

1996

Amendment of the California Wildlife Protection Act of 1990 (Proposition 117). Mountain Lions.

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**Amendment of the California Wildlife
Protection Act of 1990 (Proposition 117).
Mountain Lions. Legislative Initiative Amendment.**

Official Title and Summary Prepared by the Attorney General

**AMENDMENT OF THE CALIFORNIA WILDLIFE
PROTECTION ACT OF 1990 (PROPOSITION 117).
MOUNTAIN LIONS. LEGISLATIVE INITIATIVE AMENDMENT.**

- Repeals mountain lion's status as specially protected mammal. Requires Fish and Game Commission to manage mountain lions as it manages mammals that are not rare, endangered, threatened.
- Requires Fish and Game Department implement mountain lion management plan that promotes health, safety, livestock, property protection; identifies priority zones where mountain lion removal has not alleviated threats.
- Authorizes taking of mountain lions in priority zones, consistent with plan. Permits governmental agencies, landowners to take mountain lions imminently threatening public health, safety, or livestock.
- Allows legislative amendments.

**Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:**

- Reallocates funds in the Habitat Conservation Fund of up to \$250,000 annually for 1996-97, 1997-98, and 1998-99, and up to \$100,000 annually thereafter until July 1, 2020, to prepare and implement a mountain lion management plan.
- Potential additional state costs of up to \$250,000 annually to administer public safety and public information programs related to mountain lions.

Final Votes Cast by the Legislature on SB 28 (Proposition 197)

Assembly: Ayes 44 Senate: Ayes 26
 Noes 30 Senate: Noes 8

Analysis by the Legislative Analyst

Background

In 1990, the California voters approved Proposition 117, the California Wildlife Protection Act of 1990. The act designated mountain lions as a specially protected mammal, and generally prohibited their taking (that is, hunting or killing), injury, possession, or sale. However, Proposition 117 allows the killing of a mountain lion if it (1) is perceived to be an imminent threat to public health or safety, (2) damages livestock or other property, or (3) is attacking people. In 1994, for example, 131 mountain lions were killed because they threatened public safety or damaged property or livestock.

Proposition 117 generally permits the Legislature to amend its provisions relating to mountain lions with a four-fifths vote of the members of both houses, but only if the amendments are consistent with the purposes of the act.

Proposition 117 also created the Habitat Conservation Fund (HCF). This fund is generally used to support the acquisition of lands for the protection of mountain lions, deer, rare, endangered, and threatened animals and plant life, wetlands, and park purposes. Proposition 117 required that the HCF receive \$30 million a year. This funding comes from the state's General Fund and various environmental funds.

The state Fish and Game Commission is generally responsible for regulating the protection and use of wildlife species which are not rare, threatened, or endangered, in order to achieve a variety of goals. The commission does this by regulating the hunting, capturing, and killing of wildlife, including establishing hunting seasons; promoting public education; and protecting and enhancing habitat. The commission's policies are implemented by the Department of Fish and Game.

Proposition 117 prohibits the commission or the Department of Fish and Game from adopting regulations that conflict with its provisions.

Proposal

This measure amends Proposition 117's provisions related to mountain lions. Specifically, the measure does the following:

- Changes the vote requirement—from four-fifths to majority vote—for the Legislature to amend or repeal provisions of law concerning mountain lions, and eliminates the requirement that such changes be consistent with the purposes of Proposition 117.
- Eliminates the designation of the mountain lion as a specially protected mammal in California, and requires the Fish and Game Commission to regulate mountain lions in the same manner as it regulates other mammals which are not rare, endangered, or threatened.
- Requires the Department of Fish and Game to prepare a mountain lion management plan for the commission's approval and to implement the adopted plan. As part of the plan, the department must identify priority zones where the removal of individual mountain lions has not alleviated threats to public safety, livestock, domestic animals, other property, and other wildlife species. The measure authorizes the department to regulate, hunt, or kill mountain lions in priority zones if it has a plan for that zone. In addition, such actions must be consistent with the plan and maintain a viable mountain lion population in the zone.
- Authorizes the Department of Fish and Game to designate persons and government entities to remove or kill mountain lions that are perceived to be an imminent threat to public health or safety or livestock.

Fiscal Effect

The measure reallocates existing funds in the HCF from land acquisition to the Department of Fish and Game to prepare and implement the mountain lion management plan. The reallocation would be up to \$250,000 annually for 1996–97, 1997–98, and 1998–99, and up to \$100,000 annually thereafter until July 1, 2020. The exact amount would depend on legislative action.

In addition, the measure declares the Legislature's intent that up to \$250,000 be appropriated annually from sources other than the HCF for public safety and public information programs related to mountain lions.

For the text of Proposition 197 see page 59

Amendment of the California Wildlife Protection Act of 1990 (Proposition 117). Mountain Lions. Legislative Initiative Amendment.

Argument in Favor of Proposition 197

California's wildlife should be protected by experts at the Department of Fish and Game, and not be a political pawn of special interest groups. Proposition 197 does just that. It returns control of the mountain lion to the experts.

In 1990, control of the mountain lion was removed from wildlife experts. That was a mistake. As usual, politicians in charge have done nothing to fix the problem. This predator has outgrown its habitat; deer and elk herds, as well as Big Horn sheep, have been over-killed by lions; livestock have been killed, costing consumers millions of dollars; pets have become common prey for hungry lions in populated areas; and, we now have confirmed deaths of people killed by mountain lions near populated areas.

California's mountain lion population has grown to dangerous levels in recent years, and Fish and Game experts across the state agree a lack of management is the principal reason. The California lion is *not* an endangered species—its population has actually doubled in recent years. Proposition 197 allows the Department of Fish and Game to create and adopt a plan keeping the proper environmental balance and insuring the safety of people in residential and recreational areas.

Proposition 197 is supported by a broad coalition of wildlife experts, Fish and Game officials, agricultural leaders, and law enforcement who want to preserve the delicate balance of nature.

In recent years the lion population has grown so fast they have outgrown their food supply. Desperate for food, lions are being forced out of their natural habitat into existing residential and commercial developments where children and pets are in severe danger. A rural school district won't let children leave the school bus alone; parents in some towns were advised not to allow small

children to go outside alone; and a lion had to be killed after attacking police officers in the parking lot of a popular San Bernardino mall.

Proposition 197 allows the Department of Fish and Game to do what it does best—manage the state's lion population to preserve the delicate balance between man and nature. This wildlife protection measure is intended to protect not only the mountain lion, but also the people, livestock, and pets from inhumane slaughter.

Please vote yes on Proposition 197. Vote to protect the public from dangerous predators; vote to allow wildlife experts do their job; and vote to restore common sense to wildlife management.

JACK PARNELL

Former Director, California Department of Fish and Game

DONALD NEAL

Wildlife Habitat Ecologist

When a mountain lion killed a young mother of two children while she was jogging near her home, I knew it was time we had to bring some common sense wildlife management to this problem. As her State Senator, it would be horrible for her death to be in vain.

People tried to make political gain out of the mountain lion, instead of relying on the experts to manage these animals. That's why I received overwhelming bi-partisan support in the Legislature for Proposition 197—giving the experts at Fish and Game the responsibility of taking care of California's wildlife so we can all live together safely.

STATE SENATOR TIM LESLIE

Author of Proposition 197

Rebuttal to Argument in Favor of Proposition 197

This is a gun lobby attempt to manipulate the horrible death of a mother to fool voters into legalizing the trophy hunting of mountain lions.

They claim wildlife officials need to manage lions. We agree. The fact is, after this horrible attack, we supported legislation to force the Department of Fish and Game to protect the public. The measure toughened law enforcement officials' power to kill lions on the spot whenever the public is threatened. Gun lobby backers of Proposition 197 opposed it because *it preserved the 1990 voter-approved ban on sport hunting mountain lions.*

Proponents' arguments are as phony as Proposition 197 is dishonest. The "special interests" they refer to, are the voters. Voters stopped sport hunting of lions in 1990, not "special interests." The voters *didn't* stop state bureaucrats from controlling lions. Senator Tim Leslie, author of 197, and his gun lobby backers, don't want to make it easier to kill lions that threaten the public unless they can kill them for the fun of it.

Don't be fooled.

Making it easier to kill mountain lions that threaten the public *or* spending nearly \$3 million for a management plan for lions doesn't require voter approval. Only the voters can change the 1990 ban on trophy hunting. That's why Proposition 197 is on the ballot. But the gun lobby isn't honest enough to say that. We support managing lions. But they shouldn't be shot just to be stuck on the wall in the den.

It's fraud. Vote no.

PATRICIA FORKAN

Executive Vice President, Humane Society of the United States

JILL DAMPIER

California Park Rangers Association

BERNADETTE M. ERTL

Chair, Sierra Club California

**Amendment of the California Wildlife
Protection Act of 1990 (Proposition 117).
Mountain Lions. Legislative Initiative Amendment.**

197

Argument Against Proposition 197

PROPOSITION 197 IS A FRAUD.

Proposition 197 legalizes trophy hunting of mountain lions, while the words "sport or trophy hunting" are cleverly omitted from the measure. IN 1990 THE VOTERS PASSED A BAN ON THE TROPHY HUNTING OF MOUNTAIN LIONS.

Proposition 197 backers know that if voters understand that this measure legalizes the sport hunting of mountain lions, it will lose. So, the National Rifle Association (NRA), the Gun Owners of California, and the Safari Club International carefully crafted a measure that never mentions legalizing sport hunting.

Nevertheless, the Safari Club's recent November newsletter told its members the real story:

"Sport hunting can resume. Under Section 1801, the department [of Fish and Game] can propose and the Fish and Game Commission can adopt regulations to allow the sport hunting of mountain lions."

Proposition 197 proponents want you to think this measure has something to do with keeping mountain lions out of urban areas. It doesn't. If these 13 words were written into Proposition 197, we could support it:

"Nothing in this measure legalizes the sport or trophy hunting of mountain lions."

We support Fish and Game doing what it should have done five years ago: prepare a mountain lion management plan, identifying those regions that have mountain lion problems, and take steps to address those problems.

Proposition 197 backers opposed legislation that would create a management plan, clarify existing law about when a mountain lion can be killed, and CONTINUE THE BAN ON SPORT HUNTING OF MOUNTAIN LIONS FIRST SIGNED INTO LAW IN 1972 BY GOVERNOR RONALD REAGAN.

Top bureaucrats in the Department of Fish and Game

and the NRA are playing a game of "chicken" with the public. The bureaucrats are dragging their feet in enforcing existing law that requires them to kill mountain lions "perceived to be an imminent threat" to any person, until they get the nearly \$3 million they say they need to do their job. The NRA, the Gun Owners, and Safari Club oppose any clarification of law or additional funds for management unless sport or trophy hunting is legalized. That's political blackmail.

OPPOSE PROPOSITION 197.

Hunting mountain lions for sport is cruel and unnecessary. A pack of radio collared hounds is set on the trail of the big cat until the exhausted lion seeks refuge in a tree. The trophy hunter (who often is called in from out-of-state after paying huge fees to the houndsmen) then drives in to blast the lion off the limb at point blank range. When nursing mothers are shot, the kittens starve. Often, the head is severed from the carcass and becomes the "trophy"—stuffed and put on a wall.

THIS IS NOT SPORT; IT IS SLAUGHTER!

Send the Legislature a clear message: We don't want trophy hunting of lions legalized! We want mountain lions managed like any other wildlife resource.

Proposition 197 cleverly legalizes sport hunting of mountain lions.

JOIN WITH THE SIERRA CLUB—

VOTE NO ON PROPOSITION 197.

DON'T BE FOOLED BY THE GUN OWNERS' LOBBYISTS.

HENRY MELLO

State Senator, Watsonville

MAURICE H. GETTY

President, California Park Rangers Association

WAYNE PACELE

Vice President of Government Affairs

Humane Society of the U.S.

Rebuttal to Argument Against Proposition 197

The opposition is wrong! Proposition 197 has *nothing* to do with trophy hunting. *It is about restoring common sense to wildlife management.*

Current law prohibits the Department of Fish and Game from doing its job of managing California's wildlife and controlling the mountain lion population explosion. Proposition 197 requires experts at the Department adopt a sensible approach to wildlife management.

Nature is a precious resource, but because the lion population has recently doubled, the delicate balance has been shattered. Look at some alarming incidents recently reported by the media:

Two small children woke up one morning without a mother because a lion ate her;

A lion preying upon neighborhood pets was found with parts of five different puppies in its stomach;

Some schools have had to cancel recess because lions were found to be lurking around the playground.

It is time to let the experts at Fish and Game do their job—they must be allowed to manage the lion. These are

not bloodthirsty hunters. These are experts concerned about preserving and protecting California's precious environmental balance.

Wildlife experts and biologists are responsible for managing *all* species. The mountain lion is preventing them from doing their job. They must manage the lion population to save the thousands of deer, elk, and endangered bighorn sheep being eaten each year.

The Department of Fish and Game and wildlife experts agree—We need Proposition 197 to restore common sense to wildlife management. Cast your vote for the environment. Vote yes on Proposition 197.

TERRENCE M. EAGAN

Former Undersecretary, California Resources Agency

WAYNE LONG

Former Chairman, California Resource Conservation Commission

STEVEN J. ARROYO

Father of Mountain Lion Attack Victim

190.2. (a) The penalty for a defendant *who is found guilty of murder in the first degree shall be is death or confinement imprisonment in the state prison for a term of life without the possibility of parole in any case in which if one or more of the following special circumstances has been found under Section 190.4 ; to be true:*

- (1) The murder was intentional and carried out for financial gain.
- (2) The defendant was ~~previously~~ convicted ~~previously~~ of murder in the first degree or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.
- (3) The defendant ~~has~~, in this proceeding, ~~has~~ been convicted of more than one offense of murder in the first or second degree.
- (4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to ~~a human being one or more human beings.~~
- (5) The murder was committed for the purpose of avoiding or preventing a lawful arrest or ~~to perfect, or attempt, or perfecting or attempting to perfect, an escape from lawful custody.~~
- (6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or ~~caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to a human being one or more human beings.~~
- (7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the ~~above enumerated above-enumerated sections of the Penal Code, or a former peace officer under any of such those sections, and was intentionally killed in retaliation for the performance of his or her official duties.~~
- (8) The victim was a federal law enforcement officer or agent; who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent; engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.
- (9) The victim was a firefighter, as defined in Section 245.1, who, while gaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.
- (10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission; or attempted commission, of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.
- (11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.
- (12) The victim was a judge or former judge of any court of record in the local, state, or federal system in ~~the State of California, or in this or any other state of the United States, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.~~
- (13) The victim was an elected or appointed official or former official of the federal government, or of a any local or state government of California, ~~or of any local or state government of any other state in the United States this or any other state, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.~~
- (14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As ~~utilized used~~ in this section, the phrase ~~especially~~ "especially heinous, atrocious, or cruel, manifesting exceptional ~~depravity depravity~~" means a conscienceless, or pitiless crime ~~which that~~ is unnecessarily torturous to the victim.

- (15) The defendant intentionally killed the victim while lying in wait.
- (16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.
- (17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:
 - (i) Robbery in violation of Section 211 or 212.5.
 - (ii) Kidnapping in violation of Section 207 or, 209, or 209.5.
 - (iii) Rape in violation of Section 261.
 - (iv) Sodomy in violation of Section 286.
 - (v) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.
 - (vi) Oral copulation in violation of Section 288a.
 - (vii) Burglary in the first or second degree in violation of Section 460.
 - (viii) Arson in violation of subdivision (b) of Section 451.
 - (ix) Train wrecking in violation of Section 219.
 - (x) Mayhem in violation of Section 203.
 - (xi) Rape by instrument in violation of Section 289.
 - (xii) Carjacking, as defined in Section 215.
- (18) The murder was intentional and involved the infliction of torture.
- (19) The defendant intentionally killed the victim by the administration of poison.

(20) *The victim was a juror in any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.*

(21) *The murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death. For purposes of this paragraph, "motor vehicle" means any vehicle as defined in Section 415 of the Vehicle Code.*

(b) Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer, as to whom such the special circumstance has been found to be true under Section 190.4, need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in the state prison for ~~a term of life without the possibility of parole.~~

(c) Every person, not the actual killer, who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall ~~suffer be punished by death or confinement imprisonment in the state prison for a term of life without the possibility of parole, in any case in which if one or more of the special circumstances enumerated in subdivision (a) of this section has been found to be true under Section 190.4.~~

(d) Notwithstanding subdivision (c), every person, not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a); which ~~felony~~ results in the death of some person or persons, and who is found guilty of murder in the first degree therefor, shall ~~suffer be punished by death or confinement imprisonment in the state prison for life without the possibility of parole, in any case in which if a special circumstance enumerated in paragraph (17) of subdivision (a) of this section has been found to be true under Section 190.4.~~

The penalty shall be determined as provided in ~~this section and Sections 190.1, 190.2, 190.3, 190.4, and 190.5.~~

SEC. 3. This act affects an initiative statute, and shall become effective only when submitted to, and approved by, the voters pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

SEC. 4. Section 2 of this bill incorporates amendments to Section 190.2 of the Penal Code proposed by both this bill and SB 32. It shall only become operative if (1) both this bill and SB 32 are submitted to and approved by the voters pursuant to subdivision (c) of Section 10 of Article II of the California Constitution and become effective on the same date, (2) each bill amends Section 190.2 of the Penal Code, and (3) this bill receives more affirmative votes from the voters than SB 32, in which case Section 1 of this bill shall not become operative.

Proposition 197: Text of Proposed Law

This law proposed by Senate Bill 28 (Statutes of 1995, Chapter 779) is submitted to the people in accordance with the provisions of Article II, Section 10 of the Constitution.

This proposed law amends and adds sections to the Fish and Game Code, and adds a section of an initiative; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. The Legislature finds and declares, as follows:

(a) It is appropriate for the Legislature and the Department of Fish and Game to act prudently to address the needs of our changing society. California's complex and ever-changing population requires that the department and the Legislature respond to emergencies and exigencies to safeguard the health and safety of the people of the state and to balance the needs of the people with the necessity to

preserve the wildlife and its habitat for the enjoyment of the people.

(b) The wildlife species known as the mountain lion is the only specially protected mammal in the State of California; the mountain lion species is neither threatened nor endangered in the State of California; and the management of mountain lions by the Department of Fish and Game is prohibited by the passage of Proposition 117 by the voters in June, 1990.

(c) The presence of mountain lions pose a threat to people, pets, and livestock, as evidenced by the dramatic increase in the number of life-threatening and life-taking confrontations between mountain lions and people, including at least two confirmed deaths from mountain lion attacks in the past 12 months.

(d) The increase in mountain lion sightings and incidents in residential areas has caused great concern for the safety and well-being of rural and suburban residents, including small children.

(e) Wildlife authorities have determined that sightings and incidents involving mountain lions and people will continue to increase.

(f) The escalating loss of life and cost of injury to people, pets, and livestock caused by mountain lions has resulted, and will continue to result, in increased expenditures by public safety agencies.

(g) Proposition 117 mandates the expenditure of nine hundred million taxpayer dollars at a rate of thirty million dollars per year for thirty years, none of which is used to protect people or manage mountain lions.

(h) In order to maintain a healthy population and to minimize confrontations with humans and livestock, it is necessary to prepare and implement scientifically sound management plans.

SEC. 2. Section 2786 of the Fish and Game Code is amended to read:

2786. Except as otherwise expressly provided in paragraph (3) of subdivision (a) of Section 2787, the money in the Habitat Conservation Fund, which is hereby created, shall be used for the following purposes:

(a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions.

(b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species.

(c) The acquisition of habitat to further implement the Habitat Conservation Program pursuant to Article 2 (commencing with Section 2721) excepting Section 2722 and subdivision (a) of Section 2723, and Sections 2724 and 2729.

(d) The acquisition, enhancement, or restoration of wetlands.

(e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources.

(f) The acquisition, restoration, or enhancement of riparian habitat.

(g) The preparation and implementation of a mountain lion management plan pursuant to Section 4800.

SEC. 3. Section 2787 of the Fish and Game Code is amended to read:

2787. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, as follows:

(a) To the Department of Parks and Recreation, four million five hundred thousand dollars (\$4,500,000) annually for allocation as follows:

(1) One million five hundred thousand dollars (\$1,500,000) for projects that are located in the Santa Lucia Mountain Range in Monterey County for expenditure by the Department of Parks and Recreation and for grants to the Monterey Peninsula Regional Park District.

(2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of the state park system.

(3) Two million dollars (\$2,000,000) for 50 percent matching grants to local agencies for projects meeting the purposes specified in Section 2786 and, additionally, for the acquisition of wildlife corridors and urban trails, nature interpretation programs, and other programs which bring urban residents into park and wildlife areas. The grants made pursuant to this subdivision are subject to the conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the Public Resources Code, as nearly as may be practicable.

(b) To the State Coastal Conservancy, four million dollars (\$4,000,000) annually.

(c) To the Santa Monica Mountains Conservancy, five million dollars (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990-91 fiscal year. The money shall be used for the purposes specified in Section 2786 for wildlife habitat, and for related open-space projects, within the Santa Monica Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita Woodlands. Of the total amount appropriated pursuant to this subdivision, not less than a total of ten million dollars (\$10,000,000) shall be spent within the Santa Susana Mountains and the Simi Hills, and not less than a total of ten million dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These funds shall be expended in accordance with Division 23 (commencing with Section 33000) of the Public Resources Code during the operative period of this section as specified in subdivision (f) and in Section 2797. The Legislature may, by statute, extend the period for expenditure of the funds provided by this paragraph subdivision.

(d) To the California Tahoe Conservancy, five hundred thousand dollars (\$500,000) annually.

(e) To the department to pay the costs of preparing and implementing the mountain lion management plan pursuant to Section 4800, a sum not to exceed two hundred fifty thousand dollars (\$250,000) for each of the 1996-97, 1997-98, and 1998-99 fiscal years, and a sum not to exceed one hundred thousand dollars (\$100,000) for each fiscal year thereafter. It is also the intent of the Legislature that an amount not to exceed two hundred fifty thousand dollars (\$250,000) be appropriated annually from a source or sources other than the fund for public safety and public information programs related to mountain lions.

(f) To the board, the balance of the fund.

(g) This section (g) The amendments to this section, as approved by the voters at the March 26, 1996, primary election, shall become operative on July 1, 1996, and,

as of March 27, 1996. This section shall remain in effect until July 1, 2020, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2020, deletes or extends that date.

SEC. 4. Section 4800 of the Fish and Game Code is amended to read:

4800. (a) ~~The commission shall regulate the mountain lion (genus Felis) is a specially protected mammal pursuant to Chapter 2 (commencing with Section 200) of Division 1, and the department shall carry out the regulations of the commission and manage those mammals in the same manner as it carries out other regulations of the commission and manages other mammals that are not rare, endangered, or threatened species under the laws of this state.~~

(b) Pursuant to subdivision (a), the department shall prepare, submit to the commission for approval, and implement a mountain lion management plan that promotes health and safety protection and protection for livestock, domestic animals, other property, and other wildlife species and that implements Section 1801. The plan shall identify zones based on the department's estimates of mountain lion densities developed from the best information available to the department. The department shall designate the zones that are priority zones where the removal of individual mountain lions to protect public safety, livestock, domestic animals, other property, and other wildlife species has not alleviated threats. In designating priority zones, the department may consider, based on the best information available to the department, where the mountain lion population is depleting other wildlife species or where the mountain lion population may cause any of the following: (1) the extinction of threatened or endangered species; (2) mountain lion depredation of livestock and domestic animals; or (3) a threat to public health and safety. The taking of a mountain lion that is attacking an individual member of a wildlife species other than threatened or endangered species shall not be authorized based on that act alone. Except as otherwise provided in this chapter, the department shall not manage, regulate, or take mountain lions in a priority zone, as provided in this section or Section 4801, unless there is a plan for that zone and the department makes a finding that managing, regulating, or taking mountain lions is consistent with the plan for that zone and maintains a viable mountain lion population in that zone.

(c) It is unlawful to take, injure, possess, transport, import, or sell any mountain lion or any part or product thereof, except as specifically provided in this chapter or, in Chapter 2 (commencing with Section 2116) of Division 3, or as prescribed in regulations of the commission. This chapter does not prohibit the sale or possession of any mountain lion or any part or product thereof, when the owner can demonstrate that the mountain lion, or part or product thereof, was in the person's possession on June 6, 1990.

(d) Any violation of this section is a misdemeanor punishable by imprisonment in the county jail for not more than one year, or a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment. An individual is not guilty of a violation of this section if it is demonstrated that, in taking or injuring a mountain lion, the individual was acting in self-defense or defense of others.

(e) Section 219 does not apply to this chapter. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes any of the provisions of this chapter.

(f) In the case of conflict between this chapter and the California Endangered Species Act, Chapter 1.5 (commencing with Section 2050) of Division 3, the California Endangered Species Act shall prevail.

SEC. 5. Section 4801 of the Fish and Game Code is amended to read:

4801. The department may remove or take any mountain lion, or authorize its designee, including, but not limited to, an appropriate local governmental agency with public safety responsibility to remove or take any mountain lion, that is, an appropriate governmental agency with wildlife management responsibility, or an owner of land, to remove or take, one or more mountain lions that are perceived to be an imminent threat to public health or safety or livestock anywhere in the state except within the state park system. Within the state park system, the department may remove or take, or authorize an appropriate governmental agency with public safety responsibility or an appropriate governmental agency with wildlife management responsibility to remove or take, one or more mountain lions that are perceived to be an imminent threat to public health or safety only with the concurrence of the Department of Parks and Recreation.

SEC. 6. Section 4801.5 is added to the Fish and Game Code, to read:

4801.5. Prior to submittal to, and approval by, the commission of the plan required pursuant to subdivision (b) of Section 4800, the department may remove or take any mountain lion, or authorize an appropriate local agency with public safety responsibility to remove or take any mountain lion, that is perceived to be an imminent threat to public health or safety.

SEC. 7. Section 4806 of the Fish and Game Code is amended to read:

4806. Any person who has captured, injured, or killed a mountain lion within a priority zone identified in a mountain lion management plan under Section 4800 or who has been issued a permit pursuant to Section 4803 or 4805 shall report, by telephone within 24 hours, the capturing, injuring, or killing of any mountain lion to an office of the department or, if telephoning is not practicable, in writing within five days after the capturing, injuring, or killing of the mountain lion. At the time of making the report of the capturing, injuring, or killing, the person authorized to take the mountain lion under a mountain lion management plan approved pursuant to Section 4800 shall make the remains of the mountain lion available for inspection to department personnel upon their request pursuant to regulations adopted by the commission and the holder of the permit under Section 4803 or 4805 shall make arrangements to turn over the mountain lion or the entire carcass of the mountain lion which has been recovered to a representative of the department and shall do so in a timely manner.

SEC. 8. Section 8 of the California Wildlife Protection Act of 1990, as added by Proposition 117, an initiative measure approved by the electors at the June 5,

1990, primary election, is amended to read:

Sec. 8. Except for amendments of subdivisions (c) and (f) (g) of Section 2787 and subdivision (d) of Section 2796 of the Fish and Game Code to extend the operative effect of those sections and amendments of Section 3950.1 and Chapter 10 (commencing with Section 4800) of Part 3 of Division 4 of the Fish and Game Code, which may be enacted by statute enacted by the Legislature, this act shall be amended only by a statute approved by a vote of four-fifths of the members of both houses of the Legislature. *Except for amendments of Section 3950.1 and*

Chapter 10 (commencing with Section 4800) of Part 3 of Division 4 of the Fish and Game Code, Any amendment of this act shall be consistent with, and further the purposes of, this act, except the Legislature shall not reallocate the funds allocated by Sections 2787 and 2788 of the Fish and Game Code, change the expenditure requirements of Section 2791 of the Fish and Game Code, or change the transfers of funds required by Sections 2795 and 2796 of the Fish and Game Code.

Proposition 198: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to the Elections Code; therefore, existing provisions proposed to be deleted are printed in **strikeout type** and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This act shall be known and may be cited as the "Open Primary Act."

SEC. 2. Section 2001 is added to the Elections Code, to read:

2001. *All persons entitled to vote, including those not affiliated with any political party, shall have the right to vote, except as otherwise provided by law, at any election in which they are qualified to vote, for any candidate regardless of the candidate's political affiliation.*

SEC. 3. Section 2151 of the Elections Code is amended to read:

2151. At the time of registering and of transferring registration, each elector may declare the name of the political party with which he or she intends to affiliate at the ensuing primary election. The name of that political party shall be stated in the affidavit of registration and the index.

The voter registration card shall inform the affiant that any elector may decline to state a political affiliation, **but no person shall be entitled to vote the ballot of any political party and that all properly registered voters may vote for their choice at any primary election unless he or she has stated the name of the party with which he or she intends to affiliate for any candidate for each office regardless of political affiliation and without a declaration of political faith or allegiance.** The voter registration card shall include a listing of all qualified political parties.

No

Notwithstanding any provision to the contrary, no person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party for any elective political party central or district committee member other than the party designated in his or her registration, except as provided by Section 2152.

SEC. 4. Section 13102 of the Elections Code is amended to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, **but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot listing all candidates for public office, in accordance with subdivision (b).**

(b) **At partisan such primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan an official primary ballot. The nonpartisan official primary ballot shall contain only the names of all candidates for nonpartisan and partisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.**

SEC. 5. Section 13203 of the Elections Code is amended to read:

13203. Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 30-point, the words "OFFICIAL BALLOT." However, if the ballot is no wider than a single column, the words "OFFICIAL BALLOT" may be as small as 24-point. Beneath this heading, in the case of **a partisan an official primary election, shall be printed in 18-point boldfaced gothic capital type the official party designation or the words "NONPARTISAN "OFFICIAL PRIMARY BALLOT" as applicable.** Beneath the heading line or lines, there shall be printed, in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.

SEC. 6. Section 13206 of the Elections Code is amended to read:

13206. (a) On the **partisan** ballot used in a direct primary election, immediately below the instructions to voters, there shall be a box one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the **partisan** ballot and shall be set directly above these columns. Within the box shall be printed in 24-point boldfaced gothic capital type the words "Partisan Offices."

(b) The same style of box described in subdivision (a) shall also appear over the columns of the nonpartisan part of the ballot and within the box in the same style and point size of type shall be printed "Nonpartisan Offices."

(c) *This section shall not apply to ballots for elective political party central or district committee members prepared in accordance with Section 13300.*

SEC. 7. Section 13203 of the Elections Code is amended to read:

13230. (a) If the county elections official determines that, due to the number of candidates and measures that must be printed on the ballot, the ballot will be larger than may be conveniently handled, the county elections official may provide that a **nonpartisan ballot for nonpartisan offices and measures** shall be given to each **partisan** voter, together with his or her **partisan official primary ballot**, **and that the material appearing under the heading "Nonpartisan Offices" on partisan ballots, as well as the heading itself, shall be omitted from the partisan ballots.**

(b) ~~If the Notwithstanding Section 13300, the county elections official so provides, shall provide that the procedure prescribed for the handling and canvassing of ballots shall be modified to the extent necessary to permit the use of two ballots by partisan voters. The county elections official may, in this case, order the second ballot to be printed on paper of a different tint, and assign to those ballots numbers higher than those assigned to the ballots containing partisan offices for nonpartisan offices and measures.~~

SEC. 8. Section 13300 of the Elections Code is amended to read:

13300. (a) By at least 29 days before the primary election, each county elections official shall prepare **separate identical sample ballots for each political party and a separate sample nonpartisan ballot, placing voter, provided however, that in the case of ballots involving elective political party central or district committee members, each county elections official shall prepare separate ballots for the sole use of persons registered with that party, as provided for in Section 2151. On the official identical primary ballots, each county elections official shall place thereon in each case in the order provided in Chapter 2 (commencing with Section 13100), and under the appropriate title of each office, the names and party affiliations of all candidates organized randomly as provided in Section 13112 and not grouped by political party, for whom nomination papers have been duly filed with him or her or have been certified to him or her by the Secretary of State to be voted for in his or her county at the primary election.**

(b) The sample ~~ballot~~ ballots shall be identical to the official ballots, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) ~~One Except as provided in Section 13230, one sample official primary ballot of the party to which the voter belongs, as evidenced by his or her registration, shall be mailed to each voter entitled to vote at the primary not more than 40 nor less than 10 days before the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as intending to affiliate with any of the parties participating in the primary election.~~

SEC. 9. Section 13301 of the Elections Code is amended to read:

13301. (a) At the time the county elections official prepares sample ballots for **each political party** at the presidential primary, he or she shall also prepare a list with the name of candidates for delegates for each political party. The names of the candidates for delegates of any political party shall be arranged upon the list of candidates for delegates of that party in parallel columns under their preference for President. The order of groups on the list shall be alphabetically according to the names of the persons they prefer appear upon the ballot. Each column shall be headed in boldface 10-point, gothic type as follows: "The following delegates are pledged to _____." (The blank being filled in with the name of that candidate for presidential nominee for whom the members of the group have expressed a preference.) The names of the candidates for delegates shall be printed in eight-point, roman capital type.

(b) Copies of the list of candidates for delegates of each party shall be submitted by the county elections official to the chairman of the county central committee of that party, and the county elections official shall post a copy of each list in a conspicuous place in his or her office.

SEC. 10. Section 13302 of the Elections Code is amended to read:

13302. The county elections official shall forthwith submit the sample **official primary ballot of each political party** to the chairperson of the county central committee of **that each political party**, and shall mail a copy to each candidate for whom nomination papers have been filed in his or her office or whose name has been certified to him or her by the Secretary of State, to the post office address as given in the nomination paper or certification. The county elections official shall post a copy of **each the** sample ballot in a conspicuous place in his or her office.

SEC. 11. (a) No provision of this act may be changed except by a vote of the people.

(b) The Legislature shall amend or delete other provisions of law not encompassed by this act which conflict with the provisions herein in order to bring them into conformity with this act.

SEC. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.