

Date of Hearing: April 4, 2016

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Das Williams, Chair

AB 1958 (Wood) – As Amended March 29, 2016

SUBJECT: Forest practices: oak woodlands

SUMMARY: Exempts the removal of trees, including commercial harvest, to restore and conserve California black or Oregon white oak woodlands and associated grasslands. Clarifies that restoration and conservation forest management activities do not require a timber conversion permit.

EXISTING LAW, pursuant to the Z’Berg-Nejedly Forest Practice Act (FPA):

- 1) Prohibits timber operations unless a timber harvest plan (THP) has been prepared by a registered professional forester (Forester) and approved by the Department of Forestry and Fire Protection (CAL FIRE).
- 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 and Fire Protection (Board).
- 4) Authorizes the Board to develop alternative stocking standards for the average point count method and the average residual basal area of stocking if those standards address the variables in forest characteristics and achieve suitable resource conservation.
- 5) 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.
- 6) Exempts various tree removal activities from THP’s, 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. Requires ministerial permits for certain exemptions, called a notice of exemption (NOE), and subjects projects to inspection by CAL FIRE.

THIS BILL:

- 1) Exempts the removal of trees, including commercial harvest, to restore and conserve California black or Oregon white oak woodlands and associated grasslands.
- 2) Requires a Forester to prepare a NOE and submit the NOE to the Director of CAL FIRE. Requires the NOE to include all of the following:

- a) A map of the areas of timber operations that identifies the area where trees will be removed, stored, and any areas where watercourses and erosion hazards occur;
 - b) Certification by a Forester that the timber operation is designed to restore and conserve California black and Oregon white oak woodlands and associated grasslands;
 - c) A description of the preharvest stand structure and postharvest stocking levels;
 - d) A prohibition on removing trees older than 75 years;
 - e) Requirements on percentage of conifer and oak that may be cut;
 - f) An evaluation of archaeological or historical sites;
 - g) Requirements that the timber operation removes a specified amount of slash;
 - h) Requirements that equipment and road construction are restricted;
 - i) Requirements that rare, threatened, or endangered plants and animals are not disturbed or damaged; and,
 - j) Requirement that no harvesting shall occur near watercourses, lake protection zones, or significant archaeological or historical sites.
- 3) Clarifies that restoration and conservation forest management activities do not require a timber conversion permit by including these activities in the definition of growing of timber.
 - 4) Requires any restoration and conservation forest management activities conducted in conjunction with conversion of timberland to residential, commercial, agricultural, recreational, or transportation project purposes to obtain a timber conversion permit.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** California has regulated forest practices on private lands since at least 1945. The Legislature assessed the effectiveness of this approach and concluded that the industry could not be relied on to ensure proper water quality, forest health, and adequate timber supply. In 1957, the state Senate Interim Committee on Soil and Beach Erosion found that timber harvesting and logging road construction contributed to stream erosion and resultant impacts to fish populations. In 1962, the Assembly Interim Committee on Natural Resources, Planning, and Public Works concluded that timber regulations were inadequately enforced, leading to deleterious effects on water quality, fishing, and recreation. In 1967, after three years of study, the Assembly Subcommittee on Forest Practices and Watershed Management recommended that the basic state policy governing forest practices should be broadened and strengthened. These collective findings, coupled with a 1971 report that identified logging as a primary factor in an 80% decline of salmon and steelhead populations, motivated the Legislature to pass the FPA in 1973. The FPA requires THPs, which are a complex discretionary permit that acts as an EIR under CEQA.

AB 1492 (Committee on Budget), Chapter 289, Statutes of 2012, extended the life of THPs from three years to five years with an option for a two-year extension. AB 1492 also shifted state fees for a THP to an assessment on all lumber products. However, a THP can still cost tens of thousands of dollars to complete.

- 2) **Oak woodland restoration.** According to a presentation from various academics at the University of California and Humboldt State University, California black or Oregon white oak woodlands and associated grasslands are being lost because of conifer encroachment. These oak woodlands support very high levels of biodiversity and provide valuable food sources and habitat for wildlife. Oak woodlands are also deeply connected to Native American tradition and culture. Most of these oak woodlands contain oaks over a 100 years old, with some oak trees over 300 years old. As a result of fire suppression, douglas-fir will often spread into an oak woodland and will overtop oak trees and rob the oak trees of sunlight and other resources that oak trees need. Restoration of this important habitat requires removal of the encroachment, restocking of the area with oaks, and protection of oak seedlings. The Board has developed an Oak Woodland Management Alternative Prescription, which is pending approval at the Board. This alternative prescription will allow THP's to incorporate oak woodland restoration. However, this would require anyone wishing to do oak woodland restoration to obtain a THP.

This bill creates another option for oak woodland restoration. A ministerial NOE for oak woodland restoration would reduce the costs and time to do this restoration work. This would allow smaller landowners to restore oak woodlands without spending tens of thousands of dollars completing a THP. However, a NOE is a ministerial permit that leaves agencies without the discretion to modify proposed projects. There has been a proliferation of these exemptions over the years. This raises questions about whether there is an alternative to exemptions from THPs that will allow agencies to work with applicants to improve their projects. Until alternatives are examined, it would be premature to create a permanent statewide exemption. The *author and committee may wish to* consider amending the bill to create a pilot exemption for five years and that excludes areas without significant oak woodlands, such as the Southern Subdistrict of the Coast Forest District and the Southern Forest District. As the bill moves forward, the author may wish to consider including a reporting requirement that provides information on how effective the exemption has been at restoring oak woodland and suggestions of alternatives to the use of an NOE.

3) **Prior/Related Legislation.**

AB 417 (Dahle), Chapter 182, Statutes of 2015, expands Board authority to develop alternative stocking standards, when necessary, to include the average residual basal area approach of stocking.

AB 2029 (Dahle, 2016) extends the Forest Fire Prevention Pilot Exemption by six years. This bill increases the size of trees that are allowed to be removed to less than 28 inches in stump diameter and allows for the construction of roads. This bill is awaiting hearing in Assembly Natural Resources Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Institute for Sustainable Forestry
Mendocino County Resource Conservation District
Pacific Forest Trust
Sanctuary Forest
Trust for Public Land
6 Individuals

Opposition

None on file

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