

Senate Bill No. 589

Passed the Senate August 24, 2009

Secretary of the Senate

Passed the Assembly July 16, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 331, 332, 1528, 3686, 4332, 4656, 4751, 4902, and 4903 of, to add Sections 711.1 and 3953 to, to repeal Section 3685 of, and to repeal and add Sections 3684 and 4334 of, the Fish and Game Code, relating to hunting.

LEGISLATIVE COUNSEL'S DIGEST

SB 589, Harman. Game hunting.

Existing law requires all money collected under the provisions of the Fish and Game Code, including money received as a result of the sale of licenses issued under the provisions of the code, to be deposited into the Fish and Game Preservation Fund, unless otherwise provided. Existing law requires the Department of Fish and Game to operate wildlife management areas on a nonprofit basis for multiple recreational uses. Existing law authorizes the department to issue an annual wildlife area pass or a day use pass that authorizes the bearer to enter and use facilities and programs on designated department-managed lands. Existing law grants authority to the Fish and Game Commission to issue tags and licenses for the hunting of antelope, elk, upland game birds, deer, wild pigs, bears, and bighorn sheep upon payment of a fee, to be deposited into the fund.

This bill would establish the Upland Game Bird Account within the fund to permit separate accountability for the receipt and, subject to appropriation, the prescribed expenditure of revenues from upland game bird validations and stamps.

The bill would establish the Big Game Management Account within the fund to permit separate accountability for the receipt and, subject to appropriation, the prescribed expenditure of revenues from antelope, elk, deer, wild pig, bear, and bighorn sheep tags.

The bill would exempt projects funded from the accounts from the State Contract Act and from statutory provisions relating to the Disabled Veteran Business Enterprise Program.

The bill would make various conforming changes relating to the establishment of the accounts.

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

SECTION 1. Section 331 of the Fish and Game Code is amended to read:

331. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of antelope (*Antilocapra americana*) that may be taken under regulations that the commission may adopt from time to time. Only a person possessing a valid hunting license, who has not received an antelope tag under these provisions during a period of time specified by the commission, may obtain a tag for the taking of antelope.

(b) The department may issue a tag upon payment of a fee. The fee for a tag shall be fifty-five dollars (\$55) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than a fee of three hundred fifty dollars (\$350), as adjusted under Section 713. The fee shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of persons in the department as set forth in Section 3953.

(c) The commission shall direct the department to annually authorize not less than one antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit antelope. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (b). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall direct the department to annually authorize one antelope tag of the total number of tags available for issuance to nonresidents of the state.

SEC. 2. Section 332 of the Fish and Game Code is amended to read:

332. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations that

the commission may adopt from time to time. The commission may authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 3951, that suitable areas cannot be found in the state to accommodate that population in a healthy condition.

(b) Only a person possessing a valid hunting license may obtain a tag for the taking of elk.

(c) The department may issue an elk tag upon payment of a fee. The fee for a tag shall be one hundred sixty-five dollars (\$165) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand fifty dollars (\$1,050), as adjusted under Section 713. The fees shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of the department as set forth in Section 3953.

(d) The commission shall annually direct the department to authorize not more than three elk hunting tags for the purpose of raising funds for programs and projects to benefit elk. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (c). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) The commission shall direct the department to annually authorize one elk tag of the total number of tags available for issuance to nonresidents of the state.

SEC. 3. Section 711.1 is added to the Fish and Game Code, to read:

711.1. The department shall annually maintain on its Internet Web site, and include in the annual State Budget submitted by the Governor, a fund condition statement that displays information on the condition of revenues and expenditures both for dedicated and nondedicated revenue sources.

SEC. 4. Section 1528 of the Fish and Game Code is amended to read:

1528. (a) Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department. Multiple recreational use of wildlife management areas, particularly the traditional use of hunting and fishing, is desirable and that use shall be encouraged by the commission.

(b) Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided. Except as provided in Section 1765, and to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use privileges. However, tours by organized youth and school groups are exempt from the payment of those fees.

(c) Only persons holding valid hunting licenses may apply for or obtain shooting permits for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas.

SEC. 5. Section 3684 of the Fish and Game Code is repealed.

SEC. 6. Section 3684 is added to the Fish and Game Code, to read:

3684. (a) The Upland Game Bird Account is hereby established within the Fish and Game Preservation Fund.

(b) All funds derived from the sale of upland game bird hunting validations and upland game bird stamps shall be deposited in the Upland Game Bird Account to permit separate accountability for the receipt and expenditure of these funds.

(c) Funds deposited in the Upland Game Bird Account shall be available for expenditure upon appropriation by the Legislature to the department. These funds shall be expended solely for the purpose of acquiring land, completing projects and implementing programs to benefit the upland game bird species, and expanding public hunting opportunities and related public outreach. The department may also use these funds to enter into contracts or to award grants to reimburse, upon completion of the projects, nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) for related habitat projects. Any land acquired with funds from the Upland Game Bird Account shall be acquired in fee title or protected with

a conservation easement and, to the extent possible, be open or provide access to the public for upland game bird hunting. The department may also use funds from the Upland Game Bird Account to pay for administrative and enforcement costs of the programs and activities described in this section. The amount allocated from the account for administrative costs shall be limited to the reasonable costs associated with administration of the programs and activities described in this section.

(d) An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of game bird species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the Upland Game Bird Account to help ensure that the requirements of this section have been met. The department shall post budget information and a brief description on its Internet Web site for all projects funded from the Upland Game Bird Account.

(e) Upland game bird projects authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(f) The department shall maintain the internal accountability necessary to ensure compliance with the collection, deposit, and expenditure of funds specified in this section.

SEC. 7. Section 3685 of the Fish and Game Code is repealed.

SEC. 8. Section 3686 of the Fish and Game Code is amended to read:

3686. Projects authorized pursuant to Section 3684 shall be governed by Section 1501.5. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

SEC. 9. Section 3953 is added to the Fish and Game Code, to read:

3953. (a) The Big Game Management Account is hereby established within the Fish and Game Preservation Fund.

(b) All revenues from the sale of antelope, elk, deer, wild pig, bear, and sheep tags, including any fundraising tags, shall be deposited in the Big Game Management Account to permit separate accountability for the receipt and expenditure of these funds.

(c) Funds deposited in the Big Game Management Account shall be available for expenditure upon appropriation by the Legislature to the department. These funds shall be expended solely for the purposes set forth in this section and Sections 3951 and 3952, and Chapter 5 (commencing with Section 450) of Division 1, Chapter 7 (commencing with Section 4650), and Chapter 11 (commencing with Section 4900), including acquiring land, completing projects, and implementing programs to benefit antelope, elk, deer, wild pigs, bear, and sheep, and expanding public hunting opportunities and related public outreach. The department may also use these funds to enter into contracts or to award grants to reimburse, upon completion of the projects, nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) for related conservation projects. Any land acquired with funds from the Big Game Management Account shall be acquired in fee title or protected with a conservation easement and, to the extent possible, be open or provide access to the public for antelope, elk, deer, wild pig, bear, or sheep hunting. The department may also use funds from the Big Game Management Account to pay for administrative and enforcement costs of the programs and activities described in this section. The amount allocated from the account for administrative costs shall be limited to the reasonable costs associated with administration of the programs and activities described in this section.

(d) The department may make grants or enter into contracts with nonprofit organizations for the use of the funds from the Big Game Management Account when it finds that the contracts are necessary for carrying out the purposes of this article.

(e) An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of big game species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the Big Game Management Account to help ensure that the

requirements of this section have been met. The department shall post budget information and a brief description on an Internet Web site for all projects funded from the Big Game Management Account.

(f) Big game projects authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(g) The department shall maintain the internal accountability necessary to ensure compliance with the collection, deposit, and expenditure of funds specified in this section.

SEC. 10. Section 4332 of the Fish and Game Code is amended to read:

4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of ten dollars (\$10) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of twelve dollars and fifty cents (\$12.50) for the license years beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(e) All revenues pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

SEC. 11. Section 4334 of the Fish and Game Code is repealed.

SEC. 12. Section 4334 is added to the Fish and Game Code, to read:

4334. (a) The commission shall annually direct the department to authorize, pursuant to Section 1054.8, the sale of not more than 10 deer tags for the purpose of raising funds for programs and projects as set forth in Section 3953. All revenue from the sale of tags pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) These tags may be sold to residents or nonresidents of the State of California at auction or by any other method and are not subject to the fees prescribed by Section 4332.

(c) These funds shall augment, not supplant, any other funds appropriated to the department for the preservation, restoration, utilization, and management of deer. All revenues derived from the sale of these tags shall be remitted to the department by the seller.

SEC. 13. Section 4656 of the Fish and Game Code is amended to read:

4656. Revenues received pursuant to this chapter shall be deposited in the Big Game Management Account established in Section 3953. These funds shall be available for expenditure by the department as set forth in Section 3953. The department shall maintain all internal accounting measures necessary to ensure that all restrictions on these funds are met.

SEC. 14. Section 4751 of the Fish and Game Code is amended to read:

4751. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713, for each bear tag. Fee revenues pursuant to this subdivision shall be deposited in the Big Game Management

Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid California hunting license, may procure the number of bear tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars (\$105), as adjusted under Section 713, for each bear tag. Fee revenues pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

SEC. 15. Section 4902 of the Fish and Game Code is amended to read:

4902. (a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*).

(b) (1) After the plans developed by the department pursuant to Section 4901 for the management units have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams. Before authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the population in the management units designated for hunting.

(2) Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit, based on the department's annual estimate of the population in each management unit.

(c) The fee for a tag to take a Nelson bighorn ram may be determined by the commission, but shall not exceed five hundred dollars (\$500). Fee revenues shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall annually direct the department to authorize not more than three of the tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit Nelson bighorn sheep. These tags may be sold to residents or nonresidents of the State

of California at auction or by another method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing with tags sold for the 1993 hunting season, if more than one tag is authorized, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of not less than one of these tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b). All revenue from the sale of tags pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) No tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of Nelson bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

SEC. 16. Section 4903 of the Fish and Game Code is amended to read:

4903. Revenue from the fees authorized by this chapter shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section. Administrative overhead shall be limited to the reasonable costs associated with the direct administration of the program. These funds shall be used to augment, and not to replace, moneys appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

Approved _____, 2009

Governor