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# California State Assembly

## NATURAL RESOURCES



**LUZ RIVAS**  
CHAIR

### AGENDA

Wednesday, June 9, 2021  
9 a.m. -- State Capitol, Room 4202

**Chief Consultant**  
Lawrence Lingbloom

**Principal Consultant**  
Elizabeth MacMillan

**Senior Consultant**  
Michael Jarred

**Committee Secretary**  
Sue Fischbach

### **BILLS HEARD IN FILE ORDER**

**\*\* = Bills Proposed for Consent**

1. SB 84      Hurtado      Oil and gas wells: hazardous or idle-deserted wells and facilities.
2. **\*\*SB 272**      Laird      State government: gender-neutral terms: California Conservation Corps.
3. **\*\*SB 347**      Caballero      Urban forestry: California Community and Neighborhood Tree Voluntary Tax Contribution Fund.
4. **\*\*SB 709**      Dahle      Z'Berg-Nejedly Forest Practice Act of 1973: timber harvesting plans: extensions.

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We encourage the public to provide written testimony before the hearing by visiting the committee website at <https://antr.assembly.ca.gov>. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

Due to ongoing COVID-19 safety considerations, including guidance on physical distancing, seating for this hearing will be very limited for press and for the public. All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>.

The Capitol will be open for attendance of this hearing, but the public is strongly encouraged to participate via the web portal, Remote Testimony Station, or phone. Any member of the public attending a hearing in the Capitol will need to wear a mask at all times while in the building. We encourage the public to monitor the committee's website for updates.



Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES  
Luz Rivas, Chair  
SB 84 (Hurtado) – As Amended June 2, 2021

**SENATE VOTE:** 31-3

**SUBJECT:** Oil and gas wells: hazardous or idle-deserted wells and facilities

**SUMMARY:** Requires additional reporting on specified oil and gas wells and production facilities including the location of the applicable wells and facilities.

**EXISTING LAW:**

- 1) Renames the Division of Oil, Gas, and Geothermal Resources to the Geologic Energy Management Division (Division).
- 2) Requires the operator of any well, before commencing the work of drilling the well, to file with the Oil and Gas Supervisor (Supervisor) or the district deputy a written notice of intention to commence drilling. Specifies that if the Supervisor or the district deputy fails to give the operator written response to the notice within 10 working days from the date of receipt, that notice is considered approved. Requires the notice to be deemed canceled if operations have not commenced within one year of receipt of the notice.
- 3) Defines “production facility” to mean any equipment attendant to oil and gas production or injection operations, including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, and pipelines that are not under the jurisdiction of the State Fire Marshal.
- 4) Defines "idle well" as any well that has had 24 consecutive months of not producing oil, natural gas, or water to be used in production stimulation, enhanced oil recovery, or reservoir pressure management. Defines "long-term idle well" as any well that has been an idle well for eight or more years.
- 5) Requires an operator who engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing of a well, or who acquires a well to file with the Supervisor an individual indemnity bond for each well in the following amount:
  - a) \$25,000 for each well that is less than 10,000 feet deep; and,
  - b) \$40,000 for each well that is 10,000 feet deep or more.
- 6) Allows an operator to file one blanket indemnity bond with the Supervisor to cover 20 or more wells instead of individual indemnity bonds. Requires the bond to be the following amounts:
  - a) \$200,000 for 20 to 50 wells;
  - b) \$400,000 for 51 to 500 wells;

- c) \$2,000,000 for 501 to 10,000 wells; and,
  - d) \$3,000,000 for more than 10,000 wells.
- 7) Requires an operator to do one of the following:
- a) File with the Supervisor annual fees of the following amounts:
    - i) \$150 for each idle well that has been idle for three to eight years;
    - ii) \$300 for each idle well that has been idle for eight to 15 years;
    - iii) \$750 for each idle well that has been idle for 15 to 20 years; and,
    - iv) \$1,500 for each idle well that has been idle for 20 years or longer.
  - b) File an idle well management plan with the Supervisor for approval that eliminates between 4% and 6% of their long-term idle wells each year.
- 8) Requires a well to be properly abandoned before an individual or blanket indemnity bond can be terminated or canceled.
- 9) Authorizes the Supervisor to require an operator to provide an additional amount of security in an amount not to exceed the reasonable costs of plugging and abandoning all of the operator's wells or \$30 million whichever is less.
- 10) Authorizes the Division to make expenditures up to \$3 million for four years to plug and abandon hazardous or deserted wells or hazardous or deserted production facilities.
- 11) Requires the Department of Conservation (DOC) to report in two separate reports to the Legislature on the number of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities it has abandoned and decommissioned and the number remaining including the estimated costs and timelines of future abandonment.
- 12) Requires, on or before January 1, 2020, the Supervisor to do all of the following:
- a) Evaluate and estimate the costs associated with the decommissioning, including plugging and abandoning the offshore oil and gas wells under its jurisdiction.
  - b) If necessary, develop a schedule to increase the bond amounts or other financial surety provided by an operator of an offshore oil or gas well to ensure sufficient moneys are available to the state to decommission the well if no other entity is responsible for those decommissioning costs.
  - c) Coordinate with State Lands Commission to ensure the actions required are not duplicative and consistent with the current process of setting and adjusting bonds and securities.
- 13) Requires the Supervisor to submit to the Legislature a comprehensive report on the status of idle and long-term idle wells each year.

- 14) Requires, commencing July 1, 2022, each operator of an oil and gas well to submit a report with specified criteria to the Division that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including site remediation, on a schedule determined by the Supervisor.

**THIS BILL:**

- 1) Makes numerous findings, including it is necessary to focus state resources for the decommissioning and plugging and abandonment of any hazardous and idle-deserted wells and associated facilities in the southern Central Valley area.
- 2) Requires the Division, in an annual report to the Legislature beginning July 1, 2022, to identify wells by the American Petroleum Institute identification number that are registered to an operator and have met the definition of an idle well for three years where neither the annual fee has been paid nor is the well part of a valid idle well management plan.
- 3) Requires by July 1, 2022, the Supervisor to provide to the Senate Committee on Natural Resources and Water and the Assembly Committee on Natural Resources the process the Supervisor has established to determine that the current or previous operator does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities.
- 4) Requires DOC, in two separate reports, to provide the Legislature with the location, including the county in which they are located, of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities it has abandoned and decommissioned and the number of wells and facilities that still need abandonment and decommissioning, including the estimated costs and timelines of future abandonment.
- 5) Requires the Division to consider specified reports when determining the criteria for prioritizing the plugging and abandoning of hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

1) **Author's statement:**

The majority of the state's oil and gas development and production occurs in the southern Central Valley. In the communities of this region, a number of idle and abandon oil wells that are not properly decommissioned contribute to local public health and environmental issues.

Though the State has enacted legislation to address and provide funding for the remediation of idle and orphan wells along the coast and does require operators to pay a fee or submit a plan to address their idle wells, there is a lack of information on where the majority of these abandoned wells are and seems to be less funding going to the places that could really use them. We need accurate information on

where the wells are to determine the best way to accomplish equity in well remediation.

- 2) **Idle/orphan wells.** Oil and gas wells that are not operated and maintained on a regular basis present several hazards to the environment as well as public health and safety. Deteriorating wells can create a conduit for contaminants such as hydrocarbons, lead, salt, and sulfates to enter freshwater aquifers and pose potential risks to ground water, surface water, air quality, soils, and vegetation.

Idle and orphan wells also present a liability risk to California. Operators with a large inventory of idle wells may be postponing the cost to permanently plug and abandon the wells for financial reasons. If the operator becomes insolvent, the idle wells may become orphan wells and the state may inherit liability to plug those idle wells. Many of these are "buried-idle" wells with antiquated, vague, or nonexistent records below densely-built and populated urban areas in southern California. Some of these wells may never result in problems or may be remediated as a condition of permitting new construction projects as downtown Los Angeles and other areas are redeveloped. However, with so many wells, some dating back to the turn of the last century, it is probable that some will present health or safety concerns. Just one or two in any given year in an urban environment has the potential to consume the Division's entire hazardous deserted idle well budget, leaving it unable to plug more than a few orphan wells every year throughout the entire state. Since 2011, the Division has plugged and abandoned 117 wells (and some attendant facilities) across the state with a total cost of over \$13 million.

In March 2021, the Division released the second annual idle well report for calendar year 2019. Among the report's findings, the number of idle wells increased (by about 8,000) to 37,095 wells while the number of long-term idle well remained about the same at 17,560. The Division has identified 3,265 wells as potentially deserted in 2019 because the operator failed to pay idle well fees for the associated wells.

In a related effort, and at the Division's request, the California Council on Science and Technology (CCST) investigated the status of the state's oil and gas wells in order to estimate the potential cost to the state should the wells become orphaned. In January 2020, the CCST report was released. The CCST report suggested that there were about 5,540 wells that were either likely to be orphaned or at high risk of becoming orphaned soon. The potential liability to the state was estimated to be roughly \$500 million for these two categories alone. While there are indemnity bonds in place for many of these wells, the sum of the bond amounts is much less than the likely costs.

CCST recommended, among other things, that its methodology should be refined to improve its predictive ability, that the ownership history of wells should be assessed, and the potential environmental impacts of the orphaned wells should be investigated.

On July 15, 2020, California Resources Corp., the state's largest oil and gas production company, with more than 2 million acres of reserves spanning four major basins, filed for Chapter 11 bankruptcy protection, seeking relief from \$5 billion in debt and looming interest payments. According to the newspaper the Desert Sun, oil and gas company bankruptcies have been rising in recent years, and the demand downturn caused by business closures and stay-at-home orders has only exacerbated the issue.

**3) Related/previous legislation.**

AB 896 (Bennett) Requires the Supervisor to establish a collections unit within the Division. Authorizes the Supervisor to impose a claim and lien upon the real property in the state owned by any operator or responsible party of an oil or gas well under specified conditions. This bill is pending referral in the Senate.

SB 47 (Limón) increases the Division's budget for the plugging and abandonment of orphan wells from \$1 million to \$10 million a year. This bill is pending referral in the Assembly.

SB 1012 (Hurtado, 2020) was almost identical to SB 84. This bill was held on the Assembly Floor.

AB 1057 (Limón), Chapter 771, Statutes of 2019, renames the Division of Oil, Gas, and Geothermal Resources to the Geologic Energy Management Division. Authorizes the Supervisor to require an operator to provide an additional amount of security in an amount not to exceed the reasonable costs of plugging and abandoning all of the operator's wells or \$30 million.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /





Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 272 (Laird) – As Amended March 10, 2021

**SENATE VOTE:** 36-0

**SUBJECT:** State government: gender-neutral terms: California Conservation Corps

**SUMMARY:** This bill increases the age of eligibility to enroll in a local corps from 18-25 to 18-26; and makes changes to specified codes to use gender-neutral language.

**EXISTING LAW:**

- 1) Establishes the California Conservation Corps (CCC) within the Natural Resources Agency to administer the state's conservation corps program.
- 2) Provides for the formation of a certified community conservation corps (local corps), defined to mean a nonprofit public benefit corporation, as defined, or an agency operated by a city, county, or city and county, that is certified by the CCC as meeting specified criteria, including:
  - a) A community conservation corps consists of supervised work crews of young men and women who serve for one year, with the possibility of extension. Corps members engage in recycling and litter abatement projects, and natural resource management projects, as specified, among others.
  - b) The corps' program is based upon a highly disciplined work experience that includes an educational component. The educational component includes enrollment in a vocational education program, public or charter high school, or postsecondary community college.
  - c) A community conservation corps consists of an average annual enrollment of not less than 50 corps members between 18 and 25 years of age.
- 3) Enacts provisions related to public resources, including forestry.
- 4) Regulates the business of insurance in this state.
- 5) Establishes the Department of the California Highway Patrol under the control of a civil executive officer known as the Commissioner of the California Highway Patrol who is appointed by the Governor with the advice and consent of the Senate, as specified.

**FISCAL EFFECT:** This bill is non-fiscal

**COMMENTS:****1) Author's statement:**

While California has lead on efforts to promote diversity, equity, and equality, our laws have not kept pace. It's time we change archaic references within state law that are future forward and adequately represent those who dedicate themselves to our state.

- 2) **Corps.** The CCC, established by Governor Brown during his first term in 1976, is the oldest and largest state conservation corps program in the country. It is modeled after the 1930s Civilian Conservation Corps. The CCC's motto is "Hard work, low pay, miserable conditions ... and more!" Since the CCC creation, it has provided over 11 million hours of emergency response for nearly every major California natural disaster including floods, fires, and earthquakes.

Although the CCC was originally conceived as a labor source for trail maintenance and restoration, it has evolved to a workforce development program. Corps members learn skills such as, forestry management, energy auditing and installation, emergency services management, and firefighting. Many corps members also receive their high school diplomas and industry certifications at the conclusion of their service. The CCC provides health care (including mental health) to all of its members. More than 120,000 young adults have participated in the CCC. Approximately 3,000 Corps members apply each round for the 1,529 available Corps member slots. Across California, the CCC operates 24 centers; nine are residential where Corps members live on-site. CCC's residential centers house more than 600 Corps members in total. Corps members must be California residents between the ages of 18 and 25.

There are 14 state-certified local corps in California. Their mission is to preserve and protect the environment and provide job skills training and educational opportunities to young adults. They are community-based organizations that engage young adults in service projects addressing recreation, conservation, disaster response, and community needs. Through a term of service that could last from a few months to a year, corps members gain a high school diploma or GED, life skills, paid work experience, and job training. Each local corps works with or operates a charter school to provide educational services and helps corps members connect to college and vocational education programs.

Local corps also have an age limit of 25 years, which generally made sense for previous generations because that met the demand at the time for the local corps' services and provided important benefits to the young adults and society. More recently, the local corps and their charter school partners have noted that, on average, it is taking young adults more time to complete their educations and become established in jobs and careers than previous generations. This is especially true for the populations served by the local corps, many of whom are at-risk youth who have dropped out of the school system and struggle to find job opportunities that provide a living wage and other benefits. The local corps have noted that authorization to serve 26-year olds would capture a significant proportion of this group while retaining the local corps' foundational mission of serving young adults.

- 3) **Gender neutral changes.** This bill is consistent with ACR 260 (Low, Resolution Chapter 190, Statutes of 2018) which encouraged the Legislature to engage in a coordinated effort to revise existing statutes and introduce new legislation with inclusive language by using gender-neutral pronouns or reusing nouns to avoid the use of gendered pronouns. That resolution found that “the use of the pronouns ‘he’ or ‘she’ for individuals is not inclusive of all transgender people, nonbinary people who may not ascribe to a particular or fixed gender, or people who otherwise use different pronouns.”

There are a number of universities, states, and other nations that now recognize a nonbinary gender and are taking steps to redraft their rules and laws to be more inclusive and avoid the use of gendered pronouns. In addition, the scientific literature suggests that gender-neutral language can help achieve more than symbolic change, for example, by contributing to the reduction of gender stereotyping and discrimination, and helping to reshape cultural norms.

- 4) **Double referral.** This bill has also been referred to the Assembly Judiciary Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Insurance Commissioner Ricardo Lara (sponsor)  
ACLU California Action  
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties  
American Council of Life Insurers  
Association of California Life & Health Insurance Companies  
California State Controller Betty Yee  
Democratic Women of Monterey County  
Equality California  
Office of Lieutenant Governor Eleni Kounalakis  
Sacramento LGBT Community Center

##### **Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /



Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

SB 347 (Caballero) – As Amended March 17, 2021

**SENATE VOTE:** 38-0

**SUBJECT:** Urban forestry: California Community and Neighborhood Tree Voluntary Tax Contribution Fund

**SUMMARY:** Establishes the California Community and Neighborhood Tree Voluntary Tax Contribution Fund (Community Tree Fund) and continuously appropriates moneys from this fund to the Department of Forestry and Fire Prevention (CAL FIRE) for the Urban and Community Forestry Grant Program, as specified.

**EXISTING LAW:**

- 1) Defines “urban forestry” to mean the cultivation and management of native or introduced trees and related vegetation in urban areas for their present and potential contribution to the economic, physiological, sociological, and ecological well-being of urban society.
- 2) Defines “urban forest” to mean those native or introduced trees and related vegetation in the urban and near-urban areas, including, but not limited to, urban watersheds, soils, and related habitats, street trees, park trees, residential trees, natural riparian habitats, and trees on other private and public properties.
- 3) Requires CAL FIRE to implement a program in urban forestry to encourage better tree management and planting in urban areas to increase integrated, multiple benefit projects by assisting urban areas with innovative solutions to problems, including reductions in the emissions of greenhouse gases, mitigation of public health impacts of poor air and water quality, mitigation of urban heat island effect, improved capture of stormwater and dry weather runoff, addressing water shortages, lack of green space, lack of urban parks that are accessible to pedestrians, vandalism, and insufficient tree maintenance.
- 4) Requires CAL FIRE to be the agent of the state, provides them full power to cooperate with those agencies of the federal government that have powers and duties concerning urban forestry. Requires CAL FIRE to perform all things necessary to secure the benefits of the federal urban forestry programs.
- 5) Requires CAL FIRE to take all feasible steps to prevent or retard the introduction, establishment, and spread of known or potentially damaging or devastating pest and diseases.
- 6) Requires CAL FIRE to provide technical assistance to urban areas for planning and preparation of urban tree plans.
- 7) Authorizes CAL FIRE to make grants of between 25% and 90% of costs for projects. Allows CAL FIRE to waive the cost sharing requirement for projects that are in disadvantaged and severely disadvantaged communities. Authorizes grants for any of the following:

- a) Development of urban tree plans and urban forest master plans;
  - b) Provision of seedling and tree stock;
  - c) Tree planting projects;
  - d) Energy saving urban forest programs;
  - e) Use of urban forests for air quality improvement, reduction in greenhouse gas emissions, or reduction of urban heat island effect;
  - f) Community education and engagement program on the benefits, and proper care, and maintenance of trees;
  - g) Improved urban forest maintenance, and projects that respond to events that impact urban forest health, including drought, storms, pest, and disease; and,
  - h) Planning and technical assistance for eligible applicants assisting disadvantaged communities.
- 8) Authorizes advanced payments up to 25% of the total grant award.
  - 9) Allows a taxpayer to contribute money to voluntary contribution funds (VCFs), by checking a box on their state Personal Income Tax return.
  - 10) Allows a taxpayer to claim the contribution as a charitable deduction on their return in the subsequent year.
  - 11) Requires, for any new voluntary tax contribution fund added to the list, the fund to generate at least \$250,000 annually, as specified, to stay on the list.

**THIS BILL:**

- 1) Establishes the Community Tree Fund and authorizes an individual to designate on the tax return that a contribution in excess of the personal income tax liability, if any, be made to the fund. Establishes requirements for this process and tasks the State Controller and Franchise Tax Board (FTB) with associated duties, as specified. Requires the Community Tree Fund receive at least \$250,000 per calendar year in contributions to stay operative.
- 2) Provides that the Community Tree Fund and its associated provisions shall remain in effect until January 1, 2028, and the provisions will be repealed on December 1, 2028.
- 3) Continuously appropriates moneys from the Community Tree Fund as follows:
  - a) To the FTB and the State Controller for reimbursement of all costs incurred in managing contributions to the Community Tree Fund, as specified.
  - b) To CAL FIRE to fund grants under the Urban and Community Forestry Grant Program. Requires CAL FIRE to use a minimum of 25% of the funds in low-income or disadvantaged communities for the following:

- i) To develop urban tree plans that include coordination of local agency efforts and community involvement.
  - ii) To develop urban tree plans that include coordination of multiple jurisdictions, multiple agency efforts, and community involvement.
  - iii) To develop urban forest master plans or similar plans designed to provide comprehensive protection, maintenance, and management of the urban forest.
  - iv) To develop training and educational materials on proper care and maintenance of trees and the urban forest, including young and mature tree care.
  - v) For improved urban forest maintenance and projects that respond to events that impact urban forest health, including drought, storms, pests, and disease.
- 4) Requires CAL FIRE to report on an internet website the number of trees planted, the location of the trees planted, and the volume of projected carbon captured by the trees planted, and information to assist contributors to the Community Tree Fund in interacting with local and regional tree planting programs.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

1) **Author's statement:**

Placing the California Community and Neighborhood Tree Fund (CCNTG) on the state income tax as a voluntary contribution fund (VCF) provides a modest, but reliable, source of funding for the tree planting program most focused on bringing trees to communities that are disadvantaged or lack government infrastructure and need funds to enter into and support urban tree planting and care agreements.

The most successful voluntary contribution funds are those with broad, state-wide non-profit support. Fortunately, Californians are the original tree huggers, and from San Diego to the Oregon border, numerous groups work directly with local governments, utilities, and the public to plant trees, often in partnership with the existing CAL FIRE urban forestry program. These groups will use the CCNTF as a fundraising rallying point, and private foundations can make direct contributions to the fund to further support the state's urban forestry programs.

- 2) **Urban Forestry.** An urban forest is comprised of trees and other vegetation in and around urban communities, including the trees in our yards and along residential streets, in parking lots and along commercial thoroughfares, on school grounds and in parks and open spaces. Under the authority given to CAL FIRE, it works to expand and improve the management of trees and related vegetation in urban communities throughout California.

One of CAL FIRE's missions is to lead the effort to advance the development of sustainable urban and community forests in California. According to CAL FIRE, trees provide energy

conservation; reduction of storm-water runoff to extend the life of surface streets; improve local air, soil, and water quality; reduce atmospheric carbon dioxide; improve public health; provide wildlife habitat; and, increase property values. Trees improve the quality of life in our urban environments including reducing heat.

CAL FIRE has seven Regional Urban Foresters throughout the state to provide expert urban forestry support to communities, non-profit groups, and other municipal governments to create and maintain sustainable urban forests. These specialists also administer and provide technical support for grants that are offered for activities such as tree planting, municipal tree inventories and management plans, urban forest educational efforts, and innovative urban forestry projects. CAL FIRE's urban forestry grants assist communities throughout California with advancing their urban forestry efforts. CAL FIRE has received funding from the federal government, various resource bonds, and the Greenhouse Gas Reduction Fund (GGRF) for the Urban Forestry program. CAL FIRE has either planted or is in the process of planting approximately 120,000 trees since it first received GGRF in 2014. The wildfire early action expenditure plan contained in SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million to 15 different state agencies for fire prevention activities. This included \$10 million to CAL FIRE for Urban Forestry.

California's urban forests are under tremendous pressure from drought and disease. Extreme weather and emerging tree pests such as the Polyphagous Shot Hole Borer and Kuroshio Shot Hole Borer threaten the gains California has made in increasing the urban canopy. As part of grant awards, CAL FIRE provides best management practices, and in some cases funding, for tree maintenance.

- 3) **Double referral.** This bill has also been referred to the Assembly Revenue and Taxation Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of California Water Agencies  
Bay Area Urban Forest Ecosystem Council  
Britton Fund  
California Releaf  
California Urban Forests Council  
City of Huron  
City of King  
City of Los Banos  
City of Merced  
City of Salinas  
City of Soledad  
Davey Tree Expert Company and Davey Resource Group, Inc.  
Inland Urban Forest Council  
International Society of Arboriculture Western Chapter  
Los Angeles Urban Cooling Collaborative  
Sacramento Urban Forest Council



San Benito County  
San Diego Regional Urban Forests Council  
Street Tree Seminar  
Tree Fresno  
West Coast Arborists

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /



Date of Hearing: June 9, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

SB 709 (Dahle) – As Amended April 5, 2021

**SENATE VOTE:** 37-0

**SUBJECT:** Z'Berg-Nejedly Forest Practice Act of 1973: timber harvesting plans: extensions

**SUMMARY:** Authorizes up to two 2-year extensions for a timber harvest plan (THP) approved between January 1, 2014, and December 31, 2015, if specified conditions are met.

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

- 1) Declares that it is the policy of California to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to the public's need for watershed protection, fisheries and wildlife, carbon sequestration, and recreational opportunities.
- 2) Prohibits timber operations unless a THP has been prepared by a registered professional forester (RPF) and approved by the Department of Forestry and Fire Protection (CAL FIRE).
- 3) Considers a THP the functional equivalent of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA).
- 4) 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).
- 5) Provides that a THP approved on or after July 1, 2012, is effective for five years, but allows for a two-year extension via an amendment to the THP in order to complete the timber operations, if (with a limited exception):
  - a) Timber operations have commenced but not been completed.
  - b) Good cause is shown.
  - c) Timber operations are in conformance with the THP, the Forest Practice Act, and all applicable laws and regulations, as specified.
  - d) An RPF provides written certification that neither of the following has occurred:
    - i) Listed species, as defined, have been discovered in the logging area following approval of the THP; or,
    - ii) Significant physical changes to the harvest area or adjacent areas have occurred since the THP's cumulative impacts were originally assessed.

- 6) Exempts various tree removal activities from THPs, including Christmas tree farms; rights-of-way 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.
- 7) Establishes the Timber Regulation and Forest Restoration Fund (TRFRF) [AB 1492 (Committee on Budget) Chapter 289, Statutes of 2012], which receives funding from an authorized 1% assessment on lumber and engineered wood products sold at the retail level. Specifies that TRFRF shall be used with first priority to support the activities and costs of CAL FIRE, the Department of Conservation (DOC), the Department of Fish and Wildlife (DFW), the State Water Resources Control Board (SWRCB), and regional water quality control boards (RWQCB) associated with the review of projects or permits necessary to conduct timber operations.
- 8) Prohibits fees from being charged by CAL FIRE, DOC, DFW, SWRCB, and RWQCB for review of a project, inspection and oversight of projects and permits necessary to conduct timber operations.

**THIS BILL:**

- 1) Eliminates a soon to be obsolete provision that allows for two 2-year extensions for a THP approved between January 1, 2010, and August 31, 2012.
- 2) Authorizes up to two 2-year extensions for a THP approved between January 1, 2014, and December 31, 2015, if specified conditions are met.
- 3) Makes other technical and clarifying changes.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:****1) Author's statement:**

Timber harvesting is an excellent, scientifically acknowledged forest stewardship practice that should be encouraged when discussing wildfire mitigation practices and overall forest health. SB 709 is a common sense measure to reduce wildfire fuels by allowing operators to remove dead trees in unburned areas without intervention. It also provides for wildlife protection of any endangered species and will ensure that basic forestry management practice standards are upheld. Timber harvest plans are essential to helping our State's millions of acres of forest land. If they expire, timber operators will be inundated with the cost of emergency repairs to find a mill with the capacity to process green timber. Recovery from wildfires starts with prevention and fuel reduction. By simply allowing a one-time extension of timber harvest plans for landowners, our state can begin to heal from devastating and destructive wildfires.

- 2) **Background.** California has regulated forest practices on private lands since at least 1945. The Legislature assessed the effectiveness of forest practices 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 complex discretionary permits that act as an EIR under CEQA.

In 2002, the Senate Office of Research found that timber harvesting in California was failing to adequately protect water quality and endangered species. Concerns were raised that the Board's rules were not protective of watersheds and were contributing to the decline of species such as salmon. SB 810 (Burton), Chapter 900, Statutes of 2003, prohibits a THP from being approved if the appropriate RWQCB found that proposed timber operations would result in a discharge into a watercourse that has been classified as impaired due to sediment, which causes or contributes to a violation of the regional water quality control plan.

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 to fund agency review. However, a THP can still cost landowners tens of thousands of dollars to prepare. In 2020, 1.47 billion board feet were harvested in California with an estimated value of approximately \$320 million.

- 3) **This bill.** According to the sponsors of this legislation, the unprecedented wildfires that have occurred in California over the past few years have caused commercial timber companies to shift to salvage logging – the removal of dead or dying trees in wildfire-affected areas – rather than harvesting green trees under approved THPs. Another factor is the state's mill capacity is not robust or large enough to handle the expected volume of material generated through salvage operations. In addition, the COVID 19 pandemic has likely contributed to reduced capacity at timber mills. Ultimately, this means that many landowners will be unable to find a mill that can process their timber. This has meant a delay in harvesting timber under already approved THPs. According to state data, CAL FIRE approved 528 THPs between January 1, 2014 and December 31, 2015, covering 236,319 acres and 431 of those operations wrapped up within the five-year term and 97 were granted a two-year extension. Presumably, a subset of the 97 will finish operations within the first extension, leaving the remainder eligible for the second two-year extension, if this bill becomes law and they meet other eligibility requirements.

While this bill is a targeted way to address the subset of THPs that will expire soon, it is worth considering longer-term solutions. Should the state and federal government promote or incentivize new small diameter mills and other biomass utilization to find a beneficial use for

the increasing amount of material being removed from the forest in order to improve forest health and reduce the severity of fires? In addition, providing funding for workforce training would increase capacity to do forestry work in a timely manner. SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million to 15 different state agencies for fire prevention activities. This included \$25 million for forest sector economic stimulus, including market developments, loans for biomass utilization facilities, and workforce training. In the May Revise, the Governor proposes \$51 million in additional funding for forest sector economic stimulus. These may be prudent investments to address this issue in the long term.

#### 4) **Related legislation.**

AB 267 (Valladares) eliminates the sunset on provisions that exempt prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that had been reviewed under NEPA from CEQA. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

AB 431 (Patterson) extends the sunset date of January 1, 2022 to January 1, 2026 for the exemption from the requirement to complete a THP for maintaining defensible space between 150 feet and 300 feet from a habitable structure. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

### **REGISTERED SUPPORT / OPPOSITION:**

#### **Support**

Association of California Water Agencies  
California Forestry Association  
Forest Landowners of California  
Humboldt Redwood Company LLC  
Pacific Forest Trust  
Rural County Representatives of California

#### **Opposition**

None on file

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