

**Introduced by Senator Kuehl**

February 20, 2003

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An act to add Article 10 (commencing with Section 4629) to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, relating to forest practices.

LEGISLATIVE COUNSEL'S DIGEST

SB 557, as introduced, Kuehl. Forest practices: timber products user forest restoration.

Existing law provides for the regulation of forest practices.

This bill would establish a timber products user forest restoration fee on timber products sold for consumption in California, as specified. The bill would create the Timber Products User Forest Restoration Fund in the State Treasury. Moneys in the fund would be available for appropriation for, among other things, restoration of the environment and habitat related to the effects of timber harvesting, protection of forested watersheds, and assistance to timber industry workers.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . 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:

1 (a) Forested lands in California provide significant  
2 environmental benefits, including serving as the source of more  
3 than half the state's supply of drinking water, habitat for numerous  
4 wildlife and plant species, some of which are rare, threatened, or  
5 endangered, the source of raw materials for the timber products  
6 industry, and a source of jobs for those who are employed in that  
7 industry.

8 (b) Regulation of timber harvesting practices, including timber  
9 harvesting plans, nonindustrial timber management plans,  
10 exemptions, and emergency notices has become increasingly  
11 complex and expensive, even given the fact that some reviewing  
12 agencies review less than 20 percent of the proposed timber  
13 harvesting plans presented to them.

14 (c) The current budget crisis presents an opportunity to  
15 reevaluate financing of the timber harvesting plan review process  
16 that currently draws approximately twenty-one million dollars  
17 (\$21,000,000) annually from the General Fund.

18 (d) It is appropriate to support the timber harvesting plan  
19 review process through user fees.

20 (e) The economic pressures faced by the timber industry,  
21 caused by globalization and imported timber products, is likely to  
22 mean a protracted period of low prices that have already reduced  
23 the margin of profitability of timber companies and the harvests  
24 of private landowners in California.

25 (f) Under those conditions, it is inequitable to add twenty  
26 million dollars (\$20,000,000) or more in timber harvesting plan  
27 review costs to applicants, many of whom are individual  
28 landowners. If the approximately twenty million (\$20,000,000)  
29 were evenly divided among the approximately 1,000 timber  
30 harvesting plans applied for annually, the increase in review costs  
31 would be twenty thousand dollars (\$20,000) per timber harvesting  
32 plan application, which is too onerous a burden.

33 (g) It is fair and equitable to require purchasers of timber  
34 products to contribute to the public cost of reviewing timber  
35 harvesting plan applications and further to contribute to the  
36 watershed and habitat restoration that are vital public trust  
37 resources that will also serve to rehabilitate California's  
38 forestlands, as well as assist in the development of new and  
39 creative techniques to protect those forestlands now and in the  
40 future.



1 (h) It is also fair and equitable that purchasers of timber  
2 products be directly linked to the restoration of the stability of the  
3 lives of workers and working families whose lives have been  
4 disrupted by economic fluctuations within the timber products  
5 industry. Restoring jobs, retraining workers, and providing new  
6 opportunities for workers are legitimate objectives for the use of  
7 funds obtained by a user fee on timber products. It is fair and  
8 equitable that purchasers of timber products recognize that a small  
9 fraction of their timber product purchases will contribute to the  
10 stability of the timber products industry for the benefit of the entire  
11 state.

12 (i) The Legislature has concluded that a user fee on timber  
13 products is an equitable way to fund watershed and wildlife  
14 restoration projects and economic development projects that are  
15 closely associated with timber harvesting activities in California.

16 (j) As an alternative to a fee on landowners and industrial  
17 timberland owners, a fee of one cent (\$0.01) per board foot of  
18 lumber could generate approximately one hundred million dollars  
19 (\$100,000,000) per year, based on data from the Department of  
20 Forestry and Fire Protection.

21 (k) According to the department, a typical new house uses  
22 about 10,000 board feet of lumber, and thus the fee would amount  
23 to about one hundred dollars (\$100) per new home, which is a  
24 reasonable and low fee that will return significant environmental  
25 and economic benefits to the state. According to the U.S. Bureau  
26 of the Census and the National Association of Homebuilders,  
27 lumber is less than 3 percent of the cost of a new home.

28 (l) Through cost-share programs, the user fee could fund  
29 projects that do all of the following:

30 (1) Alleviate erosion and sedimentation problems caused by  
31 road building activities on public and private timberlands, which  
32 is the major source of impairment of those rivers and streams and  
33 the major reason virtually all of the rivers and streams on the North  
34 Coast are listed as impaired pursuant to the Clean Water Act.

35 (2) Undertake the restoration of wild salmon and steelhead  
36 streams that have been damaged by historical and present day  
37 logging activities.

38 (3) Develop enhanced protections for forested watersheds that  
39 provide drinking water to millions of Californians.



1 (4) Assist in the retraining of workers displaced by the  
2 economic transformations within the timber industry and the  
3 economic development activities of rural communities that have  
4 been adversely affected by environmental and economic activities  
5 of the timber industry.

6 (m) Additionally, the user fee could do all of the following:

7 (1) Create financial incentives for landowners and timber  
8 companies to harvest timber sustainably.

9 (2) Pay for conservation easements that would protect sensitive  
10 watersheds, rivers, or streams.

11 (3) Help defray the costs to landowners of preparing  
12 programmatic timber environmental reports that will ensure  
13 adoption of environmentally sustainable logging activities.

14 SEC. 2. Article 10 (commencing with Section 4629) is added  
15 to Chapter 8 of Part 2 of Division 4 of the Public Resources Code,  
16 to read:

17  
18 Article 10. Timber Products User Forest Restoration

19  
20 4629. The following definitions apply to this article:

21 (a) "Board" means the State Board of Equalization.

22 (b) "Consumer" means a person who purchases for  
23 consumption timber products provided by a timber product  
24 supplier.

25 (c) "Consumption" means the purchase of a timber product by  
26 an end user. An end user includes a person who purchases a timber  
27 product for use in manufacturing, including the manufacturing of  
28 prefabricated rafters, walls, cabinets, or furniture. The term does  
29 not include the storage or use of timber products that will be resold  
30 without incorporation into a manufactured product.

31 (d) "Fee" means the timber products user forest restoration  
32 fee.

33 (e) "Fund" means the Timber Products User Forest  
34 Restoration Fund.

35 (f) "Person" means an individual, firm, partnership, joint  
36 venture, association, social club, cooperative organization,  
37 fraternal organization, corporation, limited liability company,  
38 limited liability partnership, estate, trust, business trust, receiver,  
39 trustee, syndicate, this state, any county, city, city and county,



1 municipality, district, public agency, or subdivision of this state,  
2 or any other group or combination acting as a unit.

3 (g) “Timber product” means a wood product, and all similar  
4 products, described in subdivisions (a), (b), and (c) of Section  
5 4629.3, unless specifically excluded from the application of the  
6 fee.

7 (h) “Timber product supplier” means a person that sells timber  
8 products to consumers.

9 4629.1. The Timber Products User Forest Restoration Fund is  
10 hereby established in the State Treasury. Moneys in the fund may  
11 be appropriated only for the uses set forth in this article.

12 4629.2. The State Board of Equalization shall collect a user  
13 fee on all the timber products described in Section 4629.3 that are  
14 sold for consumption in California and deposit in the fund all fees  
15 that are collected. The board shall administer the fee imposed  
16 pursuant to this article in accordance with the Fee Collection  
17 Procedures Law (Part 30 (commencing with Section 55001) of  
18 Division 2 of the Revenue and Taxation Code).

19 4629.3. The fee is imposed on the consumer at the time of the  
20 purchase of a timber product for consumption in this state. The fee  
21 shall be one cent (\$0.01) per board foot for products, and all similar  
22 products, listed in subdivision (a). The fee shall be one cent (\$0.01)  
23 per square foot for products, and all similar products, listed in  
24 subdivision (b). The fee shall be one cent (\$0.01) per linear foot  
25 for products, and all similar products, listed in subdivision (c). The  
26 fee shall be computed on the basis of standard terminology within  
27 the timber products industry to the maximum extent practicable.  
28 A user fee on composite products manufactured from various  
29 wood and nonwood materials shall conform to the appropriate  
30 following subdivision that most closely applies to the product that  
31 is sold:

32 (a) Solid wood products including, but not limited to,  
33 dimension lumber, posts and beams, boards, laminated beams,  
34 edge glued materials, and timbers.

35 (b) Veneer-based and sheeting materials, including, but not  
36 limited to, plywood, laminated veneer lumber (LVL),  
37 parallel-laminated veneer (PLV), and composite materials such as  
38 cellulosic fiberboard, hardboard, particleboard, waferboard,  
39 flakeboard, oriented strandboard (OSB), and com-ply.



1 (c) Poles and pilings, including, but not limited to, posts and  
2 similar products.

3 4629.4. (a) A timber product supplier shall collect the fee  
4 from a consumer at the time it sells a timber product to the  
5 consumer. The fee required to be collected by the timber product  
6 supplier shall be added to and stated separately in its billing to the  
7 consumer. The fee required to be collected by the timber product  
8 supplier, and any amount unreturned to the consumer which is not  
9 a fee, but was collected from the consumer as representing a fee,  
10 constitute debts owed by the timber product supplier to the state.

11 (b) The timber product supplier shall collect the fee from a  
12 consumer at the time of sale and may retain \_\_\_\_ percent of the fee  
13 as reimbursement for any costs associated with the collection of  
14 the fee. A timber product supplier shall remit the remainder to the  
15 state on a quarterly schedule for deposit in the fund.

16 (c) A consumer in this state is liable for the fee until it has been  
17 paid to the state, except that payment to a timber product supplier  
18 that is registered with the board pursuant to Section 55021 of the  
19 Revenue and Taxation Code is sufficient to relieve the user from  
20 further liability.

21 (d) The fee is due and payable to the board monthly on or before  
22 the 25th day of the calendar month following the monthly period  
23 for which the fee is due. A feepayer pursuant to subdivision (b),  
24 on or before the 25th day of the month following each monthly  
25 period, shall make out a return for the preceding monthly period,  
26 in the form prescribed by the board.

27 (d) All fees imposed shall be paid in the form of remittances  
28 payable to the State Board of Equalization. The board shall  
29 transmit the payment to the fund.

30 4629.5. Money in the fund shall, when appropriated by the  
31 Legislature, be spent solely for the following purposes:

32 (a) To pay for refunds pursuant to Part 30 (commencing with  
33 Section 55001) of Division 2 of the Revenue and Taxation Code.

34 (b) To pay administrative costs of the board for collecting,  
35 auditing, and making refunds associated with the fund, not to  
36 exceed 3 percent of the fund per fiscal year.

37 (c) To assume in its entirety the existing General Fund  
38 appropriations as they existed on December 31, 2002, for the  
39 administration and review of all operations of all departments,  
40 boards, and commissions that review timber harvesting



1 undertaken pursuant to this chapter, or pursuant to any regulations  
2 of the department. The reviewing boards, commissions, and  
3 departments are the department, the Department of Fish and  
4 Game, the Department of Conservation, the California Coastal  
5 Commission, and the regional water quality control boards. This  
6 act may not affect the personnel practices of, the status of any  
7 employees of, or the compensation or benefits of any current or  
8 future employees of, any reviewing board, commission, or  
9 department.

10 (d) To provide increases above the former General Fund  
11 appropriations for the maintenance of existing operations of the  
12 reviewing agencies described in subdivision (c), and to provide  
13 increases that result in programmatic improvements to the  
14 operations of the reviewing agencies, or for any other appropriate  
15 increases.

16 (e) To provide necessary additional support to the reviewing  
17 agencies described in subdivision (c), in order to comply with  
18 changes in statutory law passed by the Legislature and approved  
19 by the Governor or to comply with regulations that are adopted by  
20 any of the reviewing agencies.

21 (f) Create within the department, a cost share program with a  
22 minimum contribution of matching funds of 20 percent from any  
23 project that is funded. By rule and regulation, the department may  
24 determine the minimum contribution for all eligible projects.  
25 Eligible projects include all of the following:

26 (1) Decommissioning roads on timberlands, so that the risk of  
27 sedimentation into rivers and streams is minimized and  
28 protections to wildlife and watersheds are enhanced.

29 (2) Maintaining roads through timberlands, including those  
30 owned by public agencies, so that the risk of sedimentation into  
31 rivers and streams is minimized and protections to wildlife and  
32 watersheds are enhanced.

33 (3) Restoring wildlife habitat and providing watershed  
34 restoration grants to public agencies, watershed groups, and  
35 landowners who agree to undertake projects that protect water  
36 supplies, endangered and threatened species, or other  
37 environmental benefits that are undertaken in compliance with the  
38 state endangered species act and the California Environmental  
39 Quality Act, if appropriate.



1 (4) Creating opportunities for cross-training among reviewing  
2 agencies described in subdivision (c) in order to educate these  
3 agencies about the responsibilities, perspectives, and analytical  
4 issues faced by the other reviewing agencies.

5 (5) Expanding timber harvesting plan reviews by the reviewing  
6 agencies described in subdivision (c) and increasing inspections of  
7 ongoing timber harvesting plans to ensure compliance.

8 (6) Purchasing fee title, conservation easements, or other  
9 interests in land from willing sellers who agree, if less than fee title  
10 is purchased, that future timber harvesting activities will be  
11 conducted in a sustainable method certified by the Forest  
12 Stewardship Council. The purchase of conservation easements or  
13 fee title from willing sellers shall initially prioritize lands near  
14 watercourses in order to minimize the future risk of sedimentation  
15 into rivers and streams or to restore endangered species, especially  
16 wild salmon and steelhead.

17 (7) In conjunction with other appropriate state agencies,  
18 establishing a worker retraining program and developing other  
19 economic opportunities for timber workers who have been  
20 displaced by changes in the industry, including downsizing,  
21 consolidation, and the closing of mills in California.

22 (8) At the request of the State Board of Forestry and Fire  
23 Protection, hiring professional policy staff for the State Board of  
24 Forestry and Fire Protection.

25 (9) Undertaking a public education effort with forestland  
26 owners that recommends future timber harvests be conducted  
27 pursuant to a programmatic timber environmental impact report  
28 (PTEIR) or pursuant to the sustainability standards of the Forest  
29 Stewardship Council, and providing an incentive of half the cost  
30 a PTEIR for landowners who voluntarily agree to develop a  
31 PTEIR on or before January 1, 2005. The Secretary of the  
32 Resources Agency shall first certify that the regulations  
33 establishing the PTEIR process meet the requirements for a  
34 certified regulatory program under Section 21080.5. In the event  
35 that certification does not occur during the 2004 calendar year, the  
36 incentive to landowners shall be extended one day for every day  
37 after January 1, 2005, until the certification is completed and any  
38 necessary changes, if any, to the PTEIR process that are  
39 recommended by the Secretary of the Resources Agency are  
40 implemented.



1 (10) Studying other efforts to reduce regulatory costs to the  
2 state and to forested landowners that are consistent with the  
3 principles of the Forest Stewardship Council.

4 4629.6. After all appropriate expenditures under Section  
5 4629.5 have been appropriated, any moneys remaining in the fund  
6 may be used for any project eligible under subdivision (f) of  
7 Section 4629.5. The director may waive the requirement of  
8 cost-share funds contained in subdivision (f) of Section 4629.5 for  
9 projects of extraordinary importance that are consistent with the  
10 purposes of this chapter. Any remaining moneys may also be used  
11 for projects that fund public education activities, including, but not  
12 limited to, grants for natural resource education, natural resource  
13 research, watershed studies, botanical studies, and wildlife  
14 surveys. The department, in conjunction with the Secretary of the  
15 Resources Agency, shall develop protocols for eligible projects  
16 and applications for these funds on or before January 1, 2005, and  
17 the fund shall reimburse the agency and department costs for  
18 developing the protocols.

19 4629.7. (a) The fund shall reimburse the costs to the  
20 department and the State Board of Forestry and Fire Protection to  
21 create a broad-based stakeholder group that shall do all of the  
22 following:

23 (1) Explore the suitable reuse and conversion of closed mills  
24 and other timber industry facilities in California to productive  
25 uses.

26 (2) Recommend the most efficient way to develop new milling  
27 and processing capacity in California that is certifiable by the  
28 Forest Stewardship Council.

29 (3) Make recommendations that will develop and maintain  
30 more “value-added” timber processing and manufacturing  
31 facilities in California to benefit the economic status of rural  
32 communities and workers.

33 (b) The stakeholder group shall be comprised of an equal  
34 number of representatives from the timber industry, including  
35 labor organizations that have collective bargaining agreements  
36 with the timber industry, landowners, and conservation groups  
37 with an expertise in statewide or regional forestry policies. All  
38 relevant state and federal agencies shall be invited to participate in  
39 this stakeholder process as ex officio participants. The members



1 shall be appointed jointly by the State Board of Forestry and Fire  
2 Protection and the director.

3 (c) The initial report of the stakeholder group shall be  
4 submitted to the Senate Committee on Rules and the Speaker of the  
5 Assembly on January 1, 2005. A followup report shall be  
6 submitted two years later, at which point the stakeholder group  
7 shall cease to exist unless it is reauthorized by the Legislature.

