



SB-588 Marine resources and preservation. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

No. 588

Introduced by Senator Hertzberg

February 17, 2017

An act to amend Sections 6601 and 6602 of, to amend and renumber Sections 6612, 6614, and 6618 of, to amend, renumber, and add Section 6605 of, to add Sections 6607 and 6608 to, to repeal Sections 6610, 6613, 6615, 6616, 6617, 6619, 6620, and 6621 of, to repeal the headings of Article 1 (commencing with Section 6600) and Article 2 (commencing with Section 6610) of Chapter 5.5 of Part 1 of Division 6 of, and to repeal and add Sections 6603, 6604, and 6611 of, the Fish and Game Code, and to amend Sections 71550, 71551, and 71560 of the Public Resources Code, relating to ocean resources, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 588, as amended, Hertzberg. Marine resources and preservation.

(1) Existing law establishes the California Artificial Reef Program, administered by the Department of Fish and Wildlife, to include the placement of artificial reefs, as defined, in state waters and a prescribed study of existing successful reefs and new reefs to determine design criteria.

The California Marine Resources Legacy Act establishes a program, administered by the department, to allow partial removal of offshore oil structures. The act authorizes the department to approve the partial removal of offshore oil structures, if specified conditions are satisfied. These conditions include the provision of financial assurances by the applicant to the department to ensure that the applicant will provide sufficient funds to cover the cost of review of the project and the management and maintenance of the structure after the department takes title to the structure, a finding by the Ocean Protection Council that the partial removal of the structure provides a net benefit to the marine environment compared to full removal, a calculation of the cost savings by the State Lands Commission of partial removal of the structure compared to full removal, a contractual agreement between the applicant and the department that provides sufficient funds for overall

management of the structure by the department, an indemnification agreement between the applicant and the department, and the apportionment and transmittal by the applicant of a percentage of the cost savings funds in accordance with a prescribed schedule to specified entities and funds, including the California Endowment for Marine Preservation. The act requires the first person to file an application to partially remove an offshore oil structure to pay, in addition to the costs relating to review of the project and management and maintenance of the structure, the startup costs incurred by the department or the State Lands Commission to implement the act and provides for the reimbursement of startup costs from certain funds received by the department from the apportionment of cost savings.

This bill would revise and recast the California Marine Resources Legacy Act to establish a similar program to allow, 2 years after the payment of startup costs, a prospective transferor, as defined, to offer and the department to accept title to an artificial reef converted from a decommissioned oil and gas platform for incorporation into the California Artificial Reef Program if similar conditions to those described above are met, except if the platform is required to be fully removed by conditions in a lease issued by the State Lands Commission. As part of the implementation of the program, the bill would require the department to revise the Artificial Reef Plan prepared pursuant to the California Artificial Reef Program. The bill would not require the first transferor to pay the startup costs and would instead authorize funding sufficient to fully fund program startup costs for the state, as determined by the department, to be provided to the department for deposit in the Special Deposit Fund, a continuously appropriated fund. The bill would make those funds deposited into the Special Deposit Fund available to the department, the Ocean Protection Council, the State Lands Commission, and the California Coastal Commission for startup costs, thereby making an appropriation.

This bill would require a transferor to apportion and transmit a portion of the cost savings to the department or the endowment, as specified, instead of to the specified entities and funds. The bill would require the department or the endowment, as applicable, to apportion those cost savings funds in accordance with the prescribed schedule to the specified entities and funds upon final, nonappealable judicial decisions upholding the department's acceptance of title and all permits and approvals required for the partial removal of the platform or the running of the statutes of limitations applicable to all the permits and approvals, whichever is later. The bill would not require the person who deposited the startup funds in the Special Deposit Fund to be reimbursed for providing those funds but would require the person to identify one proposed transfer of a platform in which 55% of the total amount of the cost savings would be apportioned to the department for apportionment to the specified funds and entities. The bill would authorize a prospective transferor to withdraw its offer at any time before transfer of title becomes effective and would require the department to return funds submitted for review of the offer and certain other funds that have not been expended or committed as of the date of receipt of the notification of withdrawal. The bill would require the department or endowment, as applicable, to promptly return the cost savings to the transferor if the partial removal of the platform is not permitted by a court or governmental agency and the transferor is required to carry out full removal of the platform.

~~This bill would authorize a transferor to assert, and would prohibit the state from waiving, any defenses that the state may have against any claims against the state subject to indemnification. The bill would prohibit the transferor from indemnifying or being liable for any claims that may arise from the administration or use of the cost savings by entities receiving a portion of the cost savings.~~

(2) The act requires that partial removal comply with the California Environmental Quality Act (CEQA) and requires the Natural Resources Agency to serve as the lead agency for the environmental review under CEQA of a proposed project to partially remove an offshore oil structure. The act requires the Ocean Protection Council, for purposes of determining whether partial removal provides a net environmental benefit, to establish specified criteria and to consult with the department, the California Coastal Commission, the State Lands Commission, the California Ocean Service Trust, and other appropriate entities as to those criteria.

This bill would instead require the State Lands Commission to serve as the lead agency for the environmental review under CEQA and would require that partial removal of a platform comply with CEQA if the platform or any of its components, including pipelines, cables, or other accessory structures, are located in state waters, as defined.

The bill would define "net environmental benefit" for purposes of the act and would delete the requirement for the council to establish criteria for purposes of making the net environmental benefit determination. The bill would require the council, in determining whether partial removal of the platform would provide a net benefit

to the marine environment compared to full removal of the platform, to also consider adverse impacts to air quality and greenhouse gas emissions that would result from full removal compared to partial removal of the platform, in consultation with the State Air Resources Board, consistent with any guidance or information submitted by the local air districts.

(3) The act requires the State Coastal Conservancy, upon the department's final approval of the first application, to create and update, as specified, an advisory spending plan for cost savings deposited in the California Endowment for Marine Preservation. The act requires the conservancy to submit a copy of the spending plan and all updates to the Legislature and the Board of Directors of the California Endowment for Marine Preservation.

This bill would delete these requirements.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Article 1 (commencing with Section 6600) of Chapter 5.5 of Part 1 of Division 6 of the Fish and Game Code is repealed.

SEC. 2. Section 6601 of the Fish and Game Code is amended to read:

6601. The Legislature finds and declares all of the following:

(a) The 23 oil and gas platforms in federal waters and the four platforms in state waters off the California coast are expected to reach the end of their useful production lifetimes and be decommissioned between 2017 and 2055.

(b) As a condition of federal and state leases, offshore oil and gas platforms must be decommissioned and removed within a reasonable period of time after abandonment of the wells.

(c) Existing federal regulations provide for partial structure removal or toppling in place for conversion to an artificial reef or other use if the structure becomes part of a state artificial reef program.

(d) For many years the Gulf of Mexico region has funded marine resource programs where oil and gas platforms are partially removed and converted to artificial reefs and the cost savings are shared between the state and the platform owner and operator, as appropriate.

(e) Existing law requires operators in state waters to comply with requirements in leases issued by the commission, and the leases give the commission discretion regarding abandoning platform wells and decommissioning platforms.

(f) Provided that partial removal of an oil platform and consideration of related alternatives would result in a net benefit to the marine environment compared to full removal, it is in the best interests of the state that a portion of the cost savings that result from partial removal and conversion to an artificial reef is shared with the citizens of this state to protect and enhance the state's marine resources.

SEC. 3. Section 6602 of the Fish and Game Code is amended to read:

6602. For purposes of this chapter, the following terms have the following meanings:

(a) "Coastal commission" means the California Coastal Commission.

(b) "Commission" means the State Lands Commission.

(c) "Cost savings" means the difference between the estimated cost to the transferor of complete removal of an oil and gas platform as may be required by state and federal leases and the estimated cost to the transferor of partial removal of the oil and gas platform pursuant to this chapter.

(d) "Council" means the Ocean Protection Council.

(e) "Endowment" means the California Endowment for Marine Preservation established in Division 37

(commencing with Section 71500) of the Public Resources Code.

(f) "Federal waters" means those waters of the Pacific Ocean outside of state waters.

(g) "Net environmental benefit" means gains in the value of environmental services or other ecological properties in the marine environment attained by leaving a partial platform in place plus the value of avoiding adverse environmental impacts caused by full removal, minus any adverse environmental impacts of leaving the partial platform in place.

(h) "Offshore oil and gas platform," or a variation of that term, means a platform located seaward of the ordinary high water mark used for oil and gas exploration, development, production, processing, or storage, exclusive of shell mounds and drilling muds.

(i) "Oil" means any kind of petroleum, liquid hydrocarbons, natural gas, or petroleum products or any fraction or residues therefrom.

(j) "Partial removal" means an alternative to full removal of an offshore oil and gas platform, in compliance with all applicable requirements.

(k) "State waters" means those waters within the established boundary of the state, which is approximately three nautical miles from shore, as set pursuant to the order entered by the United States Supreme Court in the case of U.S. v. California (2014) 135 S. Ct. 563.

(l) "Transferor" means the owner, operator, or legal entity responsible for an offshore oil and gas platform in state or federal waters that offers or plans to offer to the department title to an artificial reef converted from that platform.

SEC. 4. Section 6603 of the Fish and Game Code is repealed.

SEC. 5. Section 6603 is added to the Fish and Game Code, to read:

6603. (a) This chapter establishes a program for a prospective transferor to offer to the department and for the department to accept title to an artificial reef converted from an oil and gas platform in federal or state waters, except if the platform is required to be fully removed by conditions in a lease issued by the commission.

(b) A proposed project to partially remove an offshore oil and gas platform pursuant to this chapter is a project as defined in Section 21065 of the Public Resources Code and is therefore subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) if the platform or any of its components, including pipelines, cables, or other accessory structures, are located in state waters.

(c) The commission shall serve as the lead agency for all environmental reviews of any project proposed pursuant to this chapter that is subject to the California Environmental Quality Act.

(d) As part of its implementation of the program established pursuant to this chapter, the department shall revise the Artificial Reef Plan originally prepared for the California Artificial Reef Program established in Article 2 (commencing with Section 6420) of Chapter 5.

(e) The department may adopt regulations to implement this chapter.

(f) The department may, through contracts and memoranda of agreement, enlist the expertise of fishery participants and their representatives, marine conservationists, marine scientists, and governmental, nongovernmental, or private entities to assist in any aspect of the department's implementation or administration of this chapter.

(g) The department may accept gifts, subventions, grants, rebates, reimbursements, and subsidies from any lawful source for the administration of this chapter.

(h) The department, commission, and council may enter into any contracts, memoranda of understanding, and any other agreements necessary to effectuate their roles and responsibilities under this chapter.

SEC. 6. Section 6604 of the Fish and Game Code is repealed.

SEC. 7. Section 6604 is added to the Fish and Game Code, to read:

6604. (a) Funding sufficient to fully fund program startup costs for the state, as determined by the department, may be provided to the department for deposit in the Special Deposit Fund pursuant to Section 16372 of the Government Code. Startup costs include documented costs for the department's California Artificial Reef Program, and costs that the council, the commission, and the coastal commission are expected to incur to initially establish and staff the program pursuant to this chapter.

(b) Funds deposited into the Special Deposit Fund pursuant to subdivision (a) shall be available to the department, the council, the commission, and the coastal commission for startup costs, including to establish new positions, to perform the tasks associated with planning, implementing, managing, and monitoring, and to perform other functions related to its function in the program established in this chapter.

(c) When a person provides the startup costs pursuant to subdivision (a), the person shall identify one proposed transfer of a platform whose cost savings shall be apportioned pursuant to subdivision (c) of Section 6610.

SEC. 8. Section 6605 of the Fish and Game Code is amended and renumbered to read:

6612. (a) Nothing in this chapter is intended, and it shall not be construed, to limit or affect the authority or duties of any state or local agency, including, but not limited to, the department, the commission, the council, and the coastal commission.

(b) Nothing in this chapter shall be construed to do any of the following:

(1) Relieve the transferor or prior owner or operator of an offshore oil platform from any continuing liability under any of the following, if the liability is associated with seepage or release of oil or other contaminants from an offshore oil platform that was decommissioned pursuant to an order of, or any action taken by, and in accordance with, any applicable rule or regulation of, any federal or state agency:

(A) Any state statute or regulation regarding liability for the spilling of oil.

(B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

(C) The Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601 et seq.).

(D) Any other provision of law.

(2) Establish any new liability on the part of the state or waive any applicable immunities under the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code).

(3) Require any agency with jurisdiction to approve the partial removal of an offshore oil platform.

(4) Promote, encourage, or facilitate offshore oil exploration, development, and production within state waters.

(5) Require the United States Department of the Interior or the commission to modify, amend, or alter an existing oil and gas lease to approve partial removal of an offshore oil platform.

(6) Alter any existing law or applicable rule or regulation of any federal or state agency that establishes liability for damages arising with respect to artificial reefs or reef materials, including, but not limited to, components of decommissioned oil structures.

(7) Alter any existing law or policy that protects natural reefs.

(c) Any partial removal of an offshore oil platform pursuant to this chapter shall not be used or counted as mitigation for any environmental impacts or natural resource damages.

SEC. 9. Section 6605 is added to the Fish and Game Code, to read:

6605. (a) An offer to transfer an artificial reef converted from a decommissioned oil and gas platform for incorporation into the California Artificial Reef Program may be submitted to the department, in a manner prescribed by the department, commencing two years after the payment of funding pursuant to Section 6604. The department may take title to an artificial reef converted from a decommissioned oil and gas platform for incorporation into the California Artificial Reef Program if all of the following conditions are met:

(1) The transferor obtains all necessary federal authorizations and permits and the transfer is consistent with all applicable laws.

(2) The transferor has formally initiated the decommissioning process with the applicable lessor.

(3) The transferor obtains any required *federal* consistency determinations or coastal development permits from the coastal commission.

(4) The transferor has complied with all applicable terms and conditions of any lease issued by the commission and the department has applied for and received a lease issued by the commission if the reefing of the offshore oil and gas platform involves tidelands or submerged lands in state waters.

(5) The transferor has provided funding for the purposes for the activities enumerated in Section 6606.

(6) The council has determined that the partial removal of the offshore oil and gas platform provides a net benefit to the marine environment compared to full removal of the platform pursuant to Section 6607.

(7) The transferor prepares a draft management plan pursuant to Section 6608 that is approved by the department.

(8) The commission has made a final determination of the estimated cost savings that would result from the conversion of the offshore oil and gas platform pursuant to Section 6609.

(9) The transferor provides the indemnification required pursuant to Section 6611.

(10) Before accepting the transfer, the department holds a public meeting in the county nearest to the location of the offshore oil and gas platform that is proposed for transfer.

(11) Environmental review of the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) has been completed and certified, as applicable.

(12) Any judicial process challenging an applicable permit or determination has been fully and finally exhausted.

(b) The transfer of title becomes effective upon approval of the final management plan, the transferor's payment of the funds pursuant to Section 6610, and upon compliance with the conditions in this chapter.

(c) Upon receipt of the initial offer pursuant to this section, the department shall transmit a copy of the offer to the endowment, which shall constitute notice to that agency.

SEC. 10. Section 6607 is added to the Fish and Game Code, to read:

6607. (a) Nothing in this chapter shall be construed as altering or limiting the jurisdiction of the commission over the decommissioning of any platform on leased state tidelands.

(b) Prior to completion of environmental documentation pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.), as applicable, the council shall determine whether partial removal of the platform would provide a net benefit to the marine environment compared to full removal of the platform. In making this determination, the council, based on credible science, shall consider, and determine the appropriate weight to be assigned to, each of the following:

(1) The anticipated contribution of the platform to enhancing the protection and productivity of fish and other marine life.

(2) Any adverse impacts to biological resources or water quality, or any other marine environmental impacts,

from the full removal of the platform that would be avoided by partial removal.

(3) Any adverse impacts to biological resources or water quality, or any other marine environmental impacts, from partial removal of the platform.

(4) Any benefits to the marine environment that would result from the full removal of the platform or from partial removal.

(5) Any considerations for ongoing reef management that inform the net benefit determination. These assumptions should inform the management plan developed pursuant to Section 6608.

(6) The adverse impacts to air quality and greenhouse gas emissions that would result from full removal of the platform compared to partial removal of the platform, in consultation with the State Air Resources Board, consistent with any guidance or information submitted by the local air districts.

(c) The council shall submit the determination made pursuant to this section to the commission, for inclusion in the environmental documentation, and to the department. The determination made pursuant to this section is final and shall not be revised except by the council.

(d) The council shall take all feasible steps to complete the net environmental benefit determination in a timely manner that accommodates the commission's schedule for preparing the environmental documentation and the department's schedule for consideration of the transfer.

(e) The benefits resulting from the contribution of cost savings to the endowment shall not be considered in the determination of net environmental benefit.

(f) The council may contract or enter into a memorandum of understanding with any other appropriate governmental or nongovernmental entity to assist in its determination of net environmental benefit.

SEC. 11. Section 6608 is added to the Fish and Game Code, to read:

6608. (a) In consultation with the department, the transferor shall prepare a management plan for the artificial reef. The department shall review the management plan and may approve the plan if it determines that the plan does the following:

(1) Provides for the maintenance of the artificial reef in a manner consistent with navigational safety, enforcement, and monitoring.

(2) Includes measures to manage fishery and other marine life resources at and around the structure in a manner that will ensure that the net benefits to the marine environment identified pursuant to Section 6607 are maintained or enhanced. Consistent with applicable state and federal law, management measures may include a buffer zone in which fishing or removal of marine life is restricted or prohibited.

(b) Before approving a management plan pursuant to subdivision (a), the department shall provide for a public comment period for the management plan and shall address the comments in the final version of the management plan.

SEC. 12. The heading of Article 2 (commencing with Section 6610) of Chapter 5.5 of Part 1 of Division 6 of the Fish and Game Code is repealed.

SEC. 13. Section 6610 of the Fish and Game Code is repealed.

SEC. 14. Section 6611 of the Fish and Game Code is repealed.

~~SEC. 15. Section 6611 is added to the Fish and Game Code, to read:~~

~~6611. The transferor shall indemnify and hold harmless the state and its agencies against any and all liability that may result, including, but not limited to, active negligence, and including defending the state and its agencies against any claims against it arising from any action undertaken pursuant to this chapter. Indemnification may be provided in the form of an insurance policy, cash settlement, or other mechanism as determined by the department. The transferor shall be entitled to assert, and the state and its agencies shall not waive, any defenses that the state and its agencies may have against any claims against the state subject~~

~~to indemnification pursuant to this section. Notwithstanding any provision of this section, the transferor shall not indemnify or be liable for any claims that may arise from the administration or use of the cost savings transmitted by the transferor pursuant to Section 6610 by the state and its agencies, the California Endowment for Marine Preservation, the Fish and Game Preservation Fund, the Coastal Act Services Fund, or the county immediately adjacent to the location of the facility prior to its decommissioning.~~

SEC. 15. Section 6611 is added to the Fish and Game Code, to read:

6611. *The transferor shall enter into an indemnification agreement with the department that indemnifies the state and the department, to the extent permitted by law, against any and all liability that may result, including, but not limited to, active negligence, and including defending the state and the department against any claims against the state for any actions the state undertakes pursuant to this chapter. The agreement may be in the form of an insurance policy, cash settlement, or other mechanism as determined by the department. In adopting indemnification requirements for the agreement, the department shall ensure that the state can defend itself against any liability claims against the state for any actions the state undertakes pursuant to this chapter and pay any resulting judgments. The department shall consult with and, as necessary, use the resources of the office of the Attorney General in preparing and entering into the indemnification agreement.*

SEC. 16. Section 6612 of the Fish and Game Code is amended and renumbered to read:

6606. (a) The transferor shall provide surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances, determined by the department to be available and adequate, to ensure that the transferor will provide sufficient funds to reimburse the department, council, commission, and coastal commission for all required activities pursuant to this chapter, including all of the following:

- (1) A determination of net environmental benefit pursuant to Section 6607.
- (2) Consultation on preparation and review of a management plan pursuant to Section 6608.
- (3) A determination of cost savings pursuant to Section 6609.
- (4) Implementation of the management plan and ongoing maintenance and monitoring of the artificial reef after the department takes title pursuant to Section 6605.
- (5) Other activities undertaken to meet the requirements of this chapter, including the costs of determining whether the transfer meets the requirements of all applicable laws, regulations, and leases, and the costs of environmental assessment or review.

(b) A prospective transferor may withdraw its offer of transfer at any time before transfer of title become effective. Upon notification that the transferor has withdrawn its offer, the department shall return to the prospective transferor any funds provided by the prospective transferor for purposes of this section that have not been expended or committed as of the date of receipt of notification of withdrawal.

(c) The funds provided pursuant to subdivision (a) and Section 6604 shall be considered in the calculation of cost savings pursuant to Section 6609 and the apportionment of cost savings pursuant to Section 6610.

SEC. 17. Section 6613 of the Fish and Game Code is repealed.

SEC. 18. Section 6614 of the Fish and Game Code is amended and renumbered to read:

6609. (a) The commission shall determine, or cause to be determined, the cost savings that will result from the partial removal versus full removal of the offshore oil and gas platform.

(b) The commission shall ensure that any cost savings are accurately and reasonably calculated and, to that end, may obtain the assistance of governmental, nongovernmental, or private entities and experts through contracts or memoranda of agreement.

(c) The commission shall consider any estimates of cost savings made by any governmental agency, including, but not limited to, the Internal Revenue Service, the Franchise Tax Board, and the United States Department

of the Interior. The commission shall include in its determination a written explanation, which shall be available to the public, of the differences, and the reasons for the differences, between the commission's determination of cost savings and any other estimates of cost savings the commission considered.

(d) The transferor shall provide all necessary documentation, as determined by the commission, to allow the commission to calculate the amount of cost savings.

(e) The determination made pursuant to this section and submitted to the department by the commission shall constitute the final determination and shall not be revised except by the commission.

(f) The commission shall take all feasible steps to complete its determination in a timely manner.

SEC. 19. Section 6615 of the Fish and Game Code is repealed.

SEC. 20. Section 6616 of the Fish and Game Code is repealed.

SEC. 21. Section 6617 of the Fish and Game Code is repealed.

SEC. 22. Section 6618 of the Fish and Game Code is amended and renumbered to read:

6610. (a) The cost savings from the partial removal of an offshore oil platform, as determined pursuant to Section 6609, shall be apportioned and transmitted as described in this section.

(b) Except as provided in subdivision (c), upon acceptance of the transfer by the department pursuant to Section 6605, the transferor shall apportion and directly transmit a portion of the total amount of the cost savings to the endowment as follows:

(1) Fifty-five percent, if transmitted by the transferor before January 1, 2017.

(2) Sixty-five percent, if transmitted by the transferor on or after January 1, 2017, and before January 1, 2023.

(3) Eighty percent, if transmitted by the transferor on or after January 1, 2023.

(c) Upon acceptance by the department pursuant to Section 6605 of the transfer identified pursuant to subdivision (c) of Section 6604, the transferor shall apportion and directly transmit 55 percent of the total amount of the cost savings of the partial removal of the platform subject to the transfer to the department.

(d) If the department's acceptance of the transfer pursuant to Section 6605 or any other federal, state, or local permit or approval required for the partial removal of the offshore oil platform is permanently enjoined, vacated, invalidated, rejected, or rescinded by a court or governmental agency as the result of litigation challenging the acceptance, and the transferor is required to carry out full removal of the platform, the department or endowment, as applicable, shall promptly return the cost savings to the transferor.

(e) Upon final, nonappealable judicial decisions upholding the department's acceptance pursuant to Section 6605 and all permits and approvals required for the partial removal of the offshore oil or gas platform or the running of the statutes of limitations applicable to all the permits and approvals, whichever is later, the department or endowment, as applicable, shall directly transmit the following amounts from the total amount of the cost savings transmitted pursuant to subdivision (b) or (c) to the following entities and funds:

(1) Eighty-five percent shall be deposited into the California Endowment for Marine Preservation established pursuant to Division 37 (commencing with Section 71500) of the Public Resources Code.

(2) Ten percent shall be deposited into the General Fund.

(3) Two percent shall be deposited into the Fish and Game Preservation Fund for expenditure, upon appropriation by the Legislature, by the department to pay any costs imposed by this chapter that are not otherwise provided for pursuant to subdivision (a) of Section 6606. Any moneys remaining in the Fish and Game Preservation Fund, after providing for these costs, shall be used, upon appropriation by the Legislature, to conserve, protect, restore, and enhance the coastal and marine resources of the state consistent with the mission of the department.

(4) Two percent shall be deposited into the Coastal Act Services Fund, established pursuant to Section

30620.1 of the Public Resources Code, and shall be allocated to support state agency work in the coastal zone.

(5) One percent shall be deposited with the board of supervisors of the county immediately adjacent to the location of the facility prior to its decommissioning. The amount paid to the county shall be managed pursuant to paragraph (1) of subdivision (d) of Section 6817 of the Public Resources Code.

SEC. 23. Section 6619 of the Fish and Game Code is repealed.

SEC. 24. Section 6620 of the Fish and Game Code is repealed.

SEC. 25. Section 6621 of the Fish and Game Code is repealed.

SEC. 26. Section 71550 of the Public Resources Code is amended to read:

71550. (a) The members of the board first appointed shall serve as incorporators of the endowment and shall take whatever actions are necessary to establish the endowment pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) once a majority of the board is appointed.

(b) It is the intent of the Legislature that the endowment not be incorporated until the endowment board has received its initial notice of an offer from the Department of Fish and Wildlife, pursuant to Section 6605 of the Fish and Game Code.

SEC. 27. Section 71551 of the Public Resources Code is amended to read:

71551. The California Endowment for Marine Preservation shall receive funds generated pursuant to the California Marine Resources Legacy Act (Chapter 5.5 (commencing with Section 6600) of Part 1 of Division 6 of the Fish and Game Code).

SEC. 28. Section 71560 of the Public Resources Code is amended to read:

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c) (1) Except as provided in paragraph (2), the endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section 6610 of the Fish and Game Code, shall not be spent. Any returns on investments made by the endowment are the only funds that shall be available for expenditure by the endowment.

(2) Ten percent of any funds received by the endowment pursuant to Section 6610 of the Fish and Game Code in a calendar year shall be allocated by the endowment board, pursuant to Section 71552, as grants for projects or programs consistent with the purpose of this chapter within 24 months of receipt of the funds. The majority of these funds shall be granted to state agencies engaged in coastal and ocean protection.

(d) The endowment shall invest and manage any funds it receives in accordance with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(e) The accounts of the endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(f) The financial transactions of the endowment for any fiscal year may be audited by the California State Auditor's Office.

(g) Each recipient of assistance by grant, contract, or loan pursuant to this division shall keep records reasonably necessary to disclose fully the amount of the assistance, the disposition of the assistance, the total cost of the project or undertaking in connection with which the assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and other records

that will facilitate an effective audit. Each recipient of a fixed price contract awarded pursuant to competitive bidding procedures is exempt from this subdivision.

(h) The endowment, or its authorized representative, and the California State Auditor's Office shall have access to any records necessary for the purpose of auditing and examining all funds received or expended by the recipients of assistance.