

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1958**

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**Introduced by Assembly Member Wood**

February 12, 2016

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An act to amend Sections 4584 and 4621 of the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

AB 1958, as amended, Wood. Forestry: timberlands: restoration and conservation forest management activities.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities.

This bill would also, until 7 years after the effective date of regulations adopted by the board implementing the provisions of the bill, authorize the board to exempt a person cutting or removing trees in specified areas, including through commercial harvest, to restore and conserve California black or Oregon white oak woodlands and associated grasslands, as specified. *The bill would require the department to evaluate the effects of this authorization and make recommendations based on that evaluation to the Legislature.*

Existing law also requires a person who owns timberlands that are to be devoted to uses other than the growing of timber to file an application for conversion with the board and requires the board to establish a system of graduated timberland conversion permit fees.

This bill would define “growing of timber,” for these purposes, to include restoration and conservation forest management activities, which may include the removal of commercial species, if necessary to achieve specific forest health and ecological goals, that are not conducted in conjunction with the cutting or removal of trees or other forest products during the conversion of timberlands to other uses.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 4584 of the Public Resources Code is  
2 amended to read:  
3 4584. Upon determining that the exemption is consistent with  
4 the purposes of this chapter, the board may exempt from this  
5 chapter, or portions of this chapter, a person engaged in forest  
6 management whose activities are limited to any of the following:  
7 (a) The cutting or removal of trees for the purpose of  
8 constructing or maintaining a right-of-way for utility lines.  
9 (b) The planting, growing, nurturing, shaping, shearing, removal,  
10 or harvest of immature trees for Christmas trees or other ornamental  
11 purposes or minor forest products, including fuelwood.  
12 (c) The cutting or removal of dead, dying, or diseased trees of  
13 any size.  
14 (d) Site preparation.  
15 (e) Maintenance of drainage facilities and soil stabilization  
16 treatments.  
17 (f) Timber operations on land managed by the Department of  
18 Parks and Recreation.  
19 (g) (1) The one-time conversion of less than three acres to a  
20 nontimber use. A person, whether acting as an individual, as a  
21 member of a partnership, or as an officer or employee of a  
22 corporation or other legal entity, shall not obtain more than one  
23 exemption pursuant to this subdivision in a five-year period. If a  
24 partnership has as a member, or if a corporation or other legal  
25 entity has as an officer or employee, a person who has received

1 this exemption within the past five years, whether as an individual,  
2 as a member of a partnership, or as an officer or employee of a  
3 corporation or other legal entity, then that partnership, corporation,  
4 or other legal entity is not eligible for this exemption. “Person,”  
5 for purposes of this subdivision, means an individual, partnership,  
6 corporation, or other legal entity.

7 (2) (A) Notwithstanding Section 4554.5, the board shall adopt  
8 regulations that do all of the following:

9 (i) Identify the required documentation of a bona fide intent to  
10 complete the conversion that an applicant will need to submit in  
11 order to be eligible for the exemption in paragraph (1).

12 (ii) Authorize the department to inspect the sites approved in  
13 conversion applications that have been approved on or after January  
14 1, 2002, in order to determine that the conversion was completed  
15 within the two-year period described in subparagraph (B) of  
16 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of  
17 the California Code of Regulations.

18 (iii) Require the exemption pursuant to this subdivision to expire  
19 if there is a change in timberland ownership. The person who  
20 originally submitted an application for an exemption pursuant to  
21 this subdivision shall notify the department of a change in  
22 timberland ownership on or before five calendar days after a change  
23 in ownership.

24 (iv) The board may adopt regulations allowing a waiver of the  
25 five-year limitation described in paragraph (1) upon finding that  
26 the imposition of the five-year limitation would impose an undue  
27 hardship on the applicant for the exemption. The board may adopt  
28 a process for an appeal of a denial of a waiver.

29 (B) The application form for the exemption pursuant to  
30 paragraph (1) shall prominently advise the public that a violation  
31 of the conversion exemption, including a conversion applied for  
32 in the name of someone other than the person or entity  
33 implementing the conversion in bona fide good faith, is a violation  
34 of this chapter and penalties may accrue up to ten thousand dollars  
35 (\$10,000) for each violation pursuant to Article 8 (commencing  
36 with Section 4601).

37 (h) An easement granted by a right-of-way construction  
38 agreement administered by the federal government if timber sales  
39 and operations within or affecting the area are reviewed and

1 conducted pursuant to the National Environmental Policy Act of  
2 1969 (42 U.S.C. Sec. 4321 et seq.).

3 (i) (1) The cutting or removal of trees in compliance with  
4 Sections 4290 and 4291 that eliminates the vertical continuity of  
5 vegetative fuels and the horizontal continuity of tree crowns for  
6 the purpose of reducing flammable materials and maintaining a  
7 fuel break for a distance of not more than 150 feet on each side  
8 from an approved and legally permitted structure that complies  
9 with the California Building Standards Code, when that cutting or  
10 removal is conducted in compliance with this subdivision. For  
11 purposes of this subdivision, an “approved and legally permitted  
12 structure” includes only structures that are designed for human  
13 occupancy and garages, barns, stables, and structures used to  
14 enclose fuel tanks.

15 (2) (A) The cutting or removal of trees pursuant to this  
16 subdivision is limited to cutting or removal that will result in a  
17 reduction in the rate of fire spread, fire duration and intensity, fuel  
18 ignitability, or ignition of the tree crowns and shall be in  
19 accordance with any regulations adopted by the board pursuant to  
20 this section.

21 (B) Trees shall not be cut or removed pursuant to this  
22 subdivision by the clearcutting regeneration method, by the seed  
23 tree removal step of the seed tree regeneration method, or by the  
24 shelterwood removal step of the shelterwood regeneration method.

25 (3) (A) Surface fuels, including logging slash and debris, low  
26 brush, and deadwood, that could promote the spread of wildfire  
27 shall be chipped, burned, or otherwise removed from all areas of  
28 timber operations within 45 days from the date of commencement  
29 of timber operations pursuant to this subdivision.

30 (B) (i) All surface fuels that are not chipped, burned, or  
31 otherwise removed from all areas of timber operations within 45  
32 days from the date of commencement of timber operations may  
33 be determined to be a nuisance and subject to abatement by the  
34 department or the city or county having jurisdiction.

35 (ii) The costs incurred by the department, city, or county, as the  
36 case may be, to abate the nuisance upon a parcel of land subject  
37 to the timber operations, including, but not limited to, investigation,  
38 boundary determination, measurement, and other related costs,  
39 may be recovered by special assessment and lien against the parcel  
40 of land by the department, city, or county. The assessment may

1 be collected at the same time and in the same manner as ordinary  
2 ad valorem taxes, and shall be subject to the same penalties and  
3 the same procedure and sale in case of delinquency as is provided  
4 for ad valorem taxes.

5 (4) All timber operations conducted pursuant to this subdivision  
6 shall conform to applicable city or county general plans, city or  
7 county implementing ordinances, and city or county zoning  
8 ordinances. This paragraph does not authorize the cutting, removal,  
9 or sale of timber or other solid wood forest products within an area  
10 where timber harvesting is prohibited or otherwise restricted  
11 pursuant to the rules or regulations adopted by the board.

12 (5) (A) The board shall adopt regulations, initially as emergency  
13 regulations in accordance with subparagraph (B), that the board  
14 considers necessary to implement and to obtain compliance with  
15 this subdivision.

16 (B) The emergency regulations adopted pursuant to  
17 subparagraph (A) shall be adopted in accordance with the  
18 Administrative Procedure Act (Chapter 3.5 (commencing with  
19 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
20 Code). The adoption of emergency regulations shall be deemed to  
21 be an emergency and necessary for the immediate preservation of  
22 the public peace, health, and safety, or general welfare.

23 (6) (A) Notwithstanding paragraph (1), the board may exempt  
24 from this chapter, or portions of this chapter, a person engaged in  
25 forest management whose activities are limited to the cutting or  
26 removal of trees on the person's property in compliance with  
27 Sections 4290 and 4291 that eliminates the vertical continuity of  
28 vegetative fuels and the horizontal continuity of tree crowns for  
29 the purpose of reducing flammable materials and maintaining a  
30 fuel break for a distance of not more than 300 feet on each side  
31 from an approved and legally permitted habitable structure, when  
32 that cutting or removal is conducted in compliance with this  
33 subdivision and all of the following conditions are met:

34 (i) The notice of exemption is prepared, signed, and submitted  
35 by a registered professional forester to the department.

36 (ii) For the areas between 150 and 300 feet from the habitable  
37 structure, the operations meet all of the following provisions:

38 (I) The residual stocking standards are consistent with Sections  
39 913.2, 933.2, and 953.2 of Title 14 of the California Code of  
40 Regulations, as appropriate.

1 (II) Activities within this area will increase the quadratic mean  
2 diameter of the stand.

3 (III) The residual stand consists primarily of healthy and  
4 vigorous dominant and codominant trees from the preharvest stand,  
5 well distributed though the harvested area.

6 (IV) Postharvest slash treatment and stand conditions will lead  
7 to more moderate fire behavior in the professional judgment of  
8 the registered professional forester who submits the notice of  
9 exemption.

10 (V) Any additional guidance for slash treatment and postharvest  
11 stand conditions and any other issues deemed necessary that are  
12 consistent with this section, as established by the board.

13 (B) For purposes of this paragraph, “habitable structure” means  
14 a building that contains one or more dwelling units or that can be  
15 occupied for residential use. Buildings occupied for residential  
16 use include single family homes, multidwelling structures, mobile  
17 and manufactured homes, and condominiums. For purposes of this  
18 paragraph “habitable structure” does not include commercial,  
19 industrial, or incidental buildings such as detached garages, barns,  
20 outdoor sanitation facilities, and sheds.

21 (C) The department shall evaluate the effects of this paragraph  
22 and shall report its recommendations, before the paragraph becomes  
23 inoperative, to the Legislature based on that evaluation. The report  
24 shall be submitted in compliance with Section 9795 of the  
25 Government Code.

26 (D) The board shall adopt regulations to implement this  
27 paragraph no later than January 1, 2016.

28 (E) This paragraph shall become inoperative three years after  
29 the effective date of regulations adopted by the board pursuant to  
30 subparagraph (D) but no later than January 1, 2019.

31 (j) (1) The harvesting of trees, limited to those trees that  
32 eliminate the vertical continuity of vegetative fuels and the  
33 horizontal continuity of tree crowns, for the purpose of reducing  
34 the rate of fire spread, duration and intensity, fuel ignitability, or  
35 ignition of tree crowns.

36 (2) The board may authorize an exemption pursuant to paragraph  
37 (1) only if the tree harvesting will decrease fuel continuity and  
38 increase the quadratic mean diameter of the stand, and the tree  
39 harvesting area will not exceed 300 acres.

1 (3) Except as provided in paragraph (11), the notice of  
2 exemption, which shall be known as the Forest Fire Prevention  
3 Exemption, may be authorized only if all of the conditions specified  
4 in paragraphs (4) to (10), inclusive, are met.

5 (4) A registered professional forester shall prepare the notice  
6 of exemption and submit it to the director, and include a map of  
7 the area of timber operations that complies with the requirements  
8 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision  
9 (x) of Section 1034 of Title 14 of the California Code of  
10 Regulations.

11 (5) (A) The registered professional forester who submits the  
12 notice of exemption shall include a description of the preharvest  
13 stand structure and a statement of the postharvest stand stocking  
14 levels.

15 (B) The level of residual stocking shall be consistent with  
16 maximum sustained production of high-quality timber products.  
17 The residual stand shall consist primarily of healthy and vigorous  
18 dominant and codominant trees from the preharvest stand. Stocking  
19 shall not be reduced below the standards required by any of the  
20 following provisions that apply to the exemption at issue:

21 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
22 (1) of subdivision (a) of Section 913.3 of Title 14 of the California  
23 Code of Regulations.

24 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
25 (1) of subdivision (a) of Section 933.3 of Title 14 of the California  
26 Code of Regulations.

27 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
28 (1) of subdivision (a) of Section 953.3 of Title 14 of the California  
29 Code of Regulations.

30 (C) If the preharvest dominant and codominant crown canopy  
31 is occupied by trees less than 14 inches in diameter at breast height,  
32 a minimum of 100 trees over four inches in diameter at breast  
33 height shall be retained per acre for Site I, II, and III lands, and a  
34 minimum of 75 trees over four inches in diameter at breast height  
35 shall be retained per acre for Site IV and V lands.

36 (6) (A) The registered professional forester who submits the  
37 notice shall include selection criteria for the trees to be harvested  
38 or the trees to be retained. In the development of fuel reduction  
39 prescriptions, the registered professional forester should consider  
40 retaining habitat elements, where feasible, including, but not

1 limited to, ground level cover necessary for the long-term  
2 management of local wildlife populations.

3 (B) All trees that are harvested or all trees that are retained shall  
4 be marked or sample marked ~~by~~ *by*, or under the supervision ~~of~~  
5 *of*, a registered professional forester before felling operations begin.  
6 The board shall adopt regulations for sample marking for this  
7 section in Title 14 of the California Code of Regulations. Sample  
8 marking shall be limited to homogenous forest stand conditions  
9 typical of plantations.

10 (7) (A) The registered professional forester submitting the  
11 notice, upon submission of the notice, shall provide a confidential  
12 archaeology letter that includes all the information required by  
13 any of the following provisions that apply to the exemption at  
14 issue:

15 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
16 of Section 929.1 of Title 14 of the California Code of Regulations,  
17 and include site records if required pursuant to subdivision (g) of  
18 that section or pursuant to Section 929.5 of Title 14 of the  
19 California Code of Regulations.

20 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
21 of Section 949.1 of Title 14 of the California Code of Regulations,  
22 and include site records if required pursuant to subdivision (g) of  
23 that section or pursuant to Section 949.5 of Title 14 of the  
24 California Code of Regulations.

25 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
26 of Section 969.1 of Title 14 of the California Code of Regulations,  
27 and include site records if required pursuant to subdivision (g) of  
28 that section or pursuant to Section 969.5 of Title 14 of the  
29 California Code of Regulations.

30 (B) The director shall submit a complete copy of the confidential  
31 archaeological letter and two copies of all required archaeological  
32 or historical site records to the appropriate Information Center of  
33 the California Historical Resource Information System within 30  
34 days from the date of notice submittal to the director. Before  
35 submitting the notice to the director, the registered professional  
36 forester shall send a copy of the notice to Native Americans, as  
37 defined in Section 895.1 of Title 14 of the California Code of  
38 Regulations.

39 (8) Only trees less than 18 inches in stump diameter, measured  
40 at eight inches above ground level, may be removed. However,

1 within 500 feet of a legally permitted structure, or in an area  
2 prioritized as a shaded fuel break in a community wildfire  
3 protection plan approved by a public fire agency, if the goal of  
4 fuel reduction cannot be achieved by removing trees less than 18  
5 inches in stump diameter, trees less than 24 inches in stump  
6 diameter may be removed if that removal complies with this section  
7 and is necessary to achieve the goal of fuel reduction. A fuel  
8 reduction effort shall not violate the canopy closure regulations  
9 adopted by the board on June 10, 2004, and as those regulations  
10 may be amended.

11 (9) (A) This subparagraph applies to areas within 500 feet of  
12 a legally permitted structure and in areas prioritized as a shaded  
13 fuel break in a community wildfire protection plan approved by a  
14 public fire agency. The board shall adopt regulations for the  
15 treatment of surface and ladder fuels in the harvest area, including  
16 logging slash and debris, low brush, small trees, and deadwood,  
17 that could promote the spread of wildfire. The regulations adopted  
18 by the board shall be consistent with the standards in the board's  
19 "General Guidelines for Creating Defensible Space" described in  
20 Section 1299.03 of Title 14 of the California Code of Regulations.  
21 Postharvest standards shall include vertical spacing between fuels,  
22 horizontal spacing between fuels, maximum depth of dead ground  
23 surface fuels, and treatment of standing dead fuels, as follows:

24 (i) Ladder and surface fuels shall be spaced to achieve a vertical  
25 clearance distance of eight feet or three times the height of the  
26 postharvest fuels, whichever is the greater distance, measured from  
27 the base of the live crown of the postharvest dominant and  
28 codominant trees to the top of the surface fuels.

29 (ii) Horizontal spacing shall achieve a minimum separation of  
30 two to six times the height of the postharvest fuels, increasing  
31 spacing with increasing slope, measured from the outside branch  
32 edges of the fuels.

33 (iii) Dead surface fuel depth shall be less than nine inches.

34 (iv) Standing dead or dying trees and brush generally shall be  
35 removed. That material, along with live vegetation associated with  
36 the dead vegetation, may be retained for wildlife habitat when  
37 isolated from other vegetation.

38 (B) This subparagraph applies to all areas not described in  
39 subparagraph (A).

1 (i) The postharvest stand shall not contain more than 200 trees  
2 over three inches in diameter per acre.

3 (ii) Vertical spacing shall be achieved by treating dead fuels to  
4 a minimum clearance distance of eight feet measured from the  
5 base of the live crown of the postharvest dominant and codominant  
6 trees to the top of the dead surface fuels.

7 (iii) All logging slash created by the timber operations shall be  
8 treated to achieve a maximum postharvest depth of nine inches  
9 above the ground.

10 (C) The standards required by subparagraphs (A) and (B) shall  
11 be achieved on approximately 80 percent of the treated area. The  
12 treatment shall include chipping, removing, or other methods  
13 necessary to achieve the standards. Ladder and surface fuel  
14 treatments, for any portion of the exemption area where timber  
15 operations have occurred, shall be done within 120 days from the  
16 start of timber operations on that portion of the exemption area or  
17 by April 1 of the year following surface fuel creation on that  
18 portion of the exemption area if the surface fuels are burned.

19 (10) Timber operations shall comply with the requirements of  
20 paragraphs (1) to (10), inclusive, of subdivision (b) of Section  
21 1038 of Title 14 of the California Code of Regulations. Timber  
22 operations in the Lake Tahoe region shall comply instead with the  
23 requirements of paragraphs (1) to (16), inclusive, of subdivision  
24 (f) of Section 1038 of Title 14 of the California Code of  
25 Regulations.

26 (11) A notice of exemption, which shall be known as the Forest  
27 Fire Prevention Pilot Project Exemption, may be authorized if all  
28 of the following conditions are met:

29 (A) The conditions specified in paragraphs (2), (4), (6), (7), and  
30 (10) are met.

31 (B) Only trees less than 24 inches in stump diameter, measured  
32 at eight inches above ground level, may be removed. A fuel  
33 reduction effort shall not violate the canopy closure regulations  
34 adopted by the board on June 10, 2004, and as those regulations  
35 may be amended.

36 (C) (i) The registered professional forester who submits the  
37 notice of exemption shall include a description of the preharvest  
38 stand structure and a statement of the postharvest stand stocking  
39 levels.

1 (ii) The level of residual stocking shall be consistent with  
2 maximum sustained production of high-quality timber products.  
3 The residual stand shall consist primarily of healthy and vigorous  
4 dominant and codominant trees from the preharvest stand. Where  
5 present prior to operations, the overstory canopy closure for trees  
6 greater than 12 inches in diameter at breast height shall not be  
7 reduced below 50 percent. Stocking shall be met with the largest  
8 trees available prior to harvest and shall not be reduced below the  
9 standards required by any of the following provisions that apply  
10 to the exemption at issue:

11 (I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
12 (1) of subdivision (a) of Section 913.3 of Title 14 of the California  
13 Code of Regulations.

14 (II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
15 (1) of subdivision (a) of Section 933.3 of Title 14 of the California  
16 Code of Regulations.

17 (III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
18 (1) of subdivision (a) of Section 953.3 of Title 14 of the California  
19 Code of Regulations.

20 (iii) If the preharvest dominant and codominant crown canopy  
21 is occupied by trees less than 14 inches in diameter at breast height,  
22 a minimum of 100 trees over four inches in diameter at breast  
23 height shall be retained per acre for Site I, II, and III lands, and a  
24 minimum of 75 trees over four inches in diameter at breast height  
25 shall be retained per acre for Site IV and V lands. The retained  
26 trees shall be the largest trees available prior to harvest.

27 (D) The activities conducted pursuant to this paragraph occur  
28 in the Sierra Nevada Region as defined in subdivision (f) of Section  
29 33302, in Modoc, Siskiyou, or Trinity Counties, or in any  
30 combination of these areas.

31 (E) All activities conducted pursuant to this paragraph occur  
32 within the most recent version of the department's Fire Hazard  
33 Severity Zone Map in the moderate, high, and very high fire threat  
34 zones.

35 (F) The department shall maintain records regarding the use of  
36 the exemption granted in this paragraph in order to evaluate the  
37 impact of the exemption on fuel reduction and natural resources  
38 in areas where the exemption has been used.

1 (G) This paragraph shall become inoperative three years after  
2 the effective date of regulations adopted by the board implementing  
3 this paragraph.

4 (12) After the timber operations are complete, the department  
5 shall conduct an onsite inspection to determine compliance with  
6 this subdivision and whether appropriate enforcement action should  
7 be initiated.

8 (k) The cutting or removal of trees, including through  
9 commercial harvest, to restore and conserve California black or  
10 Oregon white oak woodlands and associated grasslands, if all of  
11 the following requirements are met:

12 (1) A registered professional forester shall prepare the notice  
13 of exemption and submit it to the director. The notice shall include  
14 all of the following:

15 (A) A map of the area of timber operations that complies with  
16 the requirements of paragraphs (1), (3), (4), and (7) to (11),  
17 inclusive, of subdivision (x) of Section 1034 of Title 14 of the  
18 California Code of Regulations.

19 (B) A certification signed by the registered professional forester  
20 that *a minimum of 35 square feet of basal area per acre of*  
21 *California black or Oregon white oak, or both, occupy the*  
22 *proposed treatment area at the time the notice is prepared and the*  
23 *timber operation is designed to restore and conserve California*  
24 *black and Oregon white oak woodlands and associated grasslands.*

25 (C) A description of the preharvest stand structure and a  
26 statement of the postharvest stand stocking levels.

27 (2) No tree ~~75 years of age or older~~ *larger than 26 inches in*  
28 *diameter at stump height* shall be harvested for commercial  
29 purposes, which includes use for saw logs, posts and poles, fuel  
30 wood, biomass, or other forest products.

31 (3) *Only conifers within 300 feet of a California black or Oregon*  
32 *white oak that are at minimum four inches in diameter at breast*  
33 *height may be harvested.*

34 (4) *The total area exempted pursuant to this subdivision shall*  
35 *not exceed 300 acres per property per five-year period.*

36 ~~(3)~~

37 (5) Conifer shall be reduced to less than 25 percent of the  
38 combined hardwood and conifer postharvest stand stocking levels.

39 ~~(4)~~

1 (6) No more than 20 percent of the total basal area of  
2 preexisting oak stock shall be cut or removed during harvest.  
3 harvest and a minimum of 35 square feet of basal area per acre  
4 of California black or Oregon white oak, or both, shall be  
5 maintained postharvest.

6 ~~(5)~~

7 (7) The registered professional forester submitting the notice,  
8 upon submission of the notice, shall provide a confidential  
9 archaeology letter that includes all the information required by  
10 paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of  
11 Section 929.1 of Title 14 of the California Code of Regulations,  
12 and site records if required pursuant to subdivision (g) of that  
13 section or pursuant to Section 929.5 of Title 14 of the California  
14 Code of Regulations.

15 ~~(6)~~

16 (8) All slash created by the timber operations shall be treated  
17 to achieve a maximum postharvest depth of 18 inches above the  
18 ground within 24 months of the date of the director receiving the  
19 notice. Slash shall be configured so as to minimize the risk of fire  
20 mortality to the remaining oak trees.

21 ~~(7)~~

22 (9) Timber operations shall comply with the requirements of  
23 paragraphs (1) to (10), inclusive, of subdivision (b) of Section  
24 1038 of Title 14 of the California Code of Regulations.

25 ~~(8)~~

26 (10) On or before January 1, 2018, the board shall adopt  
27 regulations to implement this subdivision.

28 ~~(9)~~

29 (11) This subdivision shall not apply to the Southern Subdistrict  
30 of the Coast Forest District, as defined in Section 895.1 of Title  
31 14 of the California Code of Regulations, or the Southern Forest  
32 District, as defined in Section 909 of Title 14 of the California  
33 Code of Regulations.

34 (12) Within six years after the effective date of the regulations  
35 adopted by the board pursuant to paragraph (10), the department  
36 shall evaluate the effects of this subdivision and make  
37 recommendations based on that evaluation to the Legislature in  
38 a report submitted pursuant to Section 9795 of the Government  
39 Code.

40 ~~(10)~~

1 (13) This subdivision shall become inoperative seven years after  
2 the effective date of the regulations adopted by the board pursuant  
3 to paragraph ~~(8)~~: (10).

4 SEC. 2. Section 4621 of the Public Resources Code is amended  
5 to read:

6 4621. (a) A person who owns timberlands that are to be  
7 devoted to uses other than the growing of timber shall file an  
8 application for conversion with the board. The board shall, by  
9 regulation, prescribe the procedures for, and the form and content  
10 of, the application. An application for a timberland conversion  
11 permit shall be accompanied by an application fee, payable to the  
12 department, in an amount determined by the board pursuant to  
13 subdivision (b).

14 (b) The board shall establish, by regulation, a system of  
15 graduated timberland conversion permit fees to finance the cost  
16 of administering this article.

17 (c) For purposes of this section, “growing of timber” shall  
18 include restoration and conservation forest management activities,  
19 which may include the removal of commercial species, if necessary  
20 to achieve specific forest health and ecological goals, including  
21 the restoration and conservation of oak woodlands, grasslands,  
22 wet meadows, and other ecologically important or unique habitats,  
23 that are not conducted in conjunction with the cutting or removal  
24 of trees or other forest products during the conversion of  
25 timberlands for other uses, including, but not limited to, residential  
26 or commercial developments, production of other agricultural  
27 crops, recreational developments, ski developments, water  
28 development projects, and transportation projects.

BILL ANALYSIS

6

SENATE COMMITTEE ON NATURAL RESOURCES AND WATER  
 Senator Fran Pavley, Chair  
 2015 - 2016 Regular

Bill No: AB 1958 Hearing Date: June 28, 2016

Author:	Wood		
Version:	June 21, 2016	Amended	
Urgency:	No	Fiscal:	Yes
Consultant:	William Craven		

Subject: Forestry: timberlands: restoration and conservation forest management activities

BACKGROUND AND EXISTING LAW

- 1) Prohibits timber operations unless a timber harvest plan (THP) has been prepared by a registered professional forester and approved by the California Department of Forestry (CDF).
- 2) Considers a THP the functional equivalent of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA).
- 3) Requires a THP to contain a description of the location of the planned harvest, the harvest method, measures to avoid excessive erosion, timeframe of operations, and other information required by forest practice rules (FPR) adopted by the Board of Forestry (Board).
- 4) Requires any person who owns timberlands that are to be devoted to uses other than the growing of timber to file a timberland conversion permit with the Board. Prohibits the Board from approving a timberland conversion permit unless the Board makes written findings.

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- 5) Exempts many timber removal activities from the regulatory requirements of THPs, including Christmas tree farms, right-of-ways for utility lines, conversions of less than three acres, fire prevention, defensible space, and dead, dying, and diseased trees. Exemptions are often ministerial, requiring no multi-agency review, but are subject to inspection by CDF.
- 6) The University of California, Agriculture and Natural Resources, Cooperative Extension office in Eureka provided background information that indicates clear patterns of conifer encroachment in white oak and black oak systems

across the North Coast region. Even young conifers are larger than many older oak trees, and that the dominance of trees like Douglas firs can occur in as little as 50 years. Oaks woodlands have conservation values that are worthy of preservation as biological hotspots, and as fire- and drought-resistant woodlands.

PROPOSED LAW

This bill creates an exemption for the restoration of oak woodlands that would allow landowners to remove conifer trees that are crowding out oaks provided various restrictions are met.

ARGUMENTS IN SUPPORT

According to the author, oak woodlands are the most biodiverse terrestrial ecosystems in California and are disappearing at a rapid rate. In some parts of the state, a significant issue is the encroachment of conifers in oak woodlands. Conifers grow rapidly and quickly provide excessive shade that kills oaks, some of which have survived for hundreds of years. Historically, low intensity, but frequent fires prevented this phenomenon, but under our current fire regime the firs are successfully choking out the oaks.

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AB 1958, the author states, clarifies that restoring oak woodlands through the removal of conifers does not require a timber harvest plan from landowners who want to restore their oak woodlands.

Pacific Birds, a habitat joint venture of public agencies and nonprofits, points out that habitat losses in oak woodlands exceed 90 percent in some areas and several oak-dependent bird species have been extirpated from significant portions of the region because of conifers becoming increasingly dominant in many oak woodlands. This group states that this bill would enable private landowners who are interested in oak woodland restoration to face fewer hurdles in accomplishing that goal. This view is shared by the Rural County Representatives of California.

ARGUMENTS IN OPPOSITION

None received

COMMENTS

1. While this proposed exemption is very well-intended, the Committee has become concerned with the over-use of exemptions for the purposes of commercial harvesting of trees. These exemptions are generally ministerial, with no discretionary review by CDF or any of the other sister agencies that normally review THPs such as the Department of Fish and Wildlife or a regional water board. Much of the data regarding exemptions is contained in the analysis of AB 2029 (Dahle) also heard this date by the Committee.

The Committee recommends that language be placed into the bill that directs CDF and the other trustee agencies to make recommendations to the Legislature on how the use of these exemptions can be reduced, and how multi-agency review of harvesting activities can be increased. Staff notes that multi-agency review was the primary intent of AB 1492 (Cmte. on Budget, c.289, statutes of 2012) which established the fee on lumber products that is paid by consumers. This direction to CDF could also involve some participation by the public, which would

strengthen the final work product. To the extent feasible, any agency costs for developing these recommendations should come from the fund balance in the AB 1492 special fund, and not the general fund. The recommendations would be due on or before

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December 31, 2017. (Amendment 1)

- 2. The bill contains a sunset date of 7 years after the adoption of appropriate rules and regulations by the Board of Forestry, which seems too long. The bill directs the Board to finish regulations by January 1, 2018, so the seven years could extend until January, 2025.

AB 2029 (Dahle) proposed a sunset extension until 2023, which staff recommended should instead go until 2020.

In the interest of fairness, staff recommends that the sunset in this bill also be set for December 31, 2020 so that it can be evaluated for its effectiveness and considered in the context of the department's review of all exemptions and emergency notice provisions. (Amendment 2)

SUGGESTED AMENDMENTS

AMENDMENT 1

Direct CDF and other trustee agencies to make recommendations to the Legislature on how the use of exemptions and emergency notices can be reduced, and how multi-agency review of harvesting activities can be increased. Any costs from this analysis and reporting shall be paid by the special fund established by AB 1492 which is intended to pay the public costs associated with the multi-agency review of timber harvest activities. This review should be done in a public process with an opportunity for public participation. The recommendations would be due on or before December 31, 2017.

AMENDMENT 2

Reduce sunset to January 2020.

SUPPORT

Pacific Birds Habitat Joint Venture  
Rural County Representatives of California  
Pacific Forest Trust  
Trust for Public Land  
The Nature Conservancy

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OPPOSITION  
None Received

-- END --



AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 20, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2029**

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**Introduced by Assembly Members ~~Dahle and Gordon Dahle,~~  
*Gordon, and Wood***

February 16, 2016

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An act to amend Section 4584 of, and to repeal Section 4584.1 of, the Public Resources Code, relating to timber harvesting.

LEGISLATIVE COUNSEL'S DIGEST

AB 2029, as amended, Dahle. Timber harvesting plans: exemptions.

The Z'berg-Nejedly Forest Practices Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, including the cutting or removal of trees in compliance with existing law relating to defensible space. In this regard, the act authorizes, until 3 years after the effective date of regulations adopted by the board, the Forest Fire Prevention Pilot Project Exemption if specified conditions are met, including that only trees less than 24 inches in stump diameter, measured at 8 inches above ground level, shall be removed, no new road construction or reconstruction shall occur, and the activities shall be conducted in those portions of 21 counties designated as the Sierra Nevada Region, as

defined, in any part of 7 other counties, or in any combination of these areas.

This bill would authorize the exemption until January 1, 2023, and would expand the exemption to instead permit the removal of trees less than 26 inches in stump diameter, measured at 8 inches above ground level, allow the construction or reconstruction of temporary roads of 600 feet or less on slopes of 40 percent or less, and apply to activities anywhere within those 28 counties, or in any combination of ~~these~~ those areas, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) On October 20, 2015, ~~the~~ Governor *Brown* issued a  
4 proclamation declaring a state of emergency relative to the tree  
5 mortality epidemic in California, characterized by all of the  
6 following conditions:

7 (1) The lack of precipitation over the last four years has made  
8 many regions of the state susceptible to epidemic infestations of  
9 native bark beetles that cause vast tree mortality, with the United  
10 States Forest Service estimating that over 22 million trees are dead  
11 and tens of millions more are likely to die by the end of 2016.

12 (2) Recent scientific measurements suggest that the scale of this  
13 tree die-off is unprecedented in modern history, and the die-off is  
14 of such a scale that it worsens wildfire risk across large regions of  
15 the state, presents safety risks for forested communities, and  
16 worsens the threat of erosion across watersheds.

17 (3) Wildfires release thousands of tons of greenhouse gas  
18 emissions and other harmful pollutants into the atmosphere.

19 (b) The thinning of forests is widely known to provide all of  
20 the following benefits:

21 (1) Reduced threat of wildfires by removing fuel from the forests  
22 as well as a reduced risk of canopy fire.

23 (2) Increased water storage by reducing the need for water in  
24 forests.

25 (3) Conditions that favor healthier, better maintained forests.

1 SEC. 2. Section 4584 of the Public Resources Code is amended  
2 to read:

3 4584. Upon determining that this exemption is consistent with  
4 the purposes of this chapter, the board may exempt from this  
5 chapter, or portions of this chapter, a person engaged in forest  
6 management whose activities are limited to any of the following:

7 (a) The cutting or removal of trees for the purpose of  
8 constructing or maintaining a right-of-way for utility lines.

9 (b) The planting, growing, nurturing, shaping, shearing, removal,  
10 or harvest of immature trees for Christmas trees or other ornamental  
11 purposes or minor forest products, including fuelwood.

12 (c) The cutting or removal of dead, dying, or diseased trees of  
13 any size.

14 (d) Site preparation.

15 (e) Maintenance of drainage facilities and soil stabilization  
16 treatments.

17 (f) Timber operations on land managed by the Department of  
18 Parks and Recreation.

19 (g) (1) The one-time conversion of less than three acres to a  
20 nontimber use. A person, whether acting as an individual, as a  
21 member of a partnership, or as an officer or employee of a  
22 corporation or other legal entity, shall not obtain more than one  
23 exemption pursuant to this subdivision in a five-year period. If a  
24 partnership has as a member, or if a corporation or other legal  
25 entity has as an officer or employee, a person who has received  
26 this exemption within the past five years, whether as an individual,  
27 as a member of a partnership, or as an officer or employee of a  
28 corporation or other legal entity, then that partnership, corporation,  
29 or other legal entity is not eligible for this exemption. "Person,"  
30 for purposes of this subdivision, means an individual, partnership,  
31 corporation, or other legal entity.

32 (2) (A) Notwithstanding Section 4554.5, the board shall adopt  
33 regulations that do all of the following:

34 (i) Identify the required documentation of a bona fide intent to  
35 complete the conversion that an applicant will need to submit in  
36 order to be eligible for the exemption in paragraph (1).

37 (ii) Authorize the department to inspect the sites approved in  
38 conversion applications that have been approved on or after January  
39 1, 2002, in order to determine that the conversion was completed  
40 within the two-year period described in subparagraph (B) of

1 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of  
2 the California Code of Regulations.

3 (iii) Require the exemption pursuant to this subdivision to expire  
4 if there is a change in timberland ownership. The person who  
5 originally submitted an application for an exemption pursuant to  
6 this subdivision shall notify the department of a change in  
7 timberland ownership on or before five calendar days after a change  
8 in ownership.

9 (iv) The board may adopt regulations allowing a waiver of the  
10 five-year limitation described in paragraph (1) upon finding that  
11 the imposition of the five-year limitation would impose an undue  
12 hardship on the applicant for the exemption. The board may adopt  
13 a process for an appeal of a denial of a waiver.

14 (B) The application form for the exemption pursuant to  
15 paragraph (1) shall prominently advise the public that a violation  
16 of the conversion exemption, including a conversion applied for  
17 in the name of someone other than the person or entity  
18 implementing the conversion in bona fide good faith, is a violation  
19 of this chapter and penalties may accrue up to ten thousand dollars  
20 (\$10,000) for each violation pursuant to Article 8 (commencing  
21 with Section 4601).

22 (h) Easements granted by a right-of-way construction agreement  
23 administered by the federal government if timber sales and  
24 operations within or affecting these areas are reviewed and  
25 conducted pursuant to the National Environmental Policy Act of  
26 1969 (42 U.S.C. Sec. 4321 et seq.).

27 (i) (1) The cutting or removal of trees in compliance with  
28 Sections 4290 and 4291 that eliminates the vertical continuity of  
29 vegetative fuels and the horizontal continuity of tree crowns for  
30 the purpose of reducing flammable materials and maintaining a  
31 fuel break for a distance of not more than 150 feet on each side  
32 from an approved and legally permitted structure that complies  
33 with the California Building Standards Code, when that cutting or  
34 removal is conducted in compliance with this subdivision. For  
35 purposes of this subdivision, an “approved and legally permitted  
36 structure” includes only structures that are designed for human  
37 ~~occupancy~~ and *occupancy*, garages, barns, stables, and structures  
38 used to enclose fuel tanks.

39 (2) (A) The cutting or removal of trees pursuant to this  
40 subdivision is limited to cutting or removal that will result in a

1 reduction in the rate of fire spread, fire duration and intensity, fuel  
2 ignitability, or ignition of the tree crowns and shall be in  
3 accordance with any regulations adopted by the board pursuant to  
4 this section.

5 (B) Trees shall not be cut or removed pursuant to this  
6 subdivision by the clearcutting regeneration method, by the seed  
7 tree removal step of the seed tree regeneration method, or by the  
8 shelterwood removal step of the shelterwood regeneration method.

9 (3) (A) Surface fuels, including logging slash and debris, low  
10 brush, and deadwood, that could promote the spread of wildfire  
11 shall be chipped, burned, or otherwise removed from all areas of  
12 timber operations within 45 days from the date of commencement  
13 of timber operations pursuant to this subdivision.

14 (B) (i) All surface fuels that are not chipped, burned, or  
15 otherwise removed from all areas of timber operations within 45  
16 days from the date of commencement of timber operations may  
17 be determined to be a nuisance and subject to abatement by the  
18 department or the city or county having jurisdiction.

19 (ii) The costs incurred by the department, city, or county, as the  
20 case may be, to abate the nuisance upon a parcel of land subject  
21 to the timber operations, including, but not limited to, investigation,  
22 boundary determination, measurement, and other related costs,  
23 may be recovered by special assessment and lien against the parcel  
24 of land by the department, city, or county. The assessment may  
25 be collected at the same time and in the same manner as ordinary  
26 ad valorem taxes, and shall be subject to the same penalties and  
27 the same procedure and sale in case of delinquency as is provided  
28 for ad valorem taxes.

29 (4) All timber operations conducted pursuant to this subdivision  
30 shall conform to applicable city or county general plans, city or  
31 county implementing ordinances, and city or county zoning  
32 ordinances. This paragraph does not authorize the cutting, removal,  
33 or sale of timber or other solid wood forest products within an area  
34 where timber harvesting is prohibited or otherwise restricted  
35 pursuant to the rules or regulations adopted by the board.

36 (5) (A) The board shall adopt regulations, initially as emergency  
37 regulations in accordance with subparagraph (B), that the board  
38 considers necessary to implement and to obtain compliance with  
39 this subdivision.

1 (B) The emergency regulations adopted pursuant to  
2 subparagraph (A) shall be adopted in accordance with the  
3 Administrative Procedure Act (Chapter 3.5 (commencing with  
4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
5 Code). The adoption of emergency regulations shall be deemed to  
6 be an emergency and necessary for the immediate preservation of  
7 the public peace, health, and safety, or general welfare.

8 (6) (A) Notwithstanding paragraph (1), the board may exempt  
9 from this chapter, or portions of this chapter, a person engaged in  
10 forest management whose activities are limited to the cutting or  
11 removal of trees on the person's property in compliance with  
12 Sections 4290 and 4291 that eliminates the vertical continuity of  
13 vegetative fuels and the horizontal continuity of tree crowns for  
14 the purpose of reducing flammable materials and maintaining a  
15 fuel break for a distance of not more than 300 feet on each side  
16 from an approved and legally permitted habitable structure, when  
17 that cutting or removal is conducted in compliance with this  
18 subdivision and all of the following conditions are met:

19 (i) The notice of exemption is prepared, signed, and submitted  
20 by a registered professional forester to the department.

21 (ii) For the areas between 150 and 300 feet from the habitable  
22 structure, the operations meet all of the following provisions:

23 (I) The residual stocking standards are consistent with Sections  
24 913.2, 933.2, and 953.2 of Title 14 of the California Code of  
25 Regulations, as appropriate.

26 (II) Activities within this area will increase the quadratic mean  
27 diameter of the stand.

28 (III) The residual stand consists primarily of healthy and  
29 vigorous dominant and codominant trees from the preharvest stand,  
30 well distributed through the harvested area.

31 (IV) Postharvest slash treatment and stand conditions will lead  
32 to more moderate fire behavior in the professional judgment of  
33 the registered professional forester who submits the notice of  
34 exemption.

35 (V) Any additional guidance for slash treatment and postharvest  
36 stand conditions and any other issues deemed necessary that are  
37 consistent with this section, as established by the board.

38 (B) For purposes of this paragraph, "habitable structure" means  
39 a building that contains one or more dwelling units or that can be  
40 occupied for residential use. Buildings occupied for residential

1 use include single family homes, multidwelling structures, mobile  
2 and manufactured homes, and condominiums. For purposes of this  
3 paragraph “habitable structure” does not include commercial,  
4 industrial, or incidental buildings such as detached garages, barns,  
5 outdoor sanitation facilities, and sheds.

6 (C) The department shall evaluate the effects of this paragraph  
7 and shall report its recommendations, before the paragraph becomes  
8 inoperative, to the Legislature based on that evaluation. The report  
9 shall be submitted in compliance with Section 9795 of the  
10 Government Code.

11 (D) The board shall adopt regulations to implement this  
12 paragraph no later than January 1, 2016.

13 (E) This paragraph shall become inoperative three years after  
14 the effective date of regulations adopted by the board pursuant to  
15 subparagraph (D) but no later than January 1, 2019.

16 (j) (1) The harvesting of trees, limited to those trees that  
17 eliminate the vertical continuity of vegetative fuels and the  
18 horizontal continuity of tree crowns, for the purpose of reducing  
19 the rate of fire spread, duration and intensity, fuel ignitability, or  
20 ignition of tree crowns.

21 (2) The board may authorize an exemption pursuant to paragraph  
22 (1) only if the tree harvesting will decrease fuel continuity and  
23 increase the quadratic mean diameter of the stand, and the tree  
24 harvesting area will not exceed 300 acres.

25 (3) Except as provided in paragraph (11), the notice of  
26 exemption, which shall be known as the Forest Fire Prevention  
27 Exemption, may be authorized only if all of the conditions specified  
28 in paragraphs (4) to (10), inclusive, are met.

29 (4) A registered professional forester shall prepare the notice  
30 of exemption and submit it to the director, and include a map of  
31 the area of timber operations that complies with the requirements  
32 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision  
33 (x) of Section 1034 of Title 14 of the California Code of  
34 Regulations.

35 (5) (A) The registered professional forester who submits the  
36 notice of exemption shall include a description of the preharvest  
37 stand structure and a statement of the postharvest stand stocking  
38 levels.

39 (B) The level of residual stocking shall be consistent with  
40 maximum sustained production of high-quality timber products.

1 The residual stand shall consist primarily of healthy and vigorous  
2 dominant and codominant trees from the preharvest stand. Stocking  
3 shall not be reduced below the standards required by any of the  
4 following provisions that apply to the exemption at issue:

5 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
6 (1) of subdivision (a) of Section 913.3 of Title 14 of the California  
7 Code of Regulations.

8 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
9 (1) of subdivision (a) of Section 933.3 of Title 14 of the California  
10 Code of Regulations.

11 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
12 (1) of subdivision (a) of Section 953.3 of Title 14 of the California  
13 Code of Regulations.

14 (C) If the preharvest dominant and codominant crown canopy  
15 is occupied by trees less than 14 inches in diameter at breast height,  
16 a minimum of 100 trees over four inches in diameter at breast  
17 height shall be retained per acre for Site I, II, and III lands, and a  
18 minimum of 75 trees over four inches in diameter at breast height  
19 shall be retained per acre for Site IV and V lands.

20 (6) (A) The registered professional forester who submits the  
21 notice shall include selection criteria for the trees to be harvested  
22 or the trees to be retained. In the development of fuel reduction  
23 prescriptions, the registered professional forester should consider  
24 retaining habitat elements, where feasible, including, but not  
25 limited to, ground level cover necessary for the long-term  
26 management of local wildlife populations.

27 (B) All trees that are harvested or all trees that are retained shall  
28 be marked or sample marked by or under the supervision of a  
29 registered professional forester before felling operations begin.  
30 The board shall adopt regulations for sample marking for this  
31 section in Title 14 of the California Code of Regulations. Sample  
32 marking shall be limited to homogenous forest stand conditions  
33 typical of plantations.

34 (7) (A) The registered professional forester submitting the  
35 notice, upon submission of the notice, shall provide a confidential  
36 archaeology letter that includes all the information required by  
37 any of the following provisions that apply to the exemption at  
38 issue:

39 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
40 of Section 929.1 of Title 14 of the California Code of Regulations,

1 and include site records if required pursuant to subdivision (g) of  
2 that section or pursuant to Section 929.5 of Title 14 of the  
3 California Code of Regulations.

4 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
5 of Section 949.1 of Title 14 of the California Code of Regulations,  
6 and include site records if required pursuant to subdivision (g) of  
7 that section or pursuant to Section 949.5 of Title 14 of the  
8 California Code of Regulations.

9 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)  
10 of Section 969.1 of Title 14 of the California Code of Regulations,  
11 and include site records if required pursuant to subdivision (g) of  
12 that section or pursuant to Section 969.5 of Title 14 of the  
13 California Code of Regulations.

14 (B) The director shall submit a complete copy of the confidential  
15 archaeological letter and two copies of all required archaeological  
16 or historical site records to the appropriate Information Center of  
17 the California Historical Resource Information System within 30  
18 days from the date of notice submittal to the director. Before  
19 submitting the notice to the director, the registered professional  
20 forester shall send a copy of the notice to Native Americans, as  
21 defined in Section 895.1 of Title 14 of the California Code of  
22 Regulations.

23 (8) Only trees less than 18 inches in stump diameter, measured  
24 at eight inches above ground level, may be removed. However,  
25 within 500 feet of a legally permitted structure, or in an area  
26 prioritized as a shaded fuel break in a community wildfire  
27 protection plan approved by a public fire agency, if the goal of  
28 fuel reduction cannot be achieved by removing trees less than 18  
29 inches in stump diameter, trees less than 24 inches in stump  
30 diameter may be removed if that removal complies with this section  
31 and is necessary to achieve the goal of fuel reduction. A fuel  
32 reduction effort shall not violate the canopy closure regulations  
33 adopted by the board on June 10, 2004, and as those regulations  
34 may be amended.

35 (9) (A) This subparagraph applies to areas within 500 feet of  
36 a legally permitted structure and in areas prioritized as a shaded  
37 fuel break in a community wildfire protection plan approved by a  
38 public fire agency. The board shall adopt regulations for the  
39 treatment of surface and ladder fuels in the harvest area, including  
40 logging slash and debris, low brush, small trees, and deadwood,

1 that could promote the spread of wildfire. The regulations adopted  
2 by the board shall be consistent with the standards in the board’s  
3 “General Guidelines for Creating Defensible Space” described in  
4 Section 1299.03 of Title 14 of the California Code of Regulations.  
5 Postharvest standards shall include vertical spacing between fuels,  
6 horizontal spacing between fuels, maximum depth of dead ground  
7 surface fuels, and treatment of standing dead fuels, as follows:

8 (i) Ladder and surface fuels shall be spaced to achieve a vertical  
9 clearance distance of eight feet or three times the height of the  
10 postharvest fuels, whichever is the greater distance, measured from  
11 the base of the live crown of the postharvest dominant and  
12 codominant trees to the top of the surface fuels.

13 (ii) Horizontal spacing shall achieve a minimum separation of  
14 two to six times the height of the postharvest fuels, increasing  
15 spacing with increasing slope, measured from the outside branch  
16 edges of the fuels.

17 (iii) Dead surface fuel depth shall be less than nine inches.

18 (iv) Standing dead or dying trees and brush generally shall be  
19 removed. That material, along with live vegetation associated with  
20 the dead vegetation, may be retained for wildlife habitat when  
21 isolated from other vegetation.

22 (B) This subparagraph applies to all areas not described in  
23 subparagraph (A).

24 (i) The postharvest stand shall not contain more than 200 trees  
25 over three inches in diameter per acre.

26 (ii) Vertical spacing shall be achieved by treating dead fuels to  
27 a minimum clearance distance of eight feet measured from the  
28 base of the live crown of the postharvest dominant and codominant  
29 trees to the top of the dead surface fuels.

30 (iii) All logging slash created by the timber operations shall be  
31 treated to achieve a maximum postharvest depth of nine inches  
32 above the ground.

33 (C) The standards required by subparagraphs (A) and (B) shall  
34 be achieved on approximately 80 percent of the treated area. The  
35 treatment shall include chipping, removing, or other methods  
36 necessary to achieve the standards. Ladder and surface fuel  
37 treatments, for any portion of the exemption area where timber  
38 operations have occurred, shall be done within 120 days from the  
39 start of timber operations on that portion of the exemption area or

1 by April 1 of the year following surface fuel creation on that  
2 portion of the exemption area if the surface fuels are burned.

3 (10) Timber operations shall comply with the requirements of  
4 paragraphs (1) to (10), inclusive, of subdivision (b) of Section  
5 1038 of Title 14 of the California Code of Regulations. Timber  
6 operations in the Lake Tahoe region shall comply instead with the  
7 requirements of paragraphs (1) to (16), inclusive, of subdivision  
8 (f) of Section 1038 of Title 14 of the California Code of  
9 Regulations.

10 (11) A notice of exemption, which shall be known as the Forest  
11 Fire Prevention Pilot Project Exemption, may be authorized if all  
12 of the following conditions are met:

13 (A) The conditions specified in paragraphs (2), (4), (6), (7), and  
14 (10) are met, except that, notwithstanding paragraph (5) of  
15 subdivision (b) of Section 1038 of Title 14 of the California Code  
16 of Regulations, the construction or reconstruction of temporary  
17 roads of 600 feet or less on slopes of 40 percent or less shall be  
18 allowed.

19 (B) Only trees less than 26 inches in stump diameter, measured  
20 at eight inches above ground level, may be removed. A fuel  
21 reduction effort shall not violate the canopy closure regulations  
22 adopted by the board on June 10, 2004, and as those regulations  
23 may be amended.

24 (C) (i) The registered professional forester who submits the  
25 notice of exemption shall include a description of the preharvest  
26 stand structure and a statement of the postharvest stand stocking  
27 levels.

28 (ii) The level of residual stocking shall be consistent with  
29 maximum sustained production of high-quality timber products.  
30 The residual stand shall consist primarily of healthy and vigorous  
31 dominant and codominant trees from the preharvest stand. Where  
32 present prior to operations, the overstory canopy closure for trees  
33 greater than 12 inches in diameter at breast height shall not be  
34 reduced below 50 percent. Stocking shall be met with the largest  
35 trees available prior to harvest and shall not be reduced below the  
36 standards required by any of the following provisions that apply  
37 to the exemption at issue:

38 (I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
39 (1) of subdivision (a) of Section 913.3 of Title 14 of the California  
40 Code of Regulations.

1 (II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
2 (1) of subdivision (a) of Section 933.3 of Title 14 of the California  
3 Code of Regulations.

4 (III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph  
5 (1) of subdivision (a) of Section 953.3 of Title 14 of the California  
6 Code of Regulations.

7 (iii) If the preharvest dominant and codominant crown canopy  
8 is occupied by trees less than 14 inches in diameter at breast height,  
9 a minimum of 100 trees over four inches in diameter at breast  
10 height shall be retained per acre for Site I, II, and III lands, and a  
11 minimum of 75 trees over four inches in diameter at breast height  
12 shall be retained per acre for Site IV and V lands. The retained  
13 trees shall be the largest trees available prior to harvest.

14 (D) The activities conducted pursuant to this paragraph occur  
15 in Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno,  
16 Humboldt, Inyo, Kern, Lassen, Madera, Mariposa, Mendocino,  
17 Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou,  
18 Sonoma, Tehama, Trinity, Tulare, Tuolumne, or Yuba Counties,  
19 or in any combination of these areas.

20 (E) All activities conducted pursuant to this paragraph occur  
21 within the most recent version of the department’s Fire Hazard  
22 Severity Zone Map in the moderate, high, and very high fire threat  
23 zones.

24 (F) The department shall maintain records regarding the use of  
25 the exemption granted in this paragraph in order to evaluate the  
26 impact of the exemption on fuel reduction and natural resources  
27 in areas where the exemption has been used.

28 (G) This paragraph shall become inoperative on January 1, 2023.

29 (12) After the timber operations are complete, the department  
30 shall conduct an onsite inspection to determine compliance with  
31 this subdivision and whether appropriate enforcement action should  
32 be initiated.

33 SEC. 3. Section 4584.1 of the Public Resources Code is  
34 repealed.

AMENDED IN ASSEMBLY JUNE 15, 2016

AMENDED IN SENATE APRIL 5, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1136**

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**Introduced by Senator Morrell**

**(Coauthors: Senators Anderson, Bates, Berryhill, Fuller, Gaines,  
McGuire, Nielsen, and Runner)**

**(Coauthors: Assembly Members Bigelow, Gallagher, Harper, Jones,  
Oberholte, Olsen, and Wagner)**

February 18, 2016

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An act to amend Section 4214 of the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as amended, Morrell. Fire prevention: state responsibility areas: report.

Existing law requires the State Board of Forestry and Fire Protection to adopt emergency regulations to establish a fire prevention fee in *an* amount not to exceed \$150 to be charged on each habitable structure, as defined, on a parcel that is within a state responsibility area, as defined. Existing law requires the state board to adjust the fire prevention fee annually using prescribed methods, and requires the state board, until January 31, 2017, to submit a report to the Legislature every January 31 on the status and uses of the fund, containing specified information and recommendations.

This bill would *instead require the Department of Forestry and Fire Protection to submit that report to the Legislature and the board, and would* extend to January 31, 2021, the time until which the ~~state board~~

*report* is required to ~~submit the report to the Legislature, and be submitted.~~ *The bill* would additionally require that the report include specified information on each program, subprogram, and element for which the ~~Department of Forestry and Fire Protection~~ *department* uses money generated from that fire prevention fee, and other information regarding fund expenditures, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. Section 4214 of the Public Resources Code is
- 2 amended to read:
- 3 4214. (a) Fire prevention fees collected pursuant to this chapter
- 4 shall be expended, upon appropriation by the Legislature, as
- 5 follows:
- 6 (1) The State Board of Equalization shall retain moneys
- 7 necessary for the payment of refunds pursuant to Section 4228 and
- 8 reimbursement of the State Board of Equalization for expenses
- 9 incurred in the collection of the fee.
- 10 (2) The moneys collected, other than those retained by the State
- 11 Board of Equalization pursuant to paragraph (1), shall be deposited
- 12 into the State Responsibility Area Fire Prevention Fund, which is
- 13 hereby created in the State Treasury, and shall be available to the
- 14 board and the department to expend for fire prevention activities
- 15 specified in subdivision (d) that benefit the owners of habitable
- 16 structures within a state responsibility area who are required to
- 17 pay the fire prevention fee. The amount expended to benefit the
- 18 owners of habitable structures within a state responsibility area
- 19 shall be commensurate with the amount collected from the owners
- 20 within that state responsibility area. All moneys in excess of the
- 21 costs of administration of the board and the department shall be
- 22 expended only for fire prevention activities in counties with state
- 23 responsibility areas.
- 24 (b) (1) The fund may also be used to cover the costs of
- 25 administering this chapter.
- 26 (2) The fund shall cover all startup costs incurred over a period
- 27 not to exceed two years.

1 (c) It is the intent of the Legislature that the moneys in this fund  
2 be fully appropriated to the board and the department each year  
3 in order to effectuate the purposes of this chapter.

4 (d) Moneys in the fund shall be used only for the following fire  
5 prevention activities, which shall benefit owners of habitable  
6 structures within the state responsibility areas who are required to  
7 pay the annual fire prevention fee pursuant to this chapter:

8 (1) Local assistance grants pursuant to subdivision (e).

9 (2) Grants to Fire Safe Councils, the California Conservation  
10 Corps, or certified local conservation corps for fire prevention  
11 projects and activities in the state responsibility areas.

12 (3) Grants to a qualified nonprofit organization with a  
13 demonstrated ability to satisfactorily plan, implement, and complete  
14 a fire prevention project applicable to the state responsibility areas.  
15 The department may establish other qualifying criteria.

16 (4) Inspections by the department for compliance with defensible  
17 space requirements around habitable structures in state  
18 responsibility areas as required by Section 4291.

19 (5) Public education to reduce fire risk in the state responsibility  
20 areas.

21 (6) Fire severity and fire hazard mapping by the department in  
22 the state responsibility areas.

23 (7) Other fire prevention projects in the state responsibility  
24 areas, authorized by the board.

25 (e) (1) The board shall establish a local assistance grant program  
26 for fire prevention activities designed to benefit habitable structures  
27 within state responsibility areas, including public education, that  
28 are provided by counties and other local agencies, including special  
29 districts, with state responsibility areas within their jurisdictions.

30 (2) In order to ensure an equitable distribution of funds, the  
31 amount of each grant shall be based on the number of habitable  
32 structures in state responsibility areas for which the applicant is  
33 legally responsible and the amount of moneys made available in  
34 the annual Budget Act for this local assistance grant program.

35 (f) By January 31, ~~2015~~, 2017, and annually thereafter, the ~~board~~  
36 *department* shall submit to the Legislature *and the board* a written  
37 report on the status and uses of the fund pursuant to this chapter.  
38 The written report shall include all of the following for each  
39 reporting period:

- 1 (1) A description of each program, subprogram, and element
- 2 for which the department uses money generated from the fire
- 3 prevention fee, including an itemized accounting of expenditures
- 4 for each program, subprogram, and element.
- 5 (2) An evaluation of the benefits received by counties based on
- 6 the number of habitable structures in state responsibility areas
- 7 within their jurisdictions, the effectiveness of the board’s grant
- 8 programs, the number of defensible space inspections in the
- 9 reporting period, the degree of compliance with defensible space
- 10 requirements, and measures to increase compliance, if any.
- 11 (3) An accounting of expenditures for equipment.
- 12 (4) Positions that are associated with each expenditure.
- 13 (5) A description of the grants awarded and expenditures of
- 14 grant moneys.
- 15 (6) A description of actual expenditures for the past fiscal year
- 16 ~~and year, estimated expenditures for the current fiscal year and~~
- 17 ~~estimated year, and budgeted expenditures for the budget year.~~
- 18 (7) Any recommendations to the Legislature on the status and
- 19 uses of the fund.
- 20 (g) (1) The requirement for submitting a report imposed under
- 21 subdivision (f) is inoperative on January 31, 2021, pursuant to
- 22 Section 10231.5 of the Government Code.
- 23 (2) A report to be submitted pursuant to subdivision (f) shall be
- 24 submitted in compliance with Section 9795 of the Government
- 25 Code.
- 26 (h) It is essential that this article be implemented without delay.
- 27 To permit timely implementation, the department may contract
- 28 for services related to the establishment of the fire prevention fee
- 29 collection process. For this purpose only, and for a period not to
- 30 exceed 24 months, the provisions of the Public Contract Code or
- 31 any other provision of law related to public contracting shall not
- 32 apply.

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