

AMENDED IN ASSEMBLY APRIL 7, 2016
AMENDED IN ASSEMBLY MARCH 29, 2016
california legislature—2015–16 regular session
ASSEMBLY BILL No. 1958

Introduced by Assembly Member Wood

February 12, 2016

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 *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, *trees in specified areas*, including through commercial harvest, to restore and conserve California black or Oregon white oak woodlands, *woodlands* and associated grasslands, as specified. 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

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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 line 2 amended to read:

3 4584. Upon determining that the exemption is consistent with line 4 the purposes of this
chapter, the board may exempt from this line 5 chapter, or portions of this chapter, a person engaged
in forest line 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

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1 corporation or other legal entity, then that partnership, corporation, 2 or other legal entity is not eligible for this exemption. “Person,” 3 for purposes of this subdivision, means an individual, partnership, 4 corporation, or other legal entity.

5 (2) (A) Notwithstanding Section 4554.5, the board shall adopt 6 regulations that do all of the following:

7 (i) Identify the required documentation of a bona fide intent to 8 complete the conversion that an applicant will need to submit in 9 order to be eligible for the exemption in paragraph (1).

10 (ii) Authorize the department to inspect the sites approved in 11 conversion applications that have been approved on or after January 12 1, 2002, in order to determine that the conversion was completed 13 within the two-year period described in subparagraph (B) of 14 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of 15 the California Code of Regulations.

16 (iii) Require the exemption pursuant to this subdivision to expire 17 if there is a change in timberland ownership. The person who 18 originally submitted an application for an exemption pursuant to 19 this subdivision shall notify the department of a change in 20 timberland ownership on or before five calendar days after a change 21 in ownership.

22 (iv) The board may adopt regulations allowing a waiver of the 23 five-year limitation described in paragraph (1) upon finding that 24 the imposition of the five-year limitation would impose an undue 25 hardship on the applicant for the exemption. The board may adopt 26 a process for an appeal of a denial of a waiver.

27 (B) The application form for the exemption pursuant to 28 paragraph (1) shall prominently advise the public that a violation 29 of the conversion exemption, including a conversion applied for 30 in the name of someone other than the person or entity 31 implementing the conversion in bona fide good faith, is a violation 32 of this chapter and penalties may accrue up to ten thousand dollars 33 (\$10,000) for each violation pursuant to Article 8 (commencing 34 with Section 4601).

35 (h) An easement granted by a right-of-way construction 36 agreement administered by the federal government if timber sales 37 and operations within or affecting the area are reviewed and 38 conducted pursuant to the National Environmental Policy Act of 39 1969 (42 U.S.C. Sec. 4321 et seq.).

1 (i) (1) The cutting or removal of trees in compliance with 2 Sections 4290 and 4291 that eliminates the vertical continuity of 3 vegetative fuels and the horizontal continuity of tree crowns for 4 the purpose of reducing flammable materials and maintaining a 5 fuel break for a distance of not more than 150 feet on each side 6 from an approved and legally permitted structure that complies 7 with the California Building Standards Code, when that cutting or 8 removal is conducted in compliance with this subdivision. For 9 purposes of this subdivision, an “approved and legally permitted 10 structure” includes only structures that are designed for human 11 occupancy and garages, barns, stables, and structures used to 12 enclose fuel tanks.

13 (2) (A) The cutting or removal of trees pursuant to this 14 subdivision is limited to cutting or removal that will result in a 15 reduction in the rate of fire spread, fire duration and intensity, fuel 16 ignitability, or ignition of the tree crowns and shall be in 17 accordance with any regulations adopted by the board pursuant to 18 this section.

19 (B) Trees shall not be cut or removed pursuant to this 20 subdivision by the clearcutting regeneration method, by the seed 21 tree removal step of the seed tree regeneration method, or by the 22 shelterwood removal step of the shelterwood regeneration method.

23 (3) (A) Surface fuels, including logging slash and debris, low 24 brush, and deadwood, that could promote the spread of wildfire 25 shall be chipped, burned, or otherwise removed from all areas of 26 timber operations within 45 days from the date of commencement 27 of timber operations pursuant to this subdivision.

28 (B) (i) All surface fuels that are not chipped, burned, or 29 otherwise removed from all areas of timber operations within 45 30 days from the date of commencement of timber operations may 31 be determined to be a nuisance and subject to abatement by the 32 department or the city or county having jurisdiction.

33 (ii) The costs incurred by the department, city, or county, as the 34 case may be, to abate the nuisance upon a parcel of land subject 35 to the timber operations, including, but not limited to, investigation, 36 boundary determination, measurement, and other related costs, 37 may be recovered by special assessment and lien against the parcel 38 of land by the department, city, or county. The assessment may 39 be collected at the same time and in the same manner as ordinary 40 ad valorem taxes, and shall be subject to the same penalties and

1 the same procedure and sale in case of delinquency as is provided 2 for ad valorem taxes.
3 (4) All timber operations conducted pursuant to this subdivision 4 shall conform to
applicable city or county general plans, city or 5 county implementing ordinances, and city or
county zoning 6 ordinances. This paragraph does not authorize the cutting, removal, 7 or
sale of timber or other solid wood forest products within an area 8 where timber harvesting is
prohibited or otherwise restricted 9 pursuant to the rules or regulations adopted by the board.

10 (5) (A) The board shall adopt regulations, initially as emergency 11 regulations in
accordance with subparagraph (B), that the board 12 considers necessary to implement and to
obtain compliance with 13 this subdivision.

14 (B) The emergency regulations adopted pursuant to 15 subparagraph (A) shall be adopted
in accordance with the 16 Administrative Procedure Act (Chapter 3.5 (commencing with 17
Section 11340) of Part 1 of Division 3 of Title 2 of the Government 18 Code). The adoption of
emergency regulations shall be deemed to 19 be an emergency and necessary for the immediate
preservation of 20 the public peace, health, and safety, or general welfare.

21 (6) (A) Notwithstanding paragraph (1), the board may exempt 22 from this chapter, or
portions of this chapter, a person engaged in 23 forest management whose activities are limited
to the cutting or 24 removal of trees on the person's property in compliance with 25 Sections
4290 and 4291 that eliminates the vertical continuity of 26 vegetative fuels and the horizontal
continuity of tree crowns for 27 the purpose of reducing flammable materials and maintaining a
28 fuel break for a distance of not more than 300 feet on each side 29 from an approved and
legally permitted habitable structure, when 30 that cutting or removal is conducted in compliance
with this 31 subdivision and all of the following conditions are met:

32 (i) The notice of exemption is prepared, signed, and submitted 33 by a registered
professional forester to the department.

34 (ii) For the areas between 150 and 300 feet from the habitable 35 structure, the operations
meet all of the following provisions:

36 (I) The residual stocking standards are consistent with Sections 37 913.2, 933.2, and
953.2 of Title 14 of the California Code of 38 Regulations, as appropriate.

39 (II) Activities within this area will increase the quadratic mean 40 diameter of the stand.

1 (III) The residual stand consists primarily of healthy and 2 vigorous dominant and codominant trees from the preharvest stand, 3 well distributed though the harvested area.

4 (IV) Postharvest slash treatment and stand conditions will lead 5 to more moderate fire behavior in the professional judgment of 6 the registered professional forester who submits the notice of 7 exemption.

8 (V) Any additional guidance for slash treatment and postharvest 9 stand conditions and any other issues deemed necessary that are 10 consistent with this section, as established by the board.

11 (B) For purposes of this paragraph, “habitable structure” means 12 a building that contains one or more dwelling units or that can be 13 occupied for residential use. Buildings occupied for residential 14 use include single family homes, multidwelling structures, mobile 15 and manufactured homes, and condominiums. For purposes of this 16 paragraph “habitable structure” does not include commercial, 17 industrial, or incidental buildings such as detached garages, barns, 18 outdoor sanitation facilities, and sheds.

19 (C) The department shall evaluate the effects of this paragraph 20 and shall report its recommendations, before the paragraph becomes 21 inoperative, to the Legislature based on that evaluation. The report 22 shall be submitted in compliance with Section 9795 of the 23 Government Code.

24 (D) The board shall adopt regulations to implement this 25 paragraph no later than January 1, 2016.

26 (E) This paragraph shall become inoperative three years after 27 the effective date of regulations adopted by the board pursuant to 28 subparagraph (D) but no later than January 1, 2019.

29 (j) (1) The harvesting of trees, limited to those trees that 30 eliminate the vertical continuity of vegetative fuels and the 31 horizontal continuity of tree crowns, for the purpose of reducing 32 the rate of fire spread, duration and intensity, fuel ignitability, or 33 ignition of tree crowns.

34 (2) The board may authorize an exemption pursuant to paragraph 35 (1) only if the tree harvesting will decrease fuel continuity and 36 increase the quadratic mean diameter of the stand, and the tree 37 harvesting area will not exceed 300 acres.

38 (3) Except as provided in paragraph (11), the notice of 39 exemption, which shall be known as the Forest Fire Prevention

1 Exemption, may be authorized only if all of the conditions specified 2 in paragraphs (4) to (10), inclusive, are met.

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

9 (5) (A) The registered professional forester who submits the 10 notice of exemption shall include a description of the preharvest 11 stand structure and a statement of the postharvest stand stocking 12 levels.

13 (B) The level of residual stocking shall be consistent with 14 maximum sustained production of high-quality timber products. 15 The residual stand shall consist primarily of healthy and vigorous 16 dominant and codominant trees from the preharvest stand. Stocking 17 shall not be reduced below the standards required by any of the 18 following provisions that apply to the exemption at issue:

19 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 20 (1) of subdivision (a) of Section 913.3 of Title 14 of the California 21 Code of Regulations.

22 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 23 (1) of subdivision (a) of Section 933.3 of Title 14 of the California 24 Code of Regulations.

25 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 26 (1) of subdivision (a) of Section 953.3 of Title 14 of the California 27 Code of Regulations.

28 (C) If the preharvest dominant and codominant crown canopy 29 is occupied by trees less than 14 inches in diameter at breast height, 30 a minimum of 100 trees over four inches in diameter at breast 31 height shall be retained per acre for Site I, II, and III lands, and a 32 minimum of 75 trees over four inches in diameter at breast height 33 shall be retained per acre for Site IV and V lands.

34 (6) (A) The registered professional forester who submits the 35 notice shall include selection criteria for the trees to be harvested 36 or the trees to be retained. In the development of fuel reduction 37 prescriptions, the registered professional forester should consider 38 retaining habitat elements, where feasible, including, but not 39 limited to, ground level cover necessary for the long-term 40 management of local wildlife populations.

1 (B) All trees that are harvested or all trees that are retained shall 2 be marked or sample
marked by or under the supervision of a 3 registered professional forester before felling
operations begin. 4 The board shall adopt regulations for sample marking for this 5 section
in Title 14 of the California Code of Regulations. Sample 6 marking shall be limited to
homogenous forest stand conditions 7 typical of plantations.

8 (7) (A) The registered professional forester submitting the 9 notice, upon submission of
the notice, shall provide a confidential 10 archaeology letter that includes all the information
required by 11 any of the following provisions that apply to the exemption at 12 issue:

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

18 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) 19 of Section 949.1 of
Title 14 of the California Code of Regulations, 20 and include site records if required pursuant to
subdivision (g) of 21 that section or pursuant to Section 949.5 of Title 14 of the 22
California Code of Regulations.

23 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) 24 of Section 969.1 of
Title 14 of the California Code of Regulations, 25 and include site records if required pursuant to
subdivision (g) of 26 that section or pursuant to Section 969.5 of Title 14 of the 27
California Code of Regulations.

28 (B) The director shall submit a complete copy of the confidential 29 archaeological letter
and two copies of all required archaeological 30 or historical site records to the appropriate
Information Center of 31 the California Historical Resource Information System within 30
32 days from the date of notice submittal to the director. Before 33 submitting the notice to the
director, the registered professional 34 forester shall send a copy of the notice to Native
Americans, as 35 defined in Section 895.1 of Title 14 of the California Code of 36
Regulations.

37 (8) Only trees less than 18 inches in stump diameter, measured 38 at eight inches above
ground level, may be removed. However, 39 within 500 feet of a legally permitted structure, or
in an area 40 prioritized as a shaded fuel break in a community wildfire

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

9 (9) (A) This subparagraph applies to areas within 500 feet of 10 a legally permitted structure and in areas prioritized as a shaded 11 fuel break in a community wildfire protection plan approved by a 12 public fire agency. The board shall adopt regulations for the 13 treatment of surface and ladder fuels in the harvest area, including 14 logging slash and debris, low brush, small trees, and deadwood, 15 that could promote the spread of wildfire. The regulations adopted 16 by the board shall be consistent with the standards in the board's 17 "General Guidelines for Creating Defensible Space" described in 18 Section 1299.03 of Title 14 of the California Code of Regulations. 19 Postharvest standards shall include vertical spacing between fuels, 20 horizontal spacing between fuels, maximum depth of dead ground 21 surface fuels, and treatment of standing dead fuels, as follows:

22 (i) Ladder and surface fuels shall be spaced to achieve a vertical 23 clearance distance of eight feet or three times the height of the 24 postharvest fuels, whichever is the greater distance, measured from 25 the base of the live crown of the postharvest dominant and 26 codominant trees to the top of the surface fuels.

27 (ii) Horizontal spacing shall achieve a minimum separation of 28 two to six times the height of the postharvest fuels, increasing 29 spacing with increasing slope, measured from the outside branch 30 edges of the fuels.

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

32 (iv) Standing dead or dying trees and brush generally shall be 33 removed. That material, along with live vegetation associated with 34 the dead vegetation, may be retained for wildlife habitat when 35 isolated from other vegetation.

36 (B) This subparagraph applies to all areas not described in 37 subparagraph (A).

38 (i) The postharvest stand shall not contain more than 200 trees 39 over three inches in diameter per acre.

1 (ii) Vertical spacing shall be achieved by treating dead fuels to 2 a minimum clearance distance of eight feet measured from the 3 base of the live crown of the postharvest dominant and codominant 4 trees to the top of the dead surface fuels.

5 (iii) All logging slash created by the timber operations shall be 6 treated to achieve a maximum postharvest depth of nine inches 7 above the ground.

8 (C) The standards required by subparagraphs (A) and (B) shall 9 be achieved on approximately 80 percent of the treated area. The 10 treatment shall include chipping, removing, or other methods 11 necessary to achieve the standards. Ladder and surface fuel 12 treatments, for any portion of the exemption area where timber 13 operations have occurred, shall be done within 120 days from the 14 start of timber operations on that portion of the exemption area or 15 by April 1 of the year following surface fuel creation on that 16 portion of the exemption area if the surface fuels are burned.

17 (10) Timber operations shall comply with the requirements of 18 paragraphs (1) to (10), inclusive, of subdivision (b) of Section 19 1038 of Title 14 of the California Code of Regulations. Timber 20 operations in the Lake Tahoe region shall comply instead with the 21 requirements of paragraphs (1) to (16), inclusive, of subdivision 22 (f) of Section 1038 of Title 14 of the California Code of 23 Regulations.

24 (11) A notice of exemption, which shall be known as the Forest 25 Fire Prevention Pilot Project Exemption, may be authorized if all 26 of the following conditions are met:

27 (A) The conditions specified in paragraphs (2), (4), (6), (7), and 28 (10) are met.

29 (B) Only trees less than 24 inches in stump diameter, measured 30 at eight inches above ground level, may be removed. A fuel 31 reduction effort shall not violate the canopy closure regulations 32 adopted by the board on June 10, 2004, and as those regulations 33 may be amended.

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

38 (ii) The level of residual stocking shall be consistent with 39 maximum sustained production of high-quality timber products. 40 The residual stand shall consist primarily of healthy and vigorous

1 dominant and codominant trees from the preharvest stand. Where 2 present prior to operations, the overstory canopy closure for trees 3 greater than 12 inches in diameter at breast height shall not be 4 reduced below 50 percent. Stocking shall be met with the largest 5 trees available prior to harvest and shall not be reduced below the 6 standards required by any of the following provisions that apply 7 to the exemption at issue:

8 (I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 9 (1) of subdivision (a) of Section 913.3 of Title 14 of the California 10 Code of Regulations.

11 (II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 12 (1) of subdivision (a) of Section 933.3 of Title 14 of the California 13 Code of Regulations.

14 (III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph 15 (1) of subdivision (a) of Section 953.3 of Title 14 of the California 16 Code of Regulations.

17 (iii) If the preharvest dominant and codominant crown canopy 18 is occupied by trees less than 14 inches in diameter at breast height, 19 a minimum of 100 trees over four inches in diameter at breast 20 height shall be retained per acre for Site I, II, and III lands, and a 21 minimum of 75 trees over four inches in diameter at breast height 22 shall be retained per acre for Site IV and V lands. The retained 23 trees shall be the largest trees available prior to harvest.

24 (D) The activities conducted pursuant to this paragraph occur 25 in the Sierra Nevada Region as defined in subdivision (f) of Section 26 33302, in Modoc, Siskiyou, or Trinity Counties, or in any 27 combination of these areas.

28 (E) All activities conducted pursuant to this paragraph occur 29 within the most recent version of the department's Fire Hazard 30 Severity Zone Map in the moderate, high, and very high fire threat 31 zones.

32 (F) The department shall maintain records regarding the use of 33 the exemption granted in this paragraph in order to evaluate the 34 impact of the exemption on fuel reduction and natural resources 35 in areas where the exemption has been used.

36 (G) This paragraph shall become inoperative three years after 37 the effective date of regulations adopted by the board implementing 38 this paragraph.

39 (12) After the timber operations are complete, the department 40 shall conduct an onsite inspection to determine compliance with

1 this subdivision and whether appropriate enforcement action should 2 be initiated.

3 (k) The cutting or removal of trees, including through 4 commercial harvest, to restore and
conserve California black or 5 Oregon white oak woodlands, *woodlands* and associated 6
grasslands, if all of the following requirements are met:

7 (1) A registered professional forester shall prepare the notice 8 of exemption and submit it
to the director. The notice shall include 9 all of the following:

10 (A) A map of the area of timber operations that complies with 11 the requirements of
paragraphs (1), (3), (4), and (7) to (11), 12 inclusive, of subdivision (x) of Section 1034 of Title
14 of the 13 California Code of Regulations.

14 (B) A certification signed by the registered professional forester 15 that the timber
operation is designed to restore and conserve 16 California black and Oregon white oak
woodlands and associated 17 grasslands.

18 (C) A description of the preharvest stand structure and a 19 statement of the postharvest
stand stocking levels.

20 (2) No tree 75 years of age or older shall be harvested for 21 commercial purposes, which
includes use for saw logs, posts and 22 poles, fuel wood, biomass, or other forest products.

23 (3) Conifer shall be reduced to less than 25 percent of the 24 combined hardwood and
conifer postharvest stand stocking levels.

25 (4) No more than 20 percent of preexisting oak stock shall be 26 cut or removed during
harvest.

27 (5) The registered professional forester submitting the notice, 28 upon submission of the
notice, shall provide a confidential 29 archaeology letter that includes all the information
required by 30 paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of 31 Section
929.1 of Title 14 of the California Code of Regulations, 32 and site records if required pursuant
to subdivision (g) of that 33 section or pursuant to Section 929.5 of Title 14 of the California
34 Code of Regulations.

35 (6) All slash created by the timber operations shall be treated 36 to achieve a maximum
postharvest depth of 18 inches above the 37 ground within 24 months of the date of the director
receiving the 38 notice. Slash shall be configured so as to minimize the risk of fire 39
mortality to the remaining oak trees.

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1 (7) Timber operations shall comply with the requirements of 2 paragraphs (1) to (10),
inclusive, of subdivision (b) of Section 3 1038 of Title 14 of the California Code of Regulations.

(8) *On or before January 1, 2018, the board shall adopt line 5 regulations to implement this
subdivision.*

(9) *This subdivision shall not apply to the Southern Subdistrict line 7 of the Coast Forest
District, as defined in Section 895.1 of Title line 8 14 of the California Code of Regulations, or the
Southern Forest line 9 District, as defined in Section 909 of Title 14 of the California line 10 Code of
Regulations.*

(10) *This subdivision shall become inoperative seven years after line 12 the effective date of
the regulations adopted by the board pursuant line 13 to paragraph (8).*

14 SEC. 2. Section 4621 of the Public Resources Code is amended line 15 to read:

16 4621. (a) A person who owns timberlands that are to be line 17 devoted to uses other than the
growing of timber shall file an line 18 application for conversion with the board. The board shall, by
line 19 regulation, prescribe the procedures for, and the form and content line 20 of, the application.
An application for a timberland conversion line 21 permit shall be accompanied by an application
fee, payable to the line 22 department, in an amount determined by the board pursuant to line 23
subdivision (b).

24 (b) The board shall establish, by regulation, a system of 25 graduated timberland
conversion permit fees to finance the cost 26 of administering this article.

27 (c) For purposes of this section, “growing of timber” shall 28 include restoration and
conservation forest management activities, 29 which may include the removal of commercial
species, if necessary 30 to achieve specific forest health and ecological goals, including 31
the restoration and conservation of oak woodlands, grasslands, 32 wet meadows, and other
ecologically important or unique habitats, 33 that are not conducted in conjunction with the
cutting or removal 34 of trees or other forest products during the conversion of 35
timberlands for other uses, including, but not limited to, residential 36 or commercial
developments, production of other agricultural 37 crops, recreational developments, ski
developments, water 38 development projects, and transportation projects.

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COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1958
AUTHOR : Wood
TOPIC : Forestry: timberlands: restoration and conservation forest
management activities.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2016

Apr. 20 In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 11 Re-referred to Com. on APPR.
Apr. 7 Read second time and amended.
Apr. 6 From committee: Amend, and do pass as amended and re-refer to Com.
on APPR. (Ayes 9. Noes 0.) (April 4).
Mar. 30 Re-referred to Com. on NAT. RES.
Mar. 29 From committee chair, with author's amendments: Amend, and re-refer
to Com. on NAT. RES. Read second time and amended.
Feb. 25 Referred to Com. on NAT. RES.
Feb. 16 From printer. May be heard in committee March 17.
Feb. 12 Read first time. To print.

CURRENT BILL STATUS

MEASURE : A.B. No. 1958
AUTHOR(S) : Wood.
TOPIC : Forestry: timberlands: restoration and conservation
forest management activities.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 04/07/2016

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/20/2016
LAST HIST. ACTION : In committee: Set, first hearing. Referred to APPR.
suspense file.
COMM. LOCATION : ASM APPROPRIATIONS

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

BILL ANALYSIS

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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

Analysis Prepared by:Michael Jarred / NAT. RES. / (916) 319-2092

BILL ANALYSIS

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB
1958 (Wood) - As Amended April 7, 2016

Policy	Natural Resources	Vote:	9 - 0
Committee:			

Urgency: No State Mandated Local Program: NoReimbursable: No

SUMMARY:

This bill authorizes the Board of Forestry (Board) to grant a timber harvest plan (THP) exemption for the removal and commercial harvest of trees to restore and conserve California black or Oregon white oak woodlands and their associated grasslands under specified conditions. Specifically, this this bill:

1) Requires the Board to adopt regulations to implement the exemption on or before January 1, 2018.

2) Prohibits the Board from granting THP exemptions in the Southern Subdistrict of the Coast Forest District and the Southern Forest District.

Additionally, this bill clarifies that restoration and conservation forest management activities do not require a timber conversion permit.

FISCAL EFFECT:

1) Increased personnel costs for CALFIRE to perform on-sight inspections to ensure any removal or harvesting activities are consistent with the Notice of Exemption (NOE) filed with the Board. CALFIRE estimates they will require an additional two Forester I positions at an annual cost of \$400,000 (Timber Regulation and Forest Restoration Fund).

2) Potential one-time costs in the \$150,000 range for initial hiring and equipment purchases. (Timber Regulation and Forest Restoration Fund).

3) Minor, likely absorbable, costs for the Board to adopt regulations to implement the provisions of the bill.

4) Minor, absorbable costs to review additional NOEs filed for this new exemption.

COMMENTS:

1) Rationale. According to the author, California's oak woodlands have been disappearing at a rapid rate due in part to the encroachment of conifers. Historically, the regular occurrence of wildfires prevented conifer encroachment. However, with increased development in the wildland areas and the need for modern fire suppression to protect structures, conifers have become major competitors to many oak species.

Once conifers become established within oak woodlands, they quickly overtop oak trees, shading them and jeopardizing their ability to regenerate. This bill allows the Board to remove impediments to restoring oak woodlands while maintaining the integrity of the Forest Practice Act.

2) Background. The Forest Practices Act prohibits timber operations unless a timber harvest plan (THP) is prepared by a registered professional forester and approved by the Director of CALFIRE or the Board. A THP is the functional equivalent of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA).

Various tree removal activities are exempt from the requirement to file 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. For certain exemptions, an NOE, which is a ministerial permit, is required to be filed prior to any activities. Projects for which an NOE is filed are subject to inspection by CAL FIRE.

3) Oak Woodlands. 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 that are over a 100 years old, with some oak trees over 300 years old. 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, which can be costly and time consuming.

Instead, this bill allows those performing restoration and forest management activities to file a notice and be subject to inspection.

Analysis Prepared by: Jennifer Galehouse / APPR. / (916)
319-2081

UNOFFICIAL BALLOT

MEASURE: AB 1958
AUTHOR: Wood
TOPIC: Forestry: timberlands: restoration and conser
DATE: 04/04/2016
LOCATION: ASM. NAT. RES.
MOTION: Do pass as amended and be re-referred to the Committee on Appropriations.
(AYES 9. NOES 0.) (PASS)

AYES

Williams Jones Cristina Garcia Gomez
Hadley Harper McCarty Mark Stone
Wood

NOES

ABSENT, ABSTAINING, OR NOT VOTING
