

AMENDED IN SENATE SEPTEMBER 10, 2001

AMENDED IN SENATE AUGUST 30, 2001

AMENDED IN SENATE JULY 12, 2001

AMENDED IN SENATE JUNE 25, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 242

Introduced by Assembly Member Thomson
(Coauthors: Assembly Members Alquist, Jackson, and Wayne)
(Coauthor: Senator Oller)

February 14, 2001

An act to add Article 3.5 (commencing with Section 1360) to Chapter 4 of Division 2 of and to add and repeal Section 1363.5 of, the Fish and Game Code, relating to oak woodlands conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 242, as amended, Thomson. Wildlife conservation: oak woodlands.

The existing Wildlife Conservation Law of 1947 establishes the Wildlife Conservation Board, and requires the board, among other things, to determine the areas in the state that are most essential and suitable for wildlife production and preservation, as prescribed.

This bill would enact the Oak Woodlands Conservation Act to provide funding for the conservation and protection of California's oak woodlands. The bill would create the Oak Woodlands Conservation

Fund in the State Treasury, and would authorize the expenditure of moneys in the fund, upon appropriation by the Legislature, for purposes of the act. The bill would require the board to administer the fund, as prescribed, and would provide that moneys in the fund shall be available to local ~~government~~ governmental entities, park and open-space districts, resource conservation districts, and nonprofit organizations for implementation and administration of the act, as provided.

The bill would require each city or county planning department that receives a grant for the purposes of the act to report to the city council or board of supervisors of the county, as appropriate, on the uses of those funds within one year from the date the grant is received.

The existing Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) provides that not less than \$5,000,000 of the proceeds of bonds issued under that act be allocated, upon appropriation by the Legislature, for the preservation of oak woodlands.

This bill would provide for the transfer of not less than \$5,000,000 and not more than \$8,000,000, as determined by the Wildlife Conservation Board, to the Oak Woodlands Conservation Fund to be used for the purposes of the bill.

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

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

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) The conservation of oak woodlands enhances the natural
- 4 scenic beauty for residents and visitors, increases real property
- 5 values, promotes ecological balance, provides habitat for over 300
- 6 wildlife species, moderates temperature extremes, reduces soil
- 7 erosion, sustains water quality, and aids with nutrient cycling, all
- 8 of which affect and improve the health, safety, and general welfare
- 9 of the residents of the state.
- 10 (b) Widespread changes in land use patterns across the
- 11 landscape are fragmenting the oak woodlands wildland character
- 12 over extensive areas.
- 13 (c) The future viability of California’s oak woodlands
- 14 resources are dependent, to a large extent, on the maintenance of



1 large scale land holdings or on smaller multiple holdings that are
2 not divided into fragmented, nonfunctioning biological units.

3 (d) The growing population and expanding economy of the
4 state have had a profound impact on the ability of the public and
5 private sectors to conserve the biological values of oak woodlands.
6 Many of the privately owned oak woodlands stands are in areas of
7 rapid urban and suburban expansion.

8 (e) A program to encourage and make possible the long-term
9 conservation of oak woodlands is a necessary part of the state’s
10 wildlands protection policies and programs, and it is appropriate
11 to expend money for that purpose. An incentive program of this
12 nature will only be effective when used in concert with local
13 planning and zoning strategies to conserve oak woodlands.

14 (f) Funding is necessary to sufficiently address the needs of
15 conserving oak woodlands resources for future generations of
16 Californians.

17 (g) California voters recognized the importance of funding that
18 is needed to sufficiently protect the state’s oak woodlands by
19 passing Proposition 12, the Safe Neighborhood Parks, Clean
20 Water, Clean Air, and Coastal Protection Bond Act of 2000 (the
21 Villaraigosa-Keeley Act), which included not less than five
22 million dollars (\$5,000,000) for oak woodlands conservation.

23 SEC. 2. Article 3.5 (commencing with Section 1360) is added
24 to Chapter 4 of Division 2 of the Fish and Game Code, to read:
25

26 Article 3.5. Oak Woodlands Conservation Act
27

28 1360. This article shall be known, and may be cited, as the
29 Oak Woodlands Conservation Act.

30 1361. For purposes of this article, the following terms have
31 the following meanings:

32 (a) “Board” means the Wildlife Conservation Board
33 established pursuant to Section 1320.

34 (b) “Conservation easement” means a conservation easement,
35 as defined in Section 815.1 of the Civil Code.

36 (c) “Fund” means the Oak Woodlands Conservation Fund.

37 (d) “Land improvement” means restoration or enhancement
38 of biologically functional oak woodlands habitat.

39 (e) “Local government entity” means ~~a county, city, or district~~
40 *any city, county, city and county, district, or other local*



1 *governmental entity, if the entity is otherwise authorized to acquire*
2 *and hold title to real property.*

3 (f) “Nonprofit organization” means a tax-exempt nonprofit
4 organization that meets the requirements of subdivision (a) of
5 Section 815.3 of the Civil Code.

6 (g) “Oak” means any species in the genus *Quercus*.

7 (h) “Oak woodlands” means an oak stand with a greater than
8 10 percent canopy cover or that may have historically supported
9 greater than 10 percent canopy cover.

10 (i) “Oak woodlands management plan” means a plan that
11 provides protection for oak woodlands over time and compensates
12 private landowners for conserving oak woodlands.

13 (j) “Special oak woodlands habitat elements” means
14 multilayered canopy, riparian zones, cavity trees, snags, and
15 downed woody debris.

16 1362. It is the intent of the Legislature that this article
17 accomplish all of the following:

18 (a) Support and encourage voluntary, long-term private
19 stewardship and conservation of California’s oak woodlands by
20 offering landowners financial incentives to protect and promote
21 biologically functional oak woodlands over time.

22 (b) Provide incentives to protect and encourage farming and
23 ranching operations that are operated in a manner that protects and
24 promotes healthy oak woodlands.

25 (c) Provide incentives for the protection of oak trees providing
26 superior wildlife values on private lands.

27 (d) Encourage local land use planning that is consistent with the
28 preservation of oak woodlands, particularly special oak
29 woodlands habitat elements.

30 (e) Provide guidelines for spending the funds allocated for oak
31 woodlands pursuant to the Safe Neighborhood Parks, Clean Water,
32 Clean Air, and Coastal Protection Bond Act of 2000 (the
33 Villaraigosa-Keeley Act (Chapter 1.692 (commencing with
34 Section 5096.300) of Division 5 of the Public Resources Code)).

35 (f) Establish a fund for oak woodlands conservation, to which
36 future appropriations for oak woodlands protection may be made,
37 and specify grant making guidelines.

38 1363. (a) The Oak Woodlands Conservation Fund is hereby
39 created in the State Treasury. The fund shall be administered by the



1 board. Moneys in the fund may be expended, upon appropriation
2 by the Legislature, for the purposes of this article.

3 (b) Money may be deposited into the fund from gifts,
4 donations, funds appropriated by the Legislature for the purposes
5 of this article, or from federal grants or loans or other sources, and
6 shall be used for the purpose of implementing this article.

7 (c) To the extent consistent with the Safe Neighborhood Parks,
8 Clean Water, Clean Air, and Coastal Protection Bond Act of 2000
9 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with
10 Section 5096.300) of Division 5 of the Public Resources Code),
11 the board may use money in the Oak Woodlands Conservation
12 Fund to meet federal matching requirements under the federal
13 Forest Legacy Program (16 U.S.C. Sec. 2103c), but only for the
14 purposes specified in this article and only if the following
15 requirements are met:

16 (1) The board shall make an initial recommendation to the
17 Department of Forestry and Fire Protection.

18 (2) The Department of Forestry and Fire Protection shall
19 review the proposal within three months of receipt and may submit
20 the proposal pursuant to the federal Forest Legacy Program.

21 (3) If the Department of Forestry and Fire Protection, in the
22 judgment of the board, significantly alters the proposal, the board
23 may withdraw its recommendation.

24 (d) The purposes for which moneys in the fund may be used
25 include all of the following:

26 (1) Grants for the purchase and monitoring of oak woodlands
27 conservation easements. Any entity authorized to hold a
28 conservation easement under Section 815.3 of the Civil Code may
29 hold a conservation easement pursuant to this article. The holder
30 of the conservation easement shall ensure, on an annual basis, that
31 the conservation easement conditions have been met for that year.

32 (2) Grants for land improvement.

33 (3) Cost-sharing incentive payments to private landowners
34 who enter into long-term conservation agreements. An agreement
35 shall include management practices that benefit oak woodlands
36 and promote the economic sustainability of farming and ranching
37 operations.

38 (4) Public education and outreach by local government entities,
39 park and open-space districts, resource conservation districts, and
40 nonprofit organizations. The public education and outreach shall



1 identify and communicate the social, economic, agricultural, and
2 biological benefits of strategies to conserve oak woodlands habitat
3 values, including watershed protection benefits that reduce soil
4 erosion, increase streamflows, and increase water retention and
5 sustainable agricultural operations.

6 (5) Assistance to local government entities, park and
7 open-space districts, resource conservation districts, and nonprofit
8 organizations for the development and implementation of oak
9 conservation elements in local general plans.

10 (6) Technical assistance consistent with the purpose of
11 preserving oak woodlands.

12 (e) Not more than 20 percent of all grants made by the board
13 pursuant to this article may be used for the purposes described in
14 paragraphs (4), (5), and (6) of subdivision (d). Not less than 80
15 percent of funds available for grants pursuant to this article shall
16 be expended for the purposes described in paragraphs (1), (2), and
17 (3) of subdivision (d).

18 (f) Notwithstanding any other provision of law, this article
19 governs the expenditure of funds for the preservation of oak
20 woodlands pursuant to paragraph (4) of subdivision (a) of Section
21 5096.350 of the Public Resources Code.

22 1363.5. (a) Commencing on June 30, 2003, and annually
23 thereafter, the board shall report to the Legislature and the
24 Governor concerning the activities and expenditures of the fund.

25 (b) (1) In the first report to the Legislature, the board shall
26 identify the total amount, in terms of acreage, species, and
27 coverage, of oak woodlands habitat purchased with funds from the
28 Habitat Conservation Fund and other funds pursuant to the
29 California Wildlife Protection Act of 1990 (Chapter 9
30 (commencing with Section 2780) of Division 3. The board shall
31 present this information in a statewide map that provides both a
32 California Wildlife Habitat Relationships System description and
33 the location of the oak woodlands purchases.

34 (2) In each subsequent annual report, the board shall update the
35 information required by paragraph (1) to reflect additional oak
36 woodlands habitat purchased with funds from the Habitat
37 Conservation Fund pursuant to Chapter 9 (commencing with
38 Section 2780) of Division 3, and any purchases made with moneys
39 deposited in the Oak Woodlands Conservation Fund.



1 (c) The board shall annually identify in the report, the acreage,
2 *cover, and species* of oak woodlands habitat purchased with
3 moneys from the Safe Neighborhood Parks, Clean Water, Clean
4 Air, and Coastal Protection Bond Fund.

5 (d) The board shall make all information, including the
6 statewide map required by paragraph (1) of subdivision (b),
7 available online at its Web site.

8 (e) This section shall become inoperative on July 1, 2020, and,
9 as of January 1, 2021, is repealed, unless a later enacted statute that
10 is enacted before January 1, 2021, deletes or extends the dates on
11 which it becomes inoperative and is repealed.

12 1364. Moneys in the fund shall be available to local
13 government entities, park and open-space districts, resource
14 conservation districts, and nonprofit organizations for the
15 purposes set forth in subdivision (d) of Section 1363.

16 1365. The board shall develop and adopt guidelines and
17 criteria for awarding grants that achieve the greatest lasting
18 conservation of oak woodlands. The board shall develop these
19 guidelines in consultation with the State Board of Forestry and Fire
20 Protection, the Department of Food and Agriculture, the
21 University of California's Integrated Hardwood Range
22 Management Program, conservation groups, and farming and
23 ranching associations. As it applies to the award of grants for the
24 implementation of this article, the board criteria shall specify that
25 easement acquisitions that are the most cost-effective in
26 comparison to the actual value of the easement shall be given
27 priority.

28 1366. (a) To qualify for a grant pursuant to this article, the
29 county or city in which the grant money would be spent shall
30 prepare, or demonstrate that it has already prepared, an oak
31 woodlands management plan that includes a description of all
32 native oak species located within the county's or city's
33 jurisdiction.

34 (b) To qualify for a grant pursuant to this article, the board shall
35 certify that any proposed easement was not, and is not, required to
36 satisfy a condition imposed upon the landowner by any lease,
37 permit, license, certificate, or other entitlement for use issued by
38 one or more public agencies, including, but not limited to, the
39 mitigation of significant effects on the environment of a project
40 pursuant to an approved environmental impact report or to



1 mitigate a negative declaration required pursuant to the California
2 Environmental Quality Act (Division 13 (commencing with
3 Section 21000)) of the Public Resources Code.

4 (c) To qualify for a grant under this article, the applicant shall
5 demonstrate that its proposal provides protection of oak
6 woodlands that is more protective than the applicable provisions
7 of law in existence on the date of the proposal.

8 (d) A county or city may develop an oak woodlands
9 management plan. A nonprofit corporation, park and open-space
10 district, ~~or resource conservation district~~ *resource conservation*
11 *district, or other local governmental entity* may apply to the board
12 for funds to develop an oak woodlands management plan for a
13 county or city, but the county or city shall maintain ultimate
14 authority to approve the oak woodlands management plan.

15 (e) The process for developing an initial oak woodlands
16 management plan, and the adoption of significant amendments to
17 a plan, as determined by the county or city, are subject to the Ralph
18 M. Brown Act (Chapter 9 (commencing with Section 54950) of
19 Part 1 of Division 2 of Title 5 of the Government Code).

20 (f) A proposal by a local government entity, nonprofit
21 corporation, park and open-space district, or resource
22 conservation district for a grant to be expended for the purposes of
23 this article shall be certified by the county or city as being
24 consistent with the oak woodlands management plan of the county
25 or city. If the land covered by the proposal is in the jurisdiction of
26 more than one county or city, each county or city shall certify that
27 the proposal is consistent with the oak woodlands management
28 plan of each county or city.

29 (g) If two or more entities seek grant funding from the board
30 pursuant to this article for the same jurisdiction, the county or city
31 shall designate which entity shall lead the efforts to manage oak
32 woodlands habitat in the area.

33 1367. On or before April 1, 2002, the board and the
34 Department of Forestry and Fire Protection shall develop a
35 memorandum of understanding regarding the protection of oak
36 woodlands that does all of the following:

37 (a) If necessary, creates a specific process for working together
38 to use money from the California Forest Legacy Program Act of
39 2000 (Division 10.5 (commencing with Section 12200) of the
40 Public Resources Code).



1 (b) Lists elements a county or city shall include in its oak
2 woodlands management plan. Items included in the plan shall
3 assist a county or a city to specify conservation priorities and
4 prevent oak woodlands habitat fragmentation while minimizing
5 the cost and administrative burden associated with developing the
6 plan. The elements may include any or all of the following:

- 7 (1) Tree inventory mapping.
- 8 (2) Oak canopy retention standards.
- 9 (3) Oak habitat mitigation measures.
- 10 (4) A procedure to monitor the effectiveness of the plan and to
11 modify the plan as necessary.

12 (c) Designates an online repository for oak woodlands
13 management plans that will be easily accessible to the public and
14 any other state agency involved in oak woodlands conservation
15 efforts.

16 (d) Discusses the relationship between oak woodlands
17 conservation efforts under this article and efforts by other agencies
18 to protect oak woodlands, including efforts to combat sudden oak
19 death, and outlines a plan, as necessary, for coordinating with these
20 agencies.

21 1368. The board may not approve a grant to a local
22 government entity, park and open-space district, resource
23 conservation district, or nonprofit organization if the entity
24 requesting the grant has acquired, or proposes to acquire, an oak
25 woodlands conservation easement through the use of eminent
26 domain, unless the owner of the affected lands requests the owner
27 to do so.

28 1369. A city or county planning department may utilize a
29 grant awarded for the purposes of this article to consult with a
30 citizen advisory committee and appropriate natural resource
31 specialists in order to report publicly to the city council or the
32 board of supervisors on the status of the city's or county's oak
33 woodlands. Each city or county planning department that receives
34 a grant for the purposes of this article shall report to the city council
35 or to the board of supervisors of the county, as appropriate, on the
36 use of those grant funds within one year from the date the grant is
37 received.

38 1370. No money may be expended from the fund to adopt
39 guidelines or to administer the fund until at least one million
40 dollars (\$1,000,000) is deposited in the fund.



1 1372. Nothing in this article grants any new authority to the
2 board or any other agency, office, or department to affect local
3 policy or land use decisionmaking.
4 SEC. 3. An amount not less than five million dollars
5 (\$5,000,000) and not more than eight million dollars
6 (\$8,000,000), as determined by the Wildlife Conservation Board,
7 from moneys in the Safe Neighborhood Parks, Clean Water, Clean
8 Air, and Coastal Protection Bond Fund available for oak woodland
9 conservation pursuant to paragraph (4) of subdivision (a) of
10 Section 5096.350 of the Public Resources Code shall be
11 transferred to the Oak Woodlands Conservation Fund created
12 pursuant to Section 1363 of the Fish and Game Code, to be used
13 for the purposes of Article 3.5 (commencing with Section 1360)
14 of Chapter 4 of Division 2 of the Fish and Game Code.

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