

Assembly Bill No. 2544

CHAPTER 306

An act to amend Sections 4031, 4115, and 4141 of, and to add Sections 4032, 4033, and 4034 to, the Public Resources Code, relating to forestry and fire protection.

[Approved by Governor September 13, 2012. Filed with
Secretary of State September 13, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2544, Gordon. Forestry and fire protection: land purchases and property use.

Existing law authorizes the Department of Forestry and Fire Protection (department), with the approval of the Department of General Services, to purchase land for lookout sites and for other administrative purposes.

This bill would delete that authority for the purchase of land for lookout sites or other administrative purposes and would instead authorize the department, to enter into agreements, easements, licenses, or permits to acquire real property rights for the purposes of establishing fire protection, fire prevention, fire suppression, demonstration state forests, pest control, forest and range protection, and enhancement activities and related uses. The bill would require these agreements, easements, licenses, or permits to be for no more than fair market value and would require the Department of General Services to sign all applicable certificates of acceptance.

This bill would authorize the department to lease, for any use, all or any portion of any parcel of real property acquired for forestry and fire protection purposes if the Director of Forestry and Fire Protection finds that the use would be compatible with the department's use. The bill would authorize the department to provide permits for temporary means of ingress to, egress from, and movement across all property under the jurisdiction of the department in order to provide ready access for the purposes of harvesting timber, conducting studies, and passing and placing equipment upon the department's lands, as prescribed.

This bill would further authorize the department, with the consent of the Department of General Services, to lease any real or personal property that the department deems necessary for temporary use for fire station facilities, modular facilities, storage, warehouse, or office purposes when existing departmental facilities are inadequate.

Existing law authorizes the department, in providing communications and necessary powerlines in connection with the prevention and extinguishment of forest fires, with the approval of the Department of General Services, to enter into contracts with the owners of similar facilities for the use of their facilities.

This bill would additionally authorize the department, in providing telecommunications in connection with the prevention and extinguishment of forest fires, with the approval of the Department of General Services, to enter into contracts with the owners of real property in specified locations for the use of their lands or facilities or to install certain telecommunications facilities.

Existing law authorizes the department to enter into cooperative agreements with the federal government, for the purpose of maintaining a fire patrol system for the prevention and suppression of forest fires, as specified.

This bill would additionally authorize the department to enter into special use permits with the federal government for these purposes and would include staffing and facilities for the prevention and suppression of forest fires in the definition of a fire patrol system for purposes of these provisions.

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

SECTION 1. Section 4031 of the Public Resources Code is amended to read:

4031. (a) The department may, with the approval of the Department of General Services, enter into agreements, easements, licenses, or permits to acquire real property rights for the purposes of establishing fire protection, fire prevention, fire suppression, demonstration state forests, pest control, forest and range protection, and enhancement activities and related uses in accordance with subdivisions (b) and (c).

(b) All agreements, easements, licenses, or permits entered into pursuant to subdivision (a) shall be for no more than fair market value.

(c) The Department of General Services shall sign all applicable certificates of acceptance entered into pursuant to subdivision (a) in accordance with Section 27281 of the Government Code.

(d) This section does not allow the department to purchase land for lookout sites or other administrative purposes.

SEC. 2. Section 4032 is added to the Public Resources Code, to read:

4032. (a) The department may lease, for any use, all or any portion of any parcel of real property acquired for forestry and fire protection purposes if the director finds that the use would be compatible with the department's use.

(b) Rent shall be based on the fair market value of the property when used for the purpose for which it is leased.

(c) The lease term shall not exceed 5 years. All leases entered into pursuant to this section shall be subject to the approval of the Department of General Services.

(d) No lease shall be entered into that extends beyond the 5-year period unless the Legislature has reviewed and approved the proposed lease as part of the annual budget process, or the Public Works Board has determined that the proposed lease could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill

and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed lease after giving at least 20 days' written notice to the Chairperson of the Joint Legislative Budget Committee and to the chairperson of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this subdivision shall be reported to the Legislature in the next Governor's Budget.

SEC. 3. Section 4033 is added to the Public Resources Code, to read:

4033. (a) The department may provide permits for temporary means of ingress to, egress from, and movement across all property under the jurisdiction of the department in order to provide ready access for the purposes of harvesting timber, conducting studies, and passing and placing equipment upon the department's lands.

(b) The department may grant a permit for a right-of-way across the department's lands over that route and subject to those conditions and construction and maintenance specifications as the department may determine that will cause minimum alteration to the physical features of the department's lands and minimum interference with the use of the forests by the public.

(c) The permittee shall, at his or her own expense, construct and maintain the means of ingress and egress, in accordance with the terms and conditions set forth in the permit, noncompliance with which in any part shall be due cause for revocation of that permit.

(d) The department may require a permittee or permittees to allow the use of those temporary means of ingress and egress by any other applicant whose lands are similarly situated.

(e) The department may, at its discretion, charge a reasonable fee for access to its lands.

(f) (1) A permit granted for passage pursuant to this section is temporary and does not imply consent to a permanent easement, and the permit shall include language stating this.

(2) The permits are and shall be revocable at any time.

SEC. 4. Section 4034 is added to the Public Resources Code, to read:

4034. The department, with the consent of the Department of General Services, may lease any real or personal property that the department deems necessary for temporary use of fire station facilities, modular facilities, storage, warehouse, or office purposes when existing departmental facilities are inadequate. This section does not apply when the Department of General Services leases land for the use of the department under Section 14669 of the Government Code.

SEC. 5. Section 4115 of the Public Resources Code is amended to read:

4115. In providing communications, telecommunications, and necessary powerlines in connection with the prevention and extinguishment of forest fires, the department, with the approval of the Department of General Services, may enter into contracts with the owners of real property for the use of their lands or facilities in locations where no other state tenant exists

or to install portable or single use remote telecommunications facilities. Provision may be made for indemnification and holding harmless of the owners of those facilities which are so used by reason of that use. Insurance may be purchased by the Department of General Services, upon request of the department, to protect the state against loss or expense arising out of a contract entered into pursuant to this section.

SEC. 6. Section 4141 of the Public Resources Code is amended to read:

4141. (a) The department may, for the prevention and suppression of forest fires, enter into cooperative agreements with any person, firm, association, or corporation that owns or controls any forest, brush, grass, or grain lands, under such terms as the department deems advisable, and may renew, revise, or terminate these agreements.

(b) The department also may, for the purpose of maintaining a fire patrol system, including staffing and facilities for the prevention and suppression of forest fires in any timber, brush, grass, or other flammable vegetation or material, enter into cooperative agreements and special use permits with the federal government, under those terms as it deems advisable, and may renew, revise, or terminate these agreements.

(c) The expenses incurred under the agreements or permits entered into pursuant to this section shall be paid from appropriations or funds available for forest fire protection.