

AMENDED IN SENATE MAY 5, 2003
AMENDED IN SENATE APRIL 29, 2003
AMENDED IN SENATE APRIL 7, 2003

SENATE BILL

No. 557

Introduced by Senator Kuehl

February 20, 2003

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 levying an excise tax in the amount of 1¢ per board foot *or board foot equivalent* 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, an
26 excise tax in the amount of one cent (\$0.01) per board foot *or board*
27 *foot equivalent* on timber products could generate sufficient funds
28 to replace the general fund outlay for timber harvest plan review,
29 and generate additional funds to help restore the forest practices
30 industry in California, mitigate the effects of historic logging
31 practices on watersheds and wildlife, and protect drinking water
32 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) "*Board foot*" means the cubic volume of sawn lumber equal
33 to 144 cubic inches.

34 (c) "*Board foot equivalent*" means the calculated board foot
35 volume of wood fiber within various nonsawn wood products.

36 (1) *For an engineered wood product, the board foot equivalent*
37 *is calculated based on the cubic volume of the product using its*
38 *nominal size calculated by multiplying its length, width, and*
39 *thickness.*



1 (2) *For a nonsawn post, pile, pole, or other similar product, the*
2 *board foot equivalent is equal to the average cross-sectional area*
3 *times its length.*

4 (3) *For a nonuniform solid wood product, the board foot*
5 *equivalent is equal to the cubic volume calculated from the exterior*
6 *dimensions of a solid packed unit.*

7 (d) “Consumer” means a person who purchases for
8 consumption timber products provided by a timber product
9 supplier.

10 ~~(e)~~

11 (e) “Consumption” means the purchase of a timber product by
12 an end user. An end user includes a person who purchases a timber
13 product for use in manufacturing, including the manufacturing of
14 prefabricated rafters, walls, cabinets, or furniture. The term does
15 not include the storage or use of timber products that will be resold
16 without incorporation into a manufactured product.

17 ~~(d)~~

18 (f) “Department” means the Department of Forestry and Fire
19 Protection.

20 ~~(e)~~

21 (g) “Director” means the Director of Forestry and Fire
22 Protection.

23 ~~(f)~~

24 (h) “Engineered wood product” means a product, including,
25 but not limited to, veneer-based sheeting material, plywood,
26 laminated veneer lumber (LVL), parallel-laminated veneer (PLV),
27 laminated beams, I-joists, edge-glued material, or composite
28 material, as cellulosic fiberboard, hardboard, particleboard,
29 waferboard, flakeboard, oriented strandboard (OSB), or any other
30 panel product where wood is a component part.

31 (i) “Fee” means the timber products user forest restoration fee.

32 ~~(g)~~

33 (j) “Fund” means the Timber Products User Forest Restoration
34 Fund.

35 ~~(h)~~

36 (k) “Nominal size” means the dimensions used within the
37 forest practices industry by which lumber volume is calculated and
38 sold and not necessarily the exact dimensions of a product.

39 (l) “Person” means an individual, firm, partnership, joint
40 venture, association, social club, cooperative organization,



1 fraternal organization, corporation, limited liability company,
2 limited liability partnership, estate, trust, business trust, receiver,
3 trustee, syndicate, this state, any county, city, city and county,
4 municipality, district, public agency, or subdivision of this state,
5 or any other group or combination acting as a unit.

6 ~~(i) “Timber product” means a wood product, and all similar~~
7 ~~products, described in subdivisions (a), (b), and (c) of Section~~
8 ~~4629.3, unless specifically excluded from the application of the~~
9 ~~fee.~~

10 ~~(j)~~

11 (m) *“Timber product” means a product sold in California in*
12 *which wood or wood fiber is a principal component part,*
13 *including, but not limited to, a solid sawn board, an engineered*
14 *wood product, or a nonuniform solid wood product.*

15 (n) *“Timber product supplier” means a person that sells timber*
16 *products to consumers.*

17 4629.1. The Timber Products User Forest Restoration Fund is
18 hereby established in the State Treasury. Moneys in the fund may
19 be appropriated only for the uses set forth in this article.

20 4629.2. The State Board of Equalization shall collect a user
21 fee on all the timber products described in Section 4629.3 that are
22 sold for consumption in California and deposit in the fund all fees
23 that are collected. The board shall administer the fee imposed
24 pursuant to this article in accordance with the Fee Collection
25 Procedures Law (Part 30 (commencing with Section 55001) of
26 Division 2 of the Revenue and Taxation Code).

27 4629.3. The fee ~~is~~ *shall be* imposed on the consumer at the
28 time of the purchase of a timber product for consumption in this
29 state. The fee shall be an excise tax in the amount ~~of one cent~~
30 ~~(\$0.01) per board foot imposed on lumber and related products~~
31 ~~listed in subdivisions (a), (b), and (c).~~ *A user fee on of one cent*
32 *(\$0.01) per board foot or board foot equivalent imposed on a*
33 *timber product. A user fee on composite products manufactured*
34 *from various wood and nonwood materials shall conform to the*
35 *appropriate following subdivision that most closely applies to the*
36 *product that is sold:*

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



1 (b) Veneer-based and sheeting materials, including, but not
2 limited to, plywood, laminated veneer lumber (LVL),
3 parallel-laminated veneer (PLV), and composite materials such as
4 cellulosic fiberboard, hardboard, particleboard, waferboard,
5 flakeboard, oriented strandboard (OSB), and com-ply.

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

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

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

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

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

32 (e) All fees imposed shall be paid in the form of remittances
33 payable to the State Board of Equalization. The board shall
34 transmit the payment to the fund and reimburse its administrative
35 costs for collecting, auditing, and making refunds associated with
36 the fund, not to exceed 3 percent of the fund per fiscal year. *The*
37 *board shall prescribe by regulation a method by which a timber*
38 *product supplier shall provide to a consumer the board foot*
39 *content or the board foot equivalent content for each timber*
40 *product sold by that timber product supplier.*



1 4629.5. Money in the fund shall, when appropriated by the
2 Legislature, be spent solely for the following purposes:

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

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

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

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

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

37 (f) In conjunction with other appropriate state agencies, to
38 establish a worker retraining program and develop other economic
39 opportunities for timber workers who have been displaced by



1 changes in the industry, including downsizing, consolidation, and
2 the closing of mills in California.

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

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

23 ~~(i)~~

24 (h) 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)~~

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



1 hardship. Funds may not be used to implement any mitigation
2 project required by the forest practices laws or regulations in effect
3 on January 1, 2004. By rule and regulation, the department may
4 determine the minimum contribution for all eligible projects.
5 Eligible projects include all of the following:

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

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

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

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

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



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

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

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

10 (B) California Forestry Incentive Program.

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

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

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

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

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



1 4629.6. *Notwithstanding any other provision of law*, the
2 department, in consultation with the Department of Fish and
3 Game, the State Water Resources Control Board, and any other
4 state department, county, special district, or nonprofit organization
5 with a demonstrated interest in forestry policy that requests to
6 participate, shall develop a draft expenditure plan for the fund that
7 prioritizes its recommendations for a five-year period. On or
8 before January 1, 2005, and every two years thereafter, the
9 department shall report to the Legislature on its plan.

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

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

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

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

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

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



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

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

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

