

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 7, 2003

**SENATE BILL**

**No. 557**

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**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 amended, 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 by ~~increasing the state sales tax on specified timber products by 0.5 cent~~ *levying an excise tax in the amount of 1¢ per board foot on specified timber products*. 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: 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:

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

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

16 (c) The current budget crisis presents an opportunity to  
17 reevaluate financing of the timber harvesting plan review process  
18 that currently draws approximately twenty-one million dollars  
19 (\$21,000,000) annually from the General Fund.

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

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

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



1 (g) It is fair and equitable to require purchasers of timber  
2 products to contribute to the public cost of reviewing timber  
3 harvesting plan applications and further to contribute to the  
4 watershed and habitat restoration that are vital public trust  
5 resources that will also serve to rehabilitate California's  
6 forestlands, as well as assist in the development of new and  
7 creative techniques to protect those forestlands now and in the  
8 future.

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

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

24 (j) As an alternative to a direct fee on landowners and industrial  
25 timberland owners who apply for timber harvest plan permits, ~~a~~  
26 ~~one-half cent (\$0.005) increase in the state sales tax~~ *an excise tax*  
27 *in the amount of one cent (\$0.01) per board foot* on timber products  
28 could generate sufficient funds to replace the general fund outlay  
29 for timber harvest plan review, and generate additional funds to  
30 help restore the forest practices industry in California, mitigate the  
31 effects of historic logging practices on watersheds and wildlife,  
32 and protect drinking water supplies for millions of Californians.

33 (k) Through cost-share programs, the user fee could fund  
34 projects that do all of the following:

35 (1) Alleviate erosion and sedimentation problems caused by  
36 road building activities on public and private timberlands, which  
37 is the major source of impairment of rivers and streams in those  
38 areas and the major reason virtually all of the rivers and streams  
39 on the North Coast are listed as impaired pursuant to the Clean  
40 Water Act.



1 (2) Undertake the restoration of salmon and steelhead streams  
2 that have been damaged by historical and present day logging  
3 activities.

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

6 (4) Assist in the retraining of workers displaced by the  
7 economic transformations within the timber industry and the  
8 economic development activities of rural communities that have  
9 been adversely affected by environmental and economic activities  
10 of the timber industry.

11 (l) Additionally, the user fee could do all of the following:

12 (1) Create financial incentives for landowners and timber  
13 companies to harvest timber sustainably.

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

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

19 (m) It is the intent of the Legislature that the fee-based funding  
20 of the review of timber harvest plans and the administrative  
21 processes associated with those reviews will result in improved  
22 environmental protections and in administrative improvements  
23 that will benefit permit applicants.

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

27  
28 Article 10. Timber Products User Forest Restoration Fund

29  
30 4629. The following definitions apply to this article:

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

32 (b) "Consumer" means a person who purchases for  
33 consumption timber products provided by a timber product  
34 supplier.

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



1 (d) “Department” means the Department of Forestry and Fire  
2 Protection.

3 (e) “Director” means the Director of Forestry and Fire  
4 Protection.

5 (f) “Fee” means the timber products user forest restoration fee.

6 (g) “Fund” means the Timber Products User Forest  
7 Restoration Fund.

8 (h) “Person” means an individual, firm, partnership, joint  
9 venture, association, social club, cooperative organization,  
10 fraternal organization, corporation, limited liability company,  
11 limited liability partnership, estate, trust, business trust, receiver,  
12 trustee, syndicate, this state, any county, city, city and county,  
13 municipality, district, public agency, or subdivision of this state,  
14 or any other group or combination acting as a unit.

15 (i) “Timber product” means a wood product, and all similar  
16 products, described in subdivisions (a), (b), and (c) of Section  
17 4629.3, unless specifically excluded from the application of the  
18 fee.

19 (j) “Timber product supplier” means a person that sells timber  
20 products to consumers.

21 4629.1. The Timber Products User Forest Restoration Fund is  
22 hereby established in the State Treasury. Moneys in the fund may  
23 be appropriated only for the uses set forth in this article.

24 4629.2. The State Board of Equalization shall collect a user  
25 fee on all the timber products described in Section 4629.3 that are  
26 sold for consumption in California and deposit in the fund all fees  
27 that are collected. The board shall administer the fee imposed  
28 ~~pursuant to this article in accordance with the collection~~  
29 ~~procedures of the Sales and Use Tax Law (Chapter 6 (commencing~~  
30 ~~with Section 6701) of Part 1 of Division 2 of the Revenue and~~  
31 ~~Taxation Code).~~ *pursuant to this article in accordance with the Fee*  
32 *Collection Procedures Law (Part 30 (commencing with Section*  
33 *55001) of Division 2 of the Revenue and Taxation Code).*

34 4629.3. *The fee is imposed on the consumer at the time of the*  
35 *purchase of a timber product for consumption in this state. The fee*  
36 *shall be a one-half cent (\$0.005) increase in the state sales tax*  
37 *imposed on lumber and related shall be an excise tax in the amount*  
38 *of one cent (\$0.01) per board foot imposed on lumber and related*  
39 *products listed in subdivisions (a), (b), and (c). A user fee on*  
40 *composite products manufactured from various wood and*



1 nonwood materials shall conform to the appropriate following  
2 subdivision that most closely applies to the product that is sold:

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

6 (b) Veneer-based and sheeting materials, including, but not  
7 limited to, plywood, laminated veneer lumber (LVL),  
8 parallel-laminated veneer (PLV), and composite materials such as  
9 cellulosic fiberboard, hardboard, particleboard, waferboard,  
10 flakeboard, oriented strandboard (OSB), and com-ply.

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

13 4629.4. (a) A timber product supplier shall collect the fee  
14 from a consumer at the time it sells a timber product to the  
15 consumer. The fee required to be collected by the timber product  
16 supplier shall be added to and stated separately in its billing to the  
17 consumer. The fee required to be collected by the timber product  
18 supplier, and any amount unreturned to the consumer which is not  
19 a fee, but was collected from the consumer as representing a fee,  
20 constitute debts owed by the timber product supplier to the state.

21 (b) The timber product supplier shall collect the fee from a  
22 consumer at the time of sale and may retain 3 percent of the fee as  
23 reimbursement for any costs associated with the collection of the  
24 fee. A timber product supplier shall remit the remainder to the state  
25 on a quarterly schedule for deposit in the fund.

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

31 (d) The fee is due and payable to the board monthly on or before  
32 the 25th day of the calendar month following the quarterly period  
33 for which the fee is due. A feepayer pursuant to subdivision (b),  
34 on or before the 25th day of the month following each quarterly  
35 period, shall make out a return for the preceding quarterly period,  
36 in the form prescribed by the board.

37 (e) All fees imposed shall be paid in the form of remittances  
38 payable to the State Board of Equalization. The board shall  
39 transmit the payment to the fund and reimburse its administrative



1 costs for collecting, auditing, and making refunds associated with  
2 the fund, not to exceed 3 percent of the fund per fiscal year.

3 4629.5. Money in the fund shall, when appropriated by the  
4 Legislature, be spent solely for the following purposes:

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

7 (b) To assume, in its ~~entirely~~ *entirety*, the existing General Fund  
8 appropriations as they existed on December 31, 2002, for the  
9 administration and review of all operations directly connected  
10 with the review of timber harvest plans of all departments, boards,  
11 and commissions that review timber harvesting undertaken  
12 pursuant to this chapter, or pursuant to any regulations of the  
13 department or the State Board of Forestry and Fire Protection. The  
14 reviewing boards, commissions, and departments are the  
15 department, the Department of Fish and Game, the Department of  
16 Conservation, the California Coastal Commission, and the  
17 regional water quality control boards. This act may not affect the  
18 personnel practices of, the status of any employees of, or the  
19 compensation or benefits of any current or future employees of,  
20 any reviewing board, commission, or department.

21 (c) To provide increases above the former General Fund  
22 appropriations for the maintenance of existing operations of the  
23 reviewing agencies described in subdivision (b), and to provide  
24 increases that result in programmatic improvements to the  
25 operations of the reviewing agencies, or for any other appropriate  
26 increases. The reviewing agencies, after receiving approval  
27 pursuant to their internal procedures, shall apply for increases  
28 above the baseline established in subdivision (b) in a coordinated  
29 fashion coincident with the annual budget process.

30 (d) To provide necessary additional support to the reviewing  
31 agencies described in subdivision (b), in order to comply with  
32 changes in statutory law passed by the Legislature and approved  
33 by the Governor or to comply with regulations that are adopted by  
34 any of the reviewing agencies.

35 (e) To create opportunities for cross-training among reviewing  
36 agencies described in subdivision (b), in order to educate these  
37 agencies about the responsibilities, perspectives, and analytical  
38 issues faced by the other reviewing agencies.

39 (f) In conjunction with other appropriate state agencies, to  
40 establish a worker retraining program and develop other economic



1 opportunities for timber workers who have been displaced by  
2 changes in the industry, including downsizing, consolidation, and  
3 the closing of mills in California.

4 (g) At the request of the State Board of Forestry and Fire  
5 Protection, to hire professional policy staff for the State Board of  
6 Forestry and Fire Protection.

7 (h) To undertake a public education effort with forestland  
8 owners that recommends future timber harvests be conducted  
9 pursuant to a programmatic timber environmental impact report  
10 (PTEIR) or pursuant to the sustainability standards of the Forest  
11 Stewardship Council or another certification organization as  
12 described in paragraph ~~(6)~~ (5) of subdivision (J), and providing an  
13 incentive of half the cost of a PTEIR for landowners who  
14 voluntarily agree to develop a PTEIR on or before January 1, 2005.  
15 The Secretary of the Resources Agency shall first certify that the  
16 regulations establishing the PTEIR process meet the requirements  
17 for a certified regulatory program under Section 21080.5. In the  
18 event that certification does not occur during the 2004 calendar  
19 year, the incentive to landowners shall be extended one day for  
20 every day after January 1, 2005, until the certification is completed  
21 and any necessary changes, if any, to the PTEIR process that are  
22 recommended by the Secretary of the Resources Agency are  
23 implemented.

24 (i) To study other efforts to reduce regulatory costs to the state  
25 and to forested landowners that are consistent with the principles  
26 of the Forest Stewardship Council.

27 (j) To create within the department, a cost share program with  
28 a minimum contribution of matching funds of 20 percent from any  
29 project that is funded. Eligible applicants for funds include state  
30 departments, boards and commissions, local governments and  
31 special districts, and nonprofit organizations. Landowners and  
32 other private entities are also eligible to apply. All applicants shall  
33 demonstrate the capability to design, implement, and monitor the  
34 projects funded pursuant to this section and to provide an  
35 accounting for all funds received pursuant to this section. The  
36 matching fund requirement does not apply to state departments,  
37 boards and commissions, or local governments and special  
38 districts. The director may waive the matching fund requirement  
39 to accommodate applicants facing demonstrated economic  
40 hardship. Funds may not be used to implement any mitigation



1 project required by the forest practices laws or regulations in effect  
2 on January 1, 2004. By rule and regulation, the department may  
3 determine the minimum contribution for all eligible projects.

4 Eligible projects include all of the following:

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

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

12 (3) Restoring wildlife habitat and providing watershed  
13 restoration grants that protect water supplies, endangered and  
14 threatened species, or other environmental benefits that are in  
15 compliance with the state endangered species act and the  
16 California Environmental Quality Act, if appropriate. Funds  
17 associated with the department's recommendations to restore  
18 wildlife habitat shall be reallocated to existing programs within the  
19 Department of Fish and Game. Funds associated with watershed  
20 restoration shall be reallocated to existing programs within the  
21 State Water Resources Control Board.

22 (4) Expanding timber harvesting plan reviews by the reviewing  
23 agencies described in subdivision (b) and increasing inspections of  
24 ongoing timber harvesting plans to ensure compliance.

25 (5) Purchasing fee title, conservation easements, or other  
26 interests in land from willing sellers who agree, if less than fee title  
27 is purchased, that future timber harvest and forest management  
28 activities will be conducted in a sustainable manner as certified  
29 under the principles of the Forest Stewardship Council or another  
30 certification organization that considers the same parameters  
31 assessed by the Forest Stewardship Council and that the Secretary  
32 of the Resources Agency finds is equivalent to the Forest  
33 Stewardship Council guidelines in effect on January 1, 2004. The  
34 purchase of conservation easements or fee title from willing sellers  
35 shall initially prioritize lands near watercourses in order to  
36 minimize the future risk of sedimentation into rivers and streams  
37 or to restore endangered species, especially salmon and steelhead.  
38 Any purchase of fee title to lands shall also include sufficient funds  
39 to manage that land. Any purchase of conservation easements shall  
40 also include sufficient funds to enforce the easements. The



1 department shall allocate funds for the purchase of fee title or  
2 conservation easements to the Wildlife Conservation Board and  
3 the Coastal Conservancy.

4 (6) Assuming the funding for all aspects of the following  
5 programs as they are implemented on timberland by the  
6 departments currently responsible for their implementation:

7 (A) California Forest Legacy Program (Division 10.5  
8 (commencing with Section 12200)).

9 (B) California Forestry Incentive Program.

10 (C) Salmon and Steelhead Trout Conservation and Restoration  
11 Program administered by the Department of Fish and Game  
12 pursuant to Section 6217.1.

13 The department may also apply to obtain funding to administer  
14 the timberland and oak woodlands conversion program.

15 (7) Funding for fuel reduction efforts assigned by the director  
16 to the California Conservation Corps, private contractors, or to the  
17 conservation camps of the Department of Corrections. Priority for  
18 fuel reduction projects shall be given to the urban-wildland  
19 interface areas.

20 (8) Funding for a point-of-sale public education campaign at  
21 timber product retail facilities that explains the variety of forestry  
22 management, watershed, and habitat restoration uses ~~to~~ for which  
23 the restoration funds may be spent.

24 4629.6. After all appropriate expenditures under Section  
25 4629.5 have been appropriated, any moneys remaining in the fund  
26 may be used for any project eligible under subdivision (j) of  
27 Section 4629.5. The director may waive the requirement of  
28 cost-share funds contained in subdivision (j) of Section 4629.5 for  
29 projects of extraordinary importance that are consistent with the  
30 purposes of this chapter or where the applicant shows significant  
31 economic hardship. Any remaining moneys may also be used for  
32 projects that fund public education activities, including, but not  
33 limited to, grants for natural resource education, natural resource  
34 research, watershed studies, botanical studies, and wildlife  
35 surveys. The department, in conjunction with the Secretary of the  
36 Resources Agency, shall develop protocols for eligible projects  
37 and applications for these funds on or before January 1, 2005, and  
38 the fund shall reimburse the agency and department costs for  
39 developing the protocols. Notwithstanding any other provision of  
40 law, the department, in consultation with the Department of Fish



1 and Game, the State Water Resources Control Board, and any other  
2 state department, county, special district, or nonprofit organization  
3 with a demonstrated interest in forestry policy that requests to  
4 participate, shall develop a draft expenditure plan for the fund that  
5 prioritizes its recommendations for a five-year period. On or  
6 before January 1, 2005, and every two years thereafter, the  
7 department shall report to the Legislature on its plan.

8 4629.7. (a) The fund shall reimburse the necessary and  
9 reasonable travel costs and provide a per diem to the department  
10 and the State Board of Forestry and Fire Protection to create a  
11 broad-based stakeholder group that shall do all of the following:

12 (1) Explore the suitable reuse and conversion of closed mills  
13 and other timber industry facilities in California to productive  
14 uses.

15 (2) Recommend ways to develop new milling and processing  
16 capacity in California that may be chain-of-command certified  
17 under the principles and criteria of the Forest Stewardship Council  
18 or another certification organization, as defined in paragraph (5)  
19 of subdivision (j) of Section 4629.5.

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

24 (4) Report on the social, economic, or resources-based trends  
25 and activities that affect the sustainability of the forest practices  
26 industry and its dependent communities.

27 (b) The stakeholder group shall elect its own chair and shall be  
28 comprised of no more than 18 individuals consisting of  
29 representatives from the timber industry, including labor  
30 organizations that have collective bargaining agreements with the  
31 timber industry, an equal number of landowners and an equal  
32 number of representatives of landowners, an equal number of  
33 elected officials from city and county governments containing  
34 timberland, and conservation groups with an expertise in statewide  
35 or regional forestry policies. All relevant state and federal agencies  
36 shall be invited to participate in this stakeholder process as ex  
37 officio participants. The members shall be appointed jointly by the  
38 State Board of Forestry and Fire Protection and the director.

39 (c) Notwithstanding any other provision of law, the initial  
40 report of the stakeholder group shall be submitted to the Senate



1 Committee on Rules and the Speaker of the Assembly on January  
2 1, 2005. A followup report shall be submitted two years later, at  
3 which point the stakeholder group shall cease to exist unless it is  
4 reauthorized by the Legislature.

5 4629.8. Notwithstanding any other provision of law, on or  
6 before January 1, 2005, and on or before January 1 every two years  
7 thereafter, the department shall file a report with the Legislature  
8 that documents all the receipts and expenditures associated with  
9 the fund and includes any recommendations pertaining to the  
10 expenditures of the fund.

