

STAFF SUMMARY FOR DECEMBER 6-7, 2017

31B. OTHER ITEMS – LEGISLATIVE UPDATE

Today's Item	Information ☒	Action ☒
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Review and discuss legislation of interest, and provide staff direction.

Summary of Previous/Future Actions (N/A)**Background**

FGC staff has prepared a list of legislation that may affect FGC's resources and workload (see below); each description includes a brief synopsis and current bill status. This is an opportunity for FGC to provide direction to staff concerning proposed legislation. At any meeting, FGC may direct staff to provide information to or share concerns with bill authors. FGC members also have the option to take positions on bills at the same meeting an update is provided.

Federal Legislation

Below is a current list of federal bills that FGC has previously shown an interest in or may be of interest and the current status.

- **Shark Finning. S.793 – Shark Fin Trade Elimination Act of 2017:** Sen. Cory Booker (D-NJ). Status: Introduced 03/30/2017; Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably. Summary: This bill makes it illegal to possess, buy, sell, or transport shark fins or any product containing shark fins. A person may possess a shark fin that was lawfully taken consistent with a license or permit under certain circumstances. Penalties are imposed for violations under the Magnuson-Stevens Fishery Conservation and Management Act. The maximum civil penalty for each violation shall be \$100,000, or the fair market value of the shark fins involved, whichever is greater.
- **H.R.1456 – Shark Fin Sales Elimination Act of 2017:** Rep. Edward Royce (R-CA/39th). Status: Introduced 03/09/2017; Referred to House Committee on Natural Resources; Referred to the Subcommittee on Water, Power and Oceans. Summary: This bill makes it illegal to possess, buy, or sell shark fins or any product containing shark fins. A person may possess a shark fin that was lawfully taken consistent with a license or permit under certain circumstances. Penalties are imposed for violations under the Magnuson Stevens Fishery Conservation and Management Act.
- **MSA Reauthorization. H.R.200 – Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act:** Rep. Don Young (R-AK/At Large). Status: Introduced 01/03/2017; Referred to House Committee on Natural Resources; Referred to the Subcommittee on Water, Power and Oceans; Subcommittee Hearing Held on 9/26/17. Summary: To amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to provide flexibility for fishery managers and stability for fishermen, and for other purposes. This bill revises and reauthorizes MSA through FY2022. Revisions are made to: (1) requirements for fishery management plans for overfished fisheries; and (2) catch limit requirements, including by authorizing regional fishery management councils to consider changes in an ecosystem and the economic needs of the fishing communities when establishing the limits. To distinguish between fish that are depleted due to fishing and those that are

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depleted for other reasons, the term "depleted" replaces the term "overfished" throughout MSA. Fishery impact statements must analyze the impacts of proposed actions in fishery management plans on the quality of the human environment. The National Oceanic and Atmospheric Administration (NOAA) must publish a plan for implementing the Cooperative Research and Management Program. NOAA must develop a plan to conduct stock assessments for all fish for which a fishery management plan is in effect under this bill. Additionally, NOAA must develop guidelines that will incorporate data from private entities into fishery management plans.

- **Discussion Draft of H.R.1335 – Strengthening Fishing Communities through Improving Science, Increasing Flexibility, and Modernizing Fisheries Management Act:** Rep. Jared Huffman (D-CA/2nd). Status: Not yet introduced, but Subcommittee Hearing Held on 9/26/17. Summary: To amend and reauthorize MSA and for other purposes. This discussion draft – which is an alternative to Congressman Don Young’s H.R. 200 – would reauthorize the Magnuson-Stevens Fishery Conservation and Management Act while making changes to authorities granted to federal fisheries managers.
- **H.R.3990 – National Monument Creation and Protection Act:** Rep. Rob Bishop (R-UT/1st). Status: Introduced 10/06/2017; Referred to the House Committee on Natural Resources; Committee consideration and mark-up session held; ordered to be reported (amended) by the yeas and nays: 23 – 17. Summary: To amend title 54, United States Code, to reform the Antiquities Act of 1906, and for other purposes. “National Monument Creation and Protection Act.” The bill would overhaul the law related to national monuments, in particular by barring the creation of marine national monuments and by allowing the President to reduce the size of existing monuments.

State Legislation

The California State Legislature is adjourned until Jan 3, 2018. The bills summarized here were of interest to FGC, some of which were signed into law or vetoed.

- **SB 809 (Committee on Natural Resources and Water) –** Status: Signed into law and chaptered by the Secretary of State as Chapter 521, Statutes of 2017. SB 809 deletes the restriction on the FGC president and vice-president serving more than two consecutive terms. That restriction currently exists in Fish and Game Code Section 102. The revised section 102 will be effective January 1, 2018.
- **SB 49 (De Leon and Stern) – California Environmental, Public Health, and Workers Defense Act of 2017.** Status: From committee with author's amendments. Read second time and amended. Re-referred to Senate Committee on Rules. Summary: The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Endangered Species Act requires FGC to establish a list of endangered species and a list of threatened species and generally prohibits the taking of those species. This bill would prohibit state or local agencies from amending or revising their rules and regulations implementing the above state laws to be less stringent than the baseline federal standards, as defined, and would require specified agencies to take prescribed actions to maintain and enforce certain requirements and standards pertaining to air, water, and protected species.

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- **SB 161 (McGuire) – Fish and Game Commission: tribal committee.** Status: Signed into law and chaptered by the Secretary of State as Chapter 457, Statutes of 2017. This bill would require FGC to form a tribal committee from its membership consisting of at least one commissioner and would require the committee to report to FGC from time to time on its activities, consistent with requirements for MRC and WRC, and to make recommendations on all tribal matters considered by FGC.
- **SB 188 (Jackson) – State Lands: Leasing: oil and gas.** Status: Held in committee and under submission. This bill would prohibit the State Lands Commission and the local trustees of granted public trust lands from entering into any new lease or other conveyance that authorizes the exploration for, or the development and production of, oil and natural gas upon those lands. The bill would prohibit the State Lands Commission and the local trustees of granted public trust lands from entering into any lease renewal, extension, or modification that authorizes a lessee to engage in new or additional exploration, development, or production of oil and natural gas.
- **SB 234 (Berryhill) – Fishing: local regulation: report.** Status: 9/1/2017-Failed deadline pursuant to Rule 61(a)(12). Last location was Senate Appropriations Committee suspense file on 7/19/2017 and may be acted upon Jan 2018. This bill would require that FGC undertake a survey and evaluation of local ordinances that regulate fishing. In the survey and evaluation, FGC shall identify and catalog these ordinances, evaluate whether these ordinances are within or outside of the scope of the holding of *People v. Mueller* (1970) 8 Cal.App.3d. 949 or within or outside the scope of local police powers generally, and recommend to the Legislature a course of action with regard to ordinances that FGC determines to be unlawful. In addition, the bill would require that FGC submit the survey and evaluation to the Legislature in a report by December 31, 2018; the report shall be submitted in compliance with Section 9795 of the Government Code.
- **SB 473 (Hertzberg) – California Endangered Species Act.** Status: Ordered to inactive file on request of Assembly Member Calderon. This bill makes several changes to the California Endangered Species Act that reflect input from academic, business, and conservation interests.
- **AB 907 (Garcia) – Office of Outdoor Recreation and Public Lands Enhancement.** Status: In committee: Hearing canceled. Held under submission. This bill would establish the Office of Outdoor Recreation and Public Lands Enhancement in the Governor's Office of Business and Economic Development for specified purposes, including promoting active healthy lifestyles and improving the quality of life for all Californians, and would require the director of the Governor's Office of Business and Economic Development to administer the Office of Outdoor Recreation and Public Lands Enhancement. The bill would require the Office of Outdoor Recreation and Public Lands Enhancement to create an advisory group to offer advice, expertise, support, and service to it, without compensation.
- **AB 1228 (Bloom) – Experimental fishing permits.** Status: Vetoed. This bill would allow for FGC to authorize DFW to issue experimental fishing permits for specified purposes that would authorize commercial or recreational fishing activity otherwise prohibited by the Fish and Game Code or regulations adopted pursuant to that code, subject to certain requirements, including a requirement that activities conducted under

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the permit be consistent with specified policies enacted as part of the Marine Life Management Act of 1998 and any applicable fishery management plan, and a requirement that the permit be subject to certain DFW conditions. Because a violation of the terms of a permit would be a crime, this bill would impose a state-mandated local program.

- **AB 1337 (Patterson and Cooley) – Fish and Game Commission: meetings and hearings: live broadcast.** Status: Ordered to inactive file at the request of Senator McGuire. This bill would require FGC provide a live video broadcast on its website of every FGC meeting or hearing that is open and public and every meeting or hearing conducted by MRC, WRC, or the tribal committee that is open and public.
- **AB 1544 (Dahle and Mathis) – Hunting: nonlead ammunition.** Status: Failed deadline pursuant to Rule 61(a)(2). Two-year bill; may be acted upon Jan 2018. This bill would require FGC temporarily suspend the prohibition on the use of nonlead ammunition for the taking of all wildlife for a specific hunting season and caliber if FGC finds that nonlead ammunition of the specific caliber is not available for any reason. The bill would require FGC, on or before Jan 1, 2019, to adopt criteria to determine when nonlead ammunition is not available for purposes of this provision and would require those criteria to include regional availability and cost of nonlead ammunition. The bill would prohibit a suspension from remaining in effect for longer than three years. The bill would require FGC to make any finding that nonlead ammunition is not-available-publicly on its website.
- **AB 1617 (Bloom and Chiu) – Department of Fish and Wildlife: Fish and Game Commission: funding: strategic vision.** Status: Failed deadline pursuant to Rule 61(a)(10). Two-year bill; may be acted upon Jan 2018. Requires the secretary of the Natural Resources Agency to appoint a stakeholder advisory group to report on the progress made toward implementing the California Fish and Wildlife Strategic Vision. Requires the secretary to direct DFW to evaluate and implement program efficiencies and to establish a task force that reviews and makes recommendations regarding FGC and DFW mandates, efficiencies and funding. Requires DFW to identify and propose new sources of revenue to fund its responsibilities.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits (N/A)

Motion/Direction (N/A)