

# AB 1961 – COHO SALMON H.E.L.P. ACT

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**Assemblymember Jared Huffman**

*Coauthor Assemblymember Wes Chesbro*

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## IN BRIEF

AB 1961, the Coho salmon Habitat Enhancement Leading to Preservation Act (Coho HELP Act) authorizes the California Department of Fish and Game (DFG) to efficiently and effectively approve specific habitat enhancement projects that are necessary to prevent the extinction of California's Coho salmon populations. In doing so, AB 1961 promotes effective collaboration between DFG and its local public agency and non-profit habitat restoration partners.

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## BACKGROUND

Once abundant in their native California coastal streams, Coho salmon populations have declined dramatically over the past 50 years. Today, only 1% of California's original Coho salmon population numbers remain.

While a few coastal rivers such as the Russian River did show an increase in population for 2011, it is not yet known whether the increase is sustainable, and the species remains at critical risk of extinction.

Under the California Endangered Species Act, the populations of Coho south of the San Francisco Bay are listed as endangered and are considered to be virtually extinct. The populations between San Francisco Bay and Punta Gorda to the north are listed as endangered, and the populations from Punta Gorda to the Oregon Border are listed as threatened.

California's salmon populations need freshwater habitat that includes cold, clean water; appropriate water depth, quantity, and flow velocities; upland and riparian vegetation to stabilize soil and provide shade; clean gravel for spawning and egg-rearing; large woody debris to provide resting and hiding places; adequate food; and varied channel forms.

Strategies and plans that outline the best practices for salmon recovery have been developed by the Department of Fish and Game and the National Marine Fisheries Service. Specifically, *fish passage guidelines* have been detailed in the department of Fish and Game Coho Recovery Strategy and the National Marine Fisheries Service Guidelines for Salmonid Stream Passage at Stream Crossings. *Coho salmon recovery plans* have been detailed in the department of Fish and Game Coho Recovery Strategy and Recovery Plans for both evolutionarily significant units of salmon that exist in California.

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## THE PROBLEM

Despite state and federally adopted recovery plans, stream restoration manuals, and protection under the state and federal endangered species acts, Coho salmon continue to be pushed towards extinction. New, focused state policies are needed to promote immediate on-the-ground habitat restoration projects, while also guaranteeing DFG has sufficient regulatory oversight.

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## THIS BILL

AB 1961 defines a "Coho habitat enhancement project" as a project with the primary or exclusive purpose of modification of existing water crossings for the purpose of eliminating a barrier to fish passage, or restoration of eroded or denuded stream banks, or wood placement that benefits naturally reproducing fish stocks.

This bill streamlines departmental approval for Coho habitat enhancement projects that maintain existing levels of human health and safety protection and are consistent with the fish passage guidelines and the Coho salmon recovery plans.

AB 1961 includes important safeguards that allow the DFG director to withdraw approval if the project is no longer consistent with the requirements of the legislation. DFG may also enter into agreements to accept funds from any person, business entity, or organization for the purposes of implementing Coho habitat enhancement projects and may adopt emergency regulations for implementation of the Act. Because the measures contained in AB 1961 are urgent in nature, the bill repeals on January 1, 2018 unless a later enacted statute deletes or extends that date.

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## SUPPORT

California Trout (Co-sponsor)  
The Nature Conservancy (Co-sponsor)  
Trout Unlimited (Co-sponsor)  
Sonoma County Board of Supervisors

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## OPPOSITION

None on file.

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## FOR MORE INFORMATION

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# California

## LEGISLATIVE INFORMATION

### AB-1961 Coho salmon: habitat. (2011-2012)

Senate:

Assembly: 1st Cmt

Bill Status	
Measure:	AB-1961
Lead Authors:	Huffman (A)
Principal Coauthors:	-
Coauthors:	Chesbro (A)
Topic:	Coho salmon: habitat.
31st Day in Print:	03/25/12
Title:	An act to add and repeal Chapter 9 (commencing with Section 6950) of Part 1 of Division 6 of the Fish and Game Code, relating to fish.
House Location:	Assembly
Introduced Date:	02/23/12
Committee Location:	Asm Water, Parks and Wildlife
Committee Hearing Date:	04/10/12

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
03/08/12	Referred to Com. on W., P. & W.
02/24/12	From printer. May be heard in committee March 25.
02/23/12	Read first time. To print.



# California

## LEGISLATIVE INFORMATION

### AB-1961 Coho salmon: habitat. (2011-2012)

Date	Action
03/08/12	Referred to Com. on W., P. & W.
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# California

## LEGISLATIVE INFORMATION

**AB-1961 Coho salmon: habitat.** (2011-2012)

CALIFORNIA LEGISLATURE— 2011–2012 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1961**

**Introduced by Assembly Member Huffman**  
**(Coauthor(s): Assembly Member Chesbro)**

**February 23, 2012**

**An act to add and repeal Chapter 9 (commencing with Section 6950) of Part 1 of Division 6 of the Fish and Game Code, relating to fish.**

### LEGISLATIVE COUNSEL'S DIGEST

AB 1961, as introduced, Huffman. Coho salmon: habitat.

Existing law requires the Department of Fish and Game to develop and implement a recovery strategy pilot program for the coho salmon and repeals that authority on January 1, 2014, but requires any recovery strategy that has been approved or implemented prior to that date to remain in effect.

Existing law also establishes the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act to protect and increase the naturally spawning salmon, steelhead trout, and anadromous, as defined, fishery resources of the state.

This bill would establish the Coho Salmon Habitat Enhancement Leading to Preservation Act (Coho Act) and require the department to approve a coho salmon habitat enhancement project, as defined, if specified conditions are met as determined by the director of the department, as prescribed. This bill would create the Coho Salmon Recovery Account within the Fish and Game Preservation Fund and permit the department to enter into an agreement to accept funds to achieve the purposes of the Coho Act and deposit those funds into that account. This bill would authorize the department to adopt emergency regulations for the implementation of the Coho Act. This bill would repeal the provisions of the Coho Act on January 1, 2018.

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

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

**SECTION 1.** Chapter 9 (commencing with Section 6950) is added to Part 1 of Division 6 of the Fish and Game Code, to read:

#### **CHAPTER 9. Coho Salmon Habitat Enhancement Leading to Preservation**

**6950.** This chapter shall be known and may be cited as the Coho Salmon Habitat Enhancement Leading to

Preservation Act.

**6951.** The Legislature finds and declares all of the following:

(a) The coho salmon (*Oncorhynchus kisutch*) is a fish native to many northern California coastal streams and consists of two distinct Evolutionary Significant Units (ESU), the Southern Oregon/Northern California Coast (SONCC) and the Central California Coast (CCC) ESUs. The historical range of the SONCC ESU includes coastal rivers and tributaries in Del Norte, Siskiyou, Humboldt, Trinity, Mendocino, and Lake Counties. The historical range for the CCC ESU includes coastal rivers and tributaries in parts of Humboldt, Mendocino, Sonoma, Napa, Marin, Solano, Contra Costa, San Francisco, Alameda, San Mateo, Santa Clara, and Santa Cruz Counties.

(b) All coho salmon runs in California have declined dramatically over the past 40 to 50 years. Population numbers, including hatchery stocks, were estimated at 6 to 15 percent of 1940 levels in 2004. Since 2004, populations in all monitored streams have continued to decline with an estimated 1 percent remaining of the original population. While a few coastal rivers such as the Russian River did show an increase in population for 2011, it is not yet known whether the increase is sustainable, and the species remains at critical risk of extinction.

(c) Both the SONCC and the CCC ESUs are listed pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3). The populations south of the San Francisco Bay are listed as endangered and considered to be virtually extinct. The populations between San Francisco Bay and Punta Gorda to the north are listed as endangered, and the populations from Punta Gorda to the Oregon Border are listed as threatened.

(d) California's salmon populations need freshwater habitat that includes cold and clean water, appropriate water depth, quantity, and flow velocities, upland and riparian vegetation to stabilize soil and shade, clean gravel for spawning and egg-rearing, large woody debris to provide resting and hiding places, adequate food, and varied channel forms.

(e) An urgency exists due to the extraordinarily small numbers of coho salmon remaining in California. In order to prevent their extinction from northern California waters, it is imperative that habitat restoration efforts be expedited and increased as soon as possible.

(f) Therefore, it is the intent of the Legislature in enacting this policy that the department seek agreements and partnerships with state and federal agencies to efficiently and effectively permit habitat enhancement projects necessary to prevent the extinction of coho salmon populations in California coastal watersheds and that the department expedite and streamline the permitting and approval of coho salmon habitat enhancement projects, including, in particular, large woody debris restoration projects, in northern California streams.

**6952.** For the purposes of this chapter:

(a) "Coho salmon habitat enhancement project" means a project within a region described in an adopted state or federal coho salmon recovery plan with the primary purpose of accomplishing one or more of the following:

(1) Modification of existing water crossings for the purposes of eliminating a barrier to fish passage. Modification includes the removal of road crossings, replacement of culverts, or both.

(2) Restoration of eroded or denuded streambanks by utilizing nonrock bioengineering practices and revegetating stream corridors with native riparian species. Restoration shall be focused on promoting tree establishment along the active channel and on streambanks for the purposes of bank stabilization, bank development, and live wood complexity.

(3) Wood placement that benefits naturally reproducing fish stocks by creating or enhancing fish habitat, increasing stream complexity, or both.

(b) "Coho salmon recovery plans" means the department's Recovery Strategy for California Coho Salmon, the National Marine Fisheries Service's Recovery Plan for the Evolutionary Significant Unit of Central Coast Coho Salmon, the National Marine Fisheries Service's Recovery Plan for the Southern Oregon/Northern California Coast Evolutionary Significant Unit of Coho Salmon, or subsequently adopted Coho salmon recovery plans.

(c) "Fish passage guidelines" means the department's Coho Salmon Stream Restoration Manual, the National Marine Fisheries Service's Guidelines for Salmonid Stream Passage at Stream Crossings, either of those documents as they may be subsequently amended or updated, or salmonid fish passage project guidelines subsequently adopted by the department, the National Marine Fisheries Service, or both.

(d) "Project proponent" means a person, public agency, or nonprofit organization seeking to implement a coho salmon habitat enhancement project.

**6953.** (a) Notwithstanding any other provision of law, the department shall approve a coho salmon habitat enhancement project if it will maintain existing levels of human health and safety protection and is consistent with both of the following:

(1) Fish passage guidelines.

(2) Coho salmon recovery plans.

(b) Within 30 days after the department receives a written request to approve a coho salmon habitat enhancement project containing the information required pursuant to subdivision (c), the director shall determine whether the coho salmon habitat enhancement project is consistent with subdivision (a). If the director determines within that 30-day period, based upon substantial evidence, that the coho salmon enhancement project is consistent with subdivision (a), no further departmental approval shall be necessary.

(c) A written request to approve a coho salmon habitat enhancement project shall contain all of the following:

(1) The name, address, title, organization, telephone number, and electronic mail address of the natural person or persons who will be the main point of contact for the project proponent.

(2) A full description of the coho salmon habitat enhancement project that includes the design criteria used for the project, best management practices incorporated in the project design, and a map clearly identifying the project location.

(3) Substantial evidence to support a conclusion that the project meets the criteria set forth in this section. Substantial evidence shall cite to relevant design criteria and best management practices that are set forth in the fish passage guidelines.

(d) (1) If the director determines at any time that the project is no longer consistent with subdivision (a), the director shall notify the project proponent in writing and project implementation shall be suspended or approval pursuant to this chapter revoked. Written notice from the director shall be delivered in person or by certified mail to the project proponent and shall specify the reasons why ministerial approval of the project was suspended or revoked. The approval for a project shall not be revoked pursuant to this subdivision unless it has first been suspended pursuant to this subdivision.

(2) Within 30 days of receipt of a notice of suspension, the project proponent may file an objection with the director. Any objection shall be in writing and state the reasons why the project proponent objects to the suspension.

(3) The director shall make a decision whether to revoke approval or to lift the suspension of project implementation within 30 days after the end of the objection period in paragraph (2).

**6954.** The department may enter into an agreement to accept funds from any person, business entity, or organization to achieve the purposes of this chapter. Any funds so received shall be deposited in the Coho Salmon Recovery Account which is hereby created in the Fish and Game Preservation Fund. The funds received shall supplement existing resources for projects and programs that enhance the recovery of Coho salmon.

**6955.** The department may adopt emergency regulations for the implementation of this chapter. Emergency regulations adopted pursuant to this section, any amendment thereto, or subsequent adjustments to the regulations, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of any such regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department shall remain in effect until revised by the department.

**6956.** This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.