposited  
40 in the Wildlife Restoration Fund.

1 SECTION 1.

2 SEC. 2. Section 1350 of the Fish and Game Code is amended  
3 to read:

4 1350. (a) The department shall, when authorized by the board,  
5 construct in accordance with law those facilities as are suitable for  
6 the purpose for which the real property or rights in real property  
7 or water, or water rights, were acquired. Each completed project  
8 shall be managed and maintained by the department.

9 (2) The department, with the approval of the board, may enter  
10 into agreements with any other department or agency of this state,  
11 any local agency, any California Native American tribe, as defined  
12 in Section 21073 of the Public Resources Code, or any nonprofit  
13 organization, to provide for the construction, management, or  
14 maintenance of the facilities authorized by the board, and such  
15 other department or agency of this state, local agency, California  
16 Native American tribe, or nonprofit organization, and each of them  
17 may construct, manage, or maintain those facilities pursuant to the  
18 agreement. Work performed by a local agency, California Native  
19 American tribe, or nonprofit organization under those agreements  
20 is exempt from Chapter 1 (commencing with Section 10100) of  
21 Part 2 of Division 2 of the Public Contract Code. However, nothing  
22 in this section shall be construed to exempt any work from Part 7  
23 (commencing with Section 1720) of Division 2 of the Labor Code.

24 (b) The department, when authorized by the board, may apply  
25 for and accept federal grants, and receive gifts, donations, and  
26 other financial support from public or private sources to be used  
27 for fish and wildlife habitat enhancement, including riparian habitat  
28 restoration projects on real property or waters for which the state  
29 obtains an interest. Funds received from any of those sources shall  
30 be deposited in the Wildlife Restoration Fund.

31 (c) The board may award grants or loans to nonprofit  
32 organizations, local governmental agencies, federal agencies, state  
33 agencies, and California Native American tribes for the purposes  
34 of fish and wildlife habitat restoration, enhancement, management,  
35 protection and improvement of riparian resources, and for  
36 development of compatible public access facilities in the same  
37 manner and subject to the same terms and conditions as prescribed  
38 in Section 31116 of the Public Resources Code. Proceeds from  
39 repayment of any loans and the interest thereon shall be deposited  
40 in the Wildlife Restoration Fund.

1 SEC. 3. Section 1352 of the Fish and Game Code is amended  
2 to read:

3 1352. (a) The money in the Wildlife Restoration Fund, as  
4 provided for by Section 19632 of the Business and Professions  
5 Code, is available for expenditure under any provision of this  
6 chapter.

7 (b) All federal moneys made available for projects authorized  
8 by the board shall be deposited in the Wildlife Restoration Fund.  
9 Any unexpended balances of the federal moneys remaining on or  
10 after June 30, 1979, in any other fund shall be transferred to the  
11 Wildlife Restoration Fund.

12 (c) Any moneys received in the Wildlife Restoration Fund from  
13 leases authorized pursuant to paragraph (2) or (3) of subdivision  
14 (e) (d) of Section 1348 shall be expended, upon appropriation, by  
15 the department for the purposes of managing, maintaining,  
16 restoring, or operating lands owned and managed by the  
17 department.

18 SEC. 4. Section 1501.5 of the Fish and Game Code is amended  
19 to read:

20 1501.5. (a) The department may enter into contracts for fish  
21 and wildlife habitat preservation, restoration, and enhancement  
22 with public and private entities or California Native American  
23 tribes, as defined in Section 21073 of the Public Resources Code,  
24 whenever the department finds that the contracts will assist in  
25 meeting the department’s duty to preserve, protect, and restore  
26 fish and wildlife.

27 (b) The department may grant funds for fish and wildlife  
28 education, public use and access, and habitat preservation,  
29 restoration, and enhancement to public agencies, ~~Indian~~ California  
30 Native American tribes, and nonprofit entities whenever the  
31 department finds that the grants will assist it in meeting its duty  
32 to preserve, protect, and restore fish and wildlife.

33 (c) The department may grant funds to, and enter into  
34 agreements, loans, or contracts with, a California Native American  
35 tribe to the same extent as any public or private entity as authorized  
36 in Sections 1572, 1573, 1745, 1773.2, 2127, 3460, 3469, 3684,  
37 3686, 3702, 3704.5, and 3953 of this code, and Section 8670.73  
38 of the Government Code.

39 (e)

1 (d) Contracts authorized under this section are contracts for  
2 services and are governed by Article 4 (commencing with Section  
3 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract  
4 Code. No work under this section is public work or a public  
5 improvement, and is not subject to Chapter 1 (commencing with  
6 Section 1720) of Part 7 of Division 2 of the Labor Code.

7 ~~(d)~~

8 (e) This section does not apply to contracts for any of the  
9 following:

10 (1) Construction of office, storage, garage, or maintenance  
11 buildings.

12 (2) Drilling wells and installation of pumping equipment.

13 (3) Construction of permanent hatchery facilities, including  
14 raceways, water systems, and bird enclosures.

15 (4) Construction of permanent surfaced roadways and bridges.

16 (5) Any project requiring engineered design or certification by  
17 a registered engineer.

18 (6) Any contract, except contracts with public agencies,  
19 nonprofit organizations, or ~~Indian tribes~~ *California Native*  
20 *American tribes* that exceed fifty thousand dollars (\$50,000) in  
21 cost, excluding the cost for gravel, for fish and wildlife habitat  
22 preservation, restoration, and enhancement for any one of the  
23 following:

24 (A) Fish screens, weirs, and ladders.

25 (B) Drainage or other watershed improvements.

26 (C) Gravel and rock removal or placement.

27 (D) Irrigation and water distribution systems.

28 (E) Earthwork and grading.

29 (F) Fencing.

30 (G) Planting trees or other habitat vegetation.

31 (H) Construction of temporary storage buildings.

32 ~~SEC. 2.~~

33 *SEC. 5.* Section 5096.516 of the Public Resources Code is  
34 amended to read:

35 5096.516. (a) Except as provided in subdivision (c),  
36 conservation lands may not be sold to another owner, or have  
37 possession and control transferred to another agency, unless all of  
38 the following occur:

1 (1) The selling or transferring agency prepares and makes  
2 available to the public a detailed report that identifies why the  
3 conservation lands no longer serve a needed conservation purpose.

4 (2) The selling or transferring agency holds a duly noticed public  
5 hearing to accept public comment on the proposed sale or transfer  
6 of conservation lands.

7 (3) After compliance with paragraphs (1) and (2), the selling or  
8 transferring agency finds, based on substantial evidence, that the  
9 property no longer serves a needed conservation purpose.

10 (4) The sale or transfer of the land is authorized or approved as  
11 part of the annual Budget Act or pursuant to specific legislation  
12 authorizing the sale or transfer.

13 (b) Proceeds from the sale or transfer of conservation lands shall  
14 be used solely for one or more of the following purposes:

15 (1) The acquisition of conservation lands to achieve the same  
16 or equivalent objectives as the original acquisition of the property  
17 that was sold or transferred.

18 (2) To further the purposes of Division 21 (commencing with  
19 Section 31000).

20 (3) The acquisition of wildlife habitat to further the purposes  
21 of the Wildlife Conservation Law of 1947 (Chapter 4 (commencing  
22 with Section 1300) of Division 2 of the Fish and Game Code).

23 (4) The acquisition of wildlife habitat to further the purposes  
24 of Article 2 (commencing with Section 1410) of Chapter 4.3 of  
25 Division 2 of the Fish and Game Code.

26 (c) This section does not apply to any of the following:

27 (1) The sale or transfer of conservation lands solely for the  
28 purpose of boundary adjustments or consolidation of property  
29 ownership.

30 (2) The sale or transfer of lands subject to a conservation  
31 easement to keep lands in agricultural production.

32 (3) The sale or transfer to other public agencies, California  
33 Native American tribes, as defined in Section 21073, or nonprofit  
34 organizations to improve conservation management, public access,  
35 historic preservation, or to protect or enhance the biological value  
36 of conservation lands.

37 (4) The sale or transfer of conservation lands by the State  
38 Coastal Conservancy when the sale or transfer of interests in land  
39 is provided for, consistent with Division 21 (commencing with  
40 Section 31000), at the time of acquisition of real property.



- 1 (5) The exchange of conservation lands for land of greater
- 2 biological value as wildlife habitat.
- 3 (6) The sale or transfer of conservation lands that have a fair
- 4 market value of less than one million dollars (\$1,000,000).
- 5 (d) The requirements imposed by this section are in addition to
- 6 any other requirements imposed by law or regulation.

O