

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Eduardo Garcia, Chair

AB 614 (Aguiar-Curry) – As Introduced February 12, 2021

SUBJECT: Wildlife habitat: birds

SUMMARY: Raises duck and upland game bird hunting validation fees by \$5 to fund the Nesting Bird Habitat Incentive Program (Nesting Bird Program) that pays landowners to adopt practices that enhance nesting bird habitat and makes minor changes to eligibility for the California Winter Rice Habitat Incentive Program (Winter Rice Program). Specifically, **this bill:**

- 1) Creates the Nesting Bird Habitat Incentive Program Account within the Fish and Game Preservation Fund overseen by the Department of Fish and Wildlife (DFW).
- 2) Increases the upland game bird hunting validation fees and the state duck hunting validation fees by \$5, to be deposited in the Nesting Bird Habitat Incentive Program Account.
- 3) Requires the Upland Game Bird Account advisory committee to annually review and provide comments to DFW on all proposed projects and expenditures, as well as post budget information and expenditures to the website.
- 4) Revises and recasts the Nesting Bird Program to:
 - a) Authorize direct payments or other incentives to encourage landowners to voluntarily cultivate or retain upland cover crops which provide waterfowl and other game bird nesting habitat cover;
 - b) Authorize money from the Nesting Bird Program account to be used by DFW for administrative and monitoring costs associated with implementation of the program;
 - c) Authorize DFW to enter into grants or contracts directly with landowners, public or private entities, nonprofit organizations, and California Native American tribes to help DFW implement the Nesting Bird Program; and,
 - d) Require sufficient fund availability, as determined by DFW, before implementation of the Nesting Bird Program.
- 5) Revises the Winter Rice Program to:
 - a) Authorize DFW to enter into grants or contracts directly with landowners, or agreements with public or private entities and California Native American Tribes to help the DFW implement the Winter Rice Program; and,
 - b) Authorize public and private entities and California Native American tribes to enter agreements to serve as an intermediary responsible for entering into grants or contracts with landowners to carry out the purposes of the Winter Rice Program.

EXISTING LAW:

- 1) Prohibits taking upland game birds without first procuring a California hunting license (FGC §3007) and an upland game bird hunting validation (FGC §3682.1).
- 2) Deposits moneys derived from upland game bird hunting validations in the Upland Game Bird Account in the Fish and Game Preservation Fund (FGPF) (FGC §3684).
- 3) Prohibits taking migratory game birds, with exceptions, without first procuring a California hunting license (FGC §3007), a federal duck stamp (16 U.S. Code §718a), and a state duck hunting validation (FGC §3700.1).
- 4) Deposits money derived from the state duck hunting validation in the State Duck Stamp Account in the FGPF to be used toward conserving migratory waterfowl breeding and wintering habitat and waterfowl-related research (FGC §3701-3705).
- 5) Establishes the Nesting Bird Habitat Incentive Program to encourage landowners to voluntarily cultivate or retain cover crops or upland vegetation on idled lands to provide waterfowl and wildlife habitat cover for breeding purposes. Implementation of the program was contingent upon passage of the Proposition 3 Water Bond, which failed passage, or acquisition of other funds (FGC §3480).
- 6) Establishes the California Waterfowl Habitat Program, which provides technical guidance and economic incentives to landowners who agree to manage their properties according to wetland management plans to enhance habitat for wetland-dependent species (FGC §3460).
- 7) Establishes the California Winter Rice Habitat Incentive Program within the FGPF to provide incentives to owners or lessees of productive agricultural rice lands to winter-flood their lands for conservation of waterfowl and other wildlife habitat (FGC §3469).
- 8) States that it is the policy of the state to cooperate with private landowners to ensure the improvement of wildlife habitat on private land (FGC §3400).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author,

(This bill) will secure necessary funding for the Nesting Bird Habitat Incentive Program (NBHIP), to encourage farmers and landowners to cultivate or retain upland cover crops or natural vegetation on idled lands to provide waterfowl and upland game birds with wildlife habitat. By keeping vegetative cover on the agricultural landscape, the NBHIP will provide carbon sequestration, air quality, soil health and other environmental benefits in a landowner-friendly, non-regulatory manner.

- 2) **Background.** The Nesting Bird Program has been established, but has yet to be funded. The Nesting Bird Program was established because many waterfowl and upland game birds build their nests in fields of cereal grains and have come to rely on vegetated agricultural lands for nesting. However, the amount of suitable nesting habitat and resulting waterfowl populations

have dramatically declined as rangeland and dry grain acreage have decreased considerably in the past decades. Additionally, harvest of winter wheat generally occurs during the bird hatching period, resulting in a considerable reduction in viable hatching. Limited habitats also make populations more vulnerable to die off, as occurred in the Klamath Basin Wildlife refuge last summer, when an Avian Botulism outbreak killed an estimated 40,000 birds.

Nonprofits have undertaken egg salvage programs, in which nests are rescued from fields before farmers begin their harvest. The eggs are incubated, and the ducklings are reared, at permitted hatcheries. These programs are costly and have limited effectiveness. One alternative is to leave vegetation on the land to the end of hatching season, allowing birds to nest naturally. This could mean delaying a winter wheat harvest, or leaving cover crops on idled croplands, for example. These may seem like small changes, but growers fear the consequences of increased fire risk by delaying winter wheat harvest into July, and cover crops cost money to establish. California offers the Healthy Soils Program that gives grants for cover crop projects, but it does not compensate for delayed harvest. Despite the numerous benefits of cover crops, as of 2017, only four percent of California cropland use cover crops at all.

In 2018, AB 2697 passed through the Legislature and created the Nesting Bird Program. The Nesting Bird Program was designed to provide voluntary incentives to landowners for planting cover crops on idled lands, and for delaying their harvests of cereal grains or cover crops. The motivating goal was to provide habitat and nesting cover for wildlife, focusing on waterfowl and upland game birds. The Nesting Bird Program has not received funding, largely because its funding relied on the Water Supply and Water Quality Act of 2018 (Proposition 3), which voters did not approve.

Hunters Commit to Funding Program, Which Focuses on Game Birds. This bill prioritizes the habitats of game birds. This is partially to justify the costs falling upon the hunters, and partially because some of the most prized game birds are indicators of ecosystem health. Each year, the U.S. Fish and Wildlife Service monitors bird populations and releases an annual bird harvest allowance. Low bird populations result in low harvest allowances, so hunters recognize that conservation is key to their sport. Correspondingly, 74.3% of over 1,500 polled bird hunters said they would support a \$5 or less surcharge on the state duck stamp and upland stamp for the sole purpose of funding game bird nest cover projects to help grow the local mallard and pheasant populations.

California hunting fees provide \$26 million in annual revenue, which go toward funding DFW and conservation efforts. This bill feeds into the user-play, user-pay model, in which waterfowl and game bird hunters pay to fund conservation efforts that produce more birds for them to hunt. Last year, approximately 61,000 state duck hunting validations and 139,000 upland game bird hunting validations generated \$1.3 million and \$1.4 million, respectively. If sales remain level, the increased fees proposed in this bill would generate approximately \$1 million annually toward the Nesting Bird Program.

Existing DFW Private Land Incentive Programs. DFW has three existing private land incentive programs. The Nesting Bird Program would be the fourth to provide financial incentives to landowners for the implementation of wetland habitat management strategies. While the California Waterfowl Habitat Program (aka Presley Program) provides incentives for private landowners who agree to manage their properties in accordance with the DFW

Annual Work Plan, the specifics of the plan include incentives for extending periods of flooding but not cover crops as the Nesting Bird Program does. Similarly, the California Winter Rice Program encourages winter-flooding (January-mid-March) of harvested rice fields in the central valley. The Nesting Bird Program operational plan is similar to other programs in the past; however, it is unique in its inclusion of pass-through granting language which would allow a non-profit to issue grants and contracts with the farmers ahead of time to manage idled land, and may reduce overhead costs that often use a lot of the programmatic funding. Unlike the other incentive programs, the Nesting Bird Program also targets the nesting period of the waterfowl season; therefore, increasing the potential reproductive success of the waterfowl. This bill also stipulates that sufficient funds must be raised through the increased stamp fees, federal grants, or other moneys before implementation of the Nesting Bird Program so as not to divert existing DFW funding.

- 3) **Arguments in Support.** Supporters argue that the Nesting Bird Program is urgently needed to protect wildlife populations and raise the numbers of some of the most highly prized game birds, while additionally sequestering carbon and improving air quality. Supporters claim that a funding source is needed for the Nesting Bird Program, and that this bill offers a solution. They claim that this bill builds on the highly successful, non-regulatory approach of several other waterfowl and bird conservation initiatives that provide financial incentives and work cooperatively with private landowners.

4) **Related Legislation.**

AB 2016 (Aguiar-Curry), 2020, was substantially similar to this bill. The bill was not heard due to COVID-related scheduling changes.

AB 2697 (Gallagher), Chapter 588, Statutes of 2018, creates the Nesting Bird Habitat Incentive Program.

AB 2348 (Aguiar-Curry), Chapter 649, Statutes of 2018, establishes the California Winter Rice Habitat Incentive Program.

REGISTERED SUPPORT / OPPOSITION:

Support

Audubon California
 Black Brant Group, The
 California Deer Association
 California Rice Commission
 California Waterfowl
 Cal-Ore Wetland and Waterfowl Council
 Congressional Sportsmen's Foundation
 Defenders of Wildlife
 Delta Waterfowl
 Grassland Water District
 Nor-Cal Guides & Sportsmen's Association
 Northern California Water Association
 Pheasants Forever/Quail Forever

San Diego County Wildlife Federation
Suisun Resource Conservation District
Tulare Basin, Wetlands Association

Opposition

None on file

Analysis Prepared by: Nichole Holm / W., P., & W. / (916) 319-2096