

AMENDED IN ASSEMBLY AUGUST 13, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 11, 2012

AMENDED IN SENATE JANUARY 25, 2012

AMENDED IN SENATE JANUARY 4, 2012

**SENATE BILL**

**No. 455**

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**Introduced by Senator Pavley**

February 16, 2011

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An act to amend Section 4621 of, and to add Section 4622.5 to, the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

SB 455, as amended, Pavley. Forestry: timberlands: conversion mitigation.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. A violation of the act is a crime. The act also requires a person who owns timberlands, which are to be devoted to uses other than the growing of timber, to file an application for conversion with the State Board of Forestry and Fire Protection.

This bill would prohibit the department from approving an application for conversion of timberlands of 3 or more acres unless specific mitigation requirements are met. The bill would provide an exception for a county that adopts a timberland conversion and mitigation ordinance that meets or exceeds the mitigation requirements. The bill

would authorize a timberland conversion permit applicant to contract with the state, among others, to implement mitigation activities. The bill would establish a continuously appropriated fund to be administered by the Natural Resources Agency and would require that moneys received under a contract to mitigate a conversion of timberlands be deposited in the fund and expended for that purpose. The bill would also allow the department to collect a fee for permits applicable to the conversion of timberlands of 3 or more acres to cover its costs and the costs of the Department of Fish and Game in approving timberland conversion permits and ensuring that mitigation requirements are met.

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 finds and declares all of the  
2 following:

3 (a) It is the intent of the Legislature to maintain California's  
4 current acreage of timberlands in order to provide for the  
5 environmental and watershed amenities of timberlands and to  
6 maintain the economic productivity of those lands.

7 (b) It is also the intent of the Legislature to maintain California's  
8 timberlands to help achieve the state's greenhouse gas reduction  
9 goals.

10 (c) It is further the intent of the Legislature that the impacts of  
11 the conversion of timberlands to nonforest uses be mitigated in a  
12 way that ~~provides a mechanism to help maintain California's~~  
13 ~~timberland base will create economic incentives for other~~  
14 ~~landowners to manage their lands to restore, maintain, and~~  
15 ~~enhance timberland.~~

16 ~~(d) It is further the intent of the Legislature that those who~~  
17 ~~convert timberlands to nonforest uses, mitigate those impacts,~~  
18 ~~which will create economic incentives for other landowners to~~  
19 ~~manage their lands to maintain and restore timberland to help~~  
20 ~~achieve the state's climate goals.~~

21 (d) *In mitigating the loss of timberland, it is the intent of the*  
22 *Legislature that the mitigation actions include reforesting an area*  
23 *at least as large as the conversion to prevent the continued loss*  
24 *of timberland acreage. Additional actions may be required to fully*  
25 *mitigate the ecological and climate impacts of the conversion.*

1 SEC. 2. Section 4621 of the Public Resources Code is amended  
2 to read:

3 4621. (a) Any person who owns timberlands, which are to be  
4 devoted to uses other than the growing of timber, shall file an  
5 application for conversion with the board. The board shall, by  
6 regulation, prescribe the procedures for, form, and content of, the  
7 application. An application for a timberland conversion permit  
8 shall be accompanied by an application fee, payable to the  
9 department, in an amount determined by the board pursuant to  
10 subdivision (b).

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

14 (c) For permits applicable to the conversion of timberlands of  
15 three or more acres, the department may collect a fee, as necessary,  
16 to cover its costs and the costs of the Department of Fish and Game  
17 in approving these timberland conversion permits and ensuring  
18 that mitigation requirements occur and are maintained over time.

19 SEC. 3. Section 4622.5 is added to the Public Resources Code,  
20 to read:

21 4622.5. (a) An application for conversion of timberlands of  
22 three or more acres shall not be approved unless the department,  
23 ~~based on information provided by the applicant,~~ finds all of the  
24 following:

25 (1) All of the environmental impacts of the conversion, including  
26 impacts on wildlife, habitat values, and forest type are fully  
27 mitigated. This determination shall be made ~~in consultation~~  
28 *with the approval of the Department of Fish and Game.*

29 (2) The mitigation ~~pursuant to paragraph (1)~~ occurs on California  
30 timberlands ~~and, is limited to the actions described in subdivisions~~  
31 *(b) and (c),* complies with the greenhouse gas reduction principles  
32 identified in subdivision (d) of Section 38562 of the Health and  
33 Safety Code, *and is in accordance with guidance developed in*  
34 *consultation with the State Air Resources Board.*

35 (3) The mitigation pursuant to paragraph (1) ~~includes shall fully~~  
36 *mitigate* the loss of carbon in above-ground and below-ground  
37 biomass and the loss of future ongoing carbon sequestration. ~~The~~  
38 ~~mitigation shall be consistent with the greenhouse gas~~  
39 ~~methodologies approved by the State Air Resources Board~~ *The*  
40 *reduction of greenhouse gas impacts shall occur over the same*

1 *time period as, and shall be equivalent to, the greenhouse gas*  
2 *emissions and losses of above-ground and below-ground biomass*  
3 *that result from the conversion.*

4 (4) The mitigation pursuant to paragraph (1) will be  
5 implemented as required under subdivision (e).

6 (b) All mitigation associated with conversion projects shall be  
7 on lands that secure the mitigation with a permanent conservation  
8 easement and include, but not be limited to, the reforestation of a  
9 previously forested area at a minimum acreage ratio of one-to-one.  
10 The lands on which this mitigation occurs shall *historically have*  
11 *been in forest cover but shall not have been in forest cover for at*  
12 *least 10 years.*

13 (c) To the extent the reforestation activity in subdivision (b)  
14 does not fully mitigate the ~~impacts of the conversion project~~  
15 ~~identified in subdivision (a)~~ *loss of carbon in above-ground and*  
16 *below-ground biomass and the loss of future ongoing carbon*  
17 *sequestration caused by the conversion project*, the applicant shall  
18 undertake one or a combination of the following actions:

19 (1) Avoid the loss of carbon in above-ground and below-ground  
20 biomass by preserving timberland at risk of conversion.

21 (2) Manage timberlands to sequester additional carbon in  
22 above-ground and below-ground forest biomass.

23 (3) *Additional reforestation activities.*

24 (d) All mitigation shall be the responsibility of the timberland  
25 conversion permit applicant.

26 (e) All mitigation shall be ~~implemented~~ *completed* within ~~one~~  
27 ~~year~~ *two years* of the conversion to nonforest use and in either of  
28 the following ways:

29 (1) The permit applicant may undertake the mitigation directly,  
30 if the department finds that the mitigation will comply with this  
31 section.

32 (2) The permit applicant may undertake the mitigation through  
33 contracts or other agreements with the state, or if the department  
34 finds that the mitigation will comply with this section, with third  
35 parties that have expertise in managing timberlands, including  
36 local conservation corps, nonprofit organizations, or private  
37 landowners *if the contract or agreement is provided to the*  
38 *department and contains terms specifically authorizing the*  
39 *department to enforce any such contract or agreement.*

1 (3) *The department and the applicant shall enter into an*  
2 *enforceable agreement to ensure that the mitigation is completed,*  
3 *which shall include the county, at its request, and shall include*  
4 *the county when changes in local land use planning would be*  
5 *required to implement the conversion or mitigation.*

6 (f) (1) The Timberland Conversion Services Fund is hereby  
7 created in the State Treasury, to be administered by the Natural  
8 Resources Agency.

9 (2) All moneys received by the agency pursuant to an agreement  
10 authorized under paragraph (2) of subdivision (e) shall be deposited  
11 in the fund and expended to mitigate the timberland conversion  
12 that is the subject of that agreement.

13 (3) The moneys in the fund shall be continuously appropriated  
14 to the agency for purposes of this section.

15 (g) Conversions that comply with subdivision (g) of Section  
16 4584 are exempt from this section.

17 (h) The department may exempt from this section a county that  
18 adopts a timberland conversion and mitigation ordinance that it  
19 finds meets or exceeds the mitigation requirements of this section.

20 (i) The department shall develop guidelines to assist in  
21 compliance with this section. Any guidelines shall be developed  
22 in consultation with and approved by the State Air Resources Board  
23 and, *to the extent feasible*, shall be consistent with ~~the~~ *an existing*  
24 *relevant greenhouse gas accounting method developed by the State*  
25 *Air Resources Board. ~~The State Air Resources Board and the~~*  
26 *department may seek reimbursement of ~~their~~ its costs from any*  
27 *appropriate source including the fund established in paragraph (1)*  
28 *of subdivision (f). ~~The State Air Resources Board may seek~~*  
29 *reimbursement of its costs from the Air Pollution Control Fund*  
30 *established in Section 43015 of the Health and Safety Code.*

31 (j) The requirements imposed by this section for the approval  
32 of a timberland conversion permit are in addition to any other  
33 requirements established by law or regulation.

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