

AMENDED IN ASSEMBLY JUNE 15, 2004
AMENDED IN SENATE JANUARY 7, 2004
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 relating to forest practices.—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, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 557, as amended, Kuehl. Forest practices: timber products ~~use~~ *fee excise tax*.

Existing law provides for the regulation of forest practices. Under existing law, money in the Forest Resources Improvement Fund may be expended, upon appropriation by the Legislature, for specified purposes relating to forest resources and to reimburse the General Fund for the costs of operation of state forests administered by the Director of Forestry and Fire Protection.

~~This bill would state the intent of the Legislature to establish a timber products use fee for timber restoration and fire risk reduction and to fund the review of timber harvesting plan applications, the removal of~~

~~dead and diseased trees in southern California, and the Forest Resources Improvement Fund.~~

~~This bill would also require the Legislative Analyst's Office to report on and recommend to the Legislature options to collect, at the point of purchase, a timber user fee imposed on consumers of sawn lumber and unsawn wood products, as specified.~~

This bill would impose an excise tax on a distributor for the privilege of distributing timber products in the amount of 2 cents per board foot or board foot equivalent. The bill would create the Timber Harvest Review, Fire Protection and Forest Restoration Account in the General Fund. The moneys in the fund would be required to be spent, upon appropriation by Legislature, to administer and review operations directly connected with the review of timber harvesting plans, for transfer to the Forest Resources Improvement Fund, and to provide grants to local agencies and voluntary associations to undertake hazardous fuel reduction projects on forest lands to reduce the costs of wildland fire suppression, improve forest health, and protect homes and communities. The bill would require the hazardous fuel reduction funds to be appropriated to the Department of Forestry and Fire Protection to operate a grant program to fund hazardous fuel reduction projects that meet specified requirements.

The bill would appropriate an unspecified sum, from the Timber Harvest Review, Fire Protection, and Forest Restoration Account to the State Board of Equalization, to implement the bill in the 2004–05 fiscal year.

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: ~~majority~~ $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ 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



1 wildlife and plant species, some of which are rare, threatened, or
2 endangered, the source of raw materials for the timber products
3 industry, and a source of jobs for those who are employed in that
4 industry.

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

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

15 (d) It is appropriate ~~to that the public through the most broadly~~
16 ~~based system that is practicable,~~ support the timber harvesting
17 ~~plan review process through user fees.~~ *review process, contribute*
18 *to the existing Forest Resources Improvement Fund at the*
19 *California Department of Forestry and Fire Protection that*
20 *enhances the timberland environment, protects wildlife habitat*
21 *and provides incentives for timberland owners to improve their*
22 *environmental performance in harvesting timber, and help fund*
23 *the reduction of wildland fires in California that threatens the*
24 *economic base of the timber industry as well as numerous rural*
25 *communities.*

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

31 (f) Under those conditions, it is inequitable to add twenty
32 million dollars (\$20,000,000) or more in timber harvesting plan
33 review costs to applicants, many of whom are individual
34 landowners. If the approximately twenty million dollars
35 (\$20,000,000) were evenly divided among the approximately
36 1,000 timber harvesting plans applied for annually, the increase in
37 review costs would be twenty thousand dollars (\$20,000) per
38 timber harvesting plan application, which is too onerous a burden.

39 (g) *It is also inequitable to impose an increase in the yield tax*
40 *on timber producers that is not broadly based and that will further*



1 *add to costs of production in California that could potentially*
2 *make the price of California timber products less competitive in the*
3 *global marketplace.*

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

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

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

27 ~~(i) The Legislature has concluded that broadly based public~~
28 ~~financial support for the review of timber harvest plan~~
29 ~~applications, support of the Forest Resources Improvement Fund,~~
30 ~~and fuel reduction efforts to protect timberlands and communities~~
31 ~~is a fair and equitable approach given the state's budget crisis and~~
32 ~~given that this approach will result in significant savings to the~~
33 ~~General Fund.~~

34 (j) As an alternative to a direct fee *or tax* on landowners and
35 industrial timberland owners who apply for timber harvest plan
36 permits, a timber products user fee for timber restoration and fire
37 risk reduction could generate sufficient funds to adequately review
38 timber harvesting plan applications, fund the removal of dead and
39 diseased trees that pose significant fire risks ~~in southern California~~
40 *to California timberlands*, and fund the Forest Resources



1 Improvement Fund. These funds might also be used to replace the
2 general fund outlay for timber harvest plan review, and generate
3 additional funds to help restore the forest practices industry in
4 California, mitigate the effects of historic logging practices on
5 watersheds and wildlife, and protect drinking water supplies for
6 millions of Californians.

7 ~~SEC. 2.—(a) The Legislative Analyst’s Office shall report on~~
8 ~~and recommend to the Legislature one or more options to collect,~~
9 ~~at the point of purchase, a timber products user fee imposed on~~
10 ~~consumers of sawn lumber and unsawn wood products. Unsawn~~
11 ~~wood products that would be subject to the fee shall be specifically~~
12 ~~identified in the report. The State Board of Equalization would~~
13 ~~collect and administer the fee.~~

14 ~~(b) Based on best available revenue estimates and an~~
15 ~~assessment of other relevant information, the report may~~
16 ~~recommend the termination of the fee at a date certain.~~

17 ~~(c) It is the intent of the Legislature that a timber products user~~
18 ~~fee, as described in subdivision (a), shall be deposited in a special~~
19 ~~fund and shall be appropriated only for the following purposes:~~

20 ~~(1) To fund the complete administrative review of timber~~
21 ~~harvesting plans and other harvesting procedures by the~~
22 ~~appropriate departments within the Resources Agency and the~~
23 ~~appropriate regional water board as measured by the~~
24 ~~appropriations dedicated to these purposes in the 2000–01 fiscal~~
25 ~~year.~~

26 ~~(2) To reduce the risk of catastrophic wildfire in southern~~
27 ~~California by measures that include, but are not limited to, the~~
28 ~~removal and disposition of dead, diseased, or hazardous trees in~~
29 ~~high or very high fire severity zones in the Counties of Los~~
30 ~~Angeles, Orange, Riverside, San Bernadino, San Diego, or~~
31 ~~Ventura.~~

32 ~~(3) Expenditures authorized by the Forest Resources~~
33 ~~Improvement Fund as set forth in Section 4799.13 of the Public~~
34 ~~Resources Code.~~

35 *SEC. 2. Article 10 (commencing with Section 4629) is added*
36 *to Chapter 8 of Part 2 of Division 4 of the Public Resources Code,*
37 *to read:*

38



1 Article 10. *Timber Harvest Review, Fire Protection, and*
2 *Forest Restoration Account*

3
4 4629. *Unless the context requires otherwise, the following*
5 *definitions apply to this article:*

6 (a) *“Account” means the Timber Harvest Review, Fire*
7 *Protection, and Forest Restoration Account.*

8 (b) *“Board” means the State Board of Equalization.*

9 (c) *“Board foot” means the cubic volume of sawn lumber equal*
10 *to 144 cubic inches.*

11 (d) *“Board foot equivalent” means the calculated board foot*
12 *volume of wood fiber within various nonsawn wood products.*

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

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

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

23 (e) *“Distribution” means any of the following:*

24 (1) *The sale, donation, consignment for sale, barter, or other*
25 *use of timber products in this state.*

26 (2) *The importing of timber products into this state, and the*
27 *sale, donation, consignment for sale, barter, or use of the timber*
28 *products in this state unless the state is prohibited by the*
29 *Constitution or laws of the United States from imposing a tax with*
30 *respect to that sale, donation, consignment for sale, barter or use.*

31 (3) *The receiving in this state by a distributor of timber*
32 *products with respect to which there has been no prior taxable*
33 *distribution, or the receipt in this state by any person of timber*
34 *products with respect to which there has not been a prior*
35 *distribution on which tax has been paid pursuant to this part, and*
36 *the sale, donation, consignment for sale, barter, or use of the*
37 *timber products in this state*

38 (f) *“Distributor” means a person who, within the meaning of*
39 *the term ‘distribution’ as defined in this section, distributes timber*
40 *products. “Distributor” does not include any person who qualifies*



1 as a “timber owner” pursuant to Section 38104 of the Revenue and
2 Taxation Code.

3 (g) “Redistribution” means the sale, donation, consignment
4 for sale, barter, or use in this state by a distributor of timber
5 products on which the tax in Section 4629.3 has been imposed
6 based on prior distribution of the timber products.

7 (h) “Engineered wood product” means a product, including,
8 but not limited to, veneer-based sheeting material, plywood,
9 laminated veneer lumber (LVL), parallel-laminated veneer (PLV),
10 laminated beams, I-joists, edge-glued material, or composite
11 material, as cellulosic fiberboard, hardboard, particleboard,
12 waferboard, flakeboard, oriented strandboard (OSB), or any other
13 panel product where wood is a component part.

14 (i) “Nominal size” means the dimensions used within the forest
15 practices industry by which lumber volume is calculated and sold
16 and not necessarily the exact dimensions of a product.

17 (j) “Person” means an individual, firm, partnership, joint
18 venture, association, social club, cooperative organization,
19 fraternal organization, corporation, limited liability company,
20 limited liability partnership, estate, trust, business trust, receiver,
21 trustee, syndicate, this state, any county, city, city and county,
22 municipality, district, public agency, or subdivision of this state,
23 or any other group or combination acting as a unit.

24 (k) “Timber product” means a product sold in California in
25 which wood or wood fiber is a principal component part,
26 including, but not limited to, a solid sawn board, an engineered
27 wood product, or a nonuniform solid wood product.

28 4629.1. The Timber Harvest Review, Fire Protection, and
29 Forest Restoration Account is hereby established in the General
30 Fund. Moneys in the account may be appropriated only for the uses
31 set forth in this article.

32 4629.2. The State Board of Equalization shall collect an
33 excise tax on all of the timber products described in Section 4629.3
34 that are sold for consumption in California and deposit in the
35 account all taxes that are collected. The State Board of
36 Equalization shall administer the excise tax imposed pursuant to
37 this article in accordance with the Fee Collection Procedures Law
38 (Part 30 (commencing with Section 55001) of Division 2 of the
39 Revenue and Taxation Code).



1 4629.3. For the privilege of distributing timber products, a
2 distributor shall pay an excise tax at a rate of two cents (\$0.02) for
3 each board foot, or board foot equivalent, of timber products
4 distributed by that distributor. An excise tax on composite products
5 manufactured from various wood and nonwood materials shall
6 conform to the appropriate following subdivision that most closely
7 applies to the product that is sold:

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

11 (b) Veneer-based and sheeting materials, including, but not
12 limited to, plywood, laminated veneer lumber (LVL),
13 parallel-laminated veneer (PLV), and composite materials such as
14 cellulosic fiberboard, hardboard, particleboard, waferboard,
15 flakeboard, oriented strandboard (OSB), and com-ply.

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

18 4629.4. (a) The excise tax imposed pursuant to Section
19 4629.3 is due and payable to the board quarterly on or before the
20 25th day of the calendar month following the quarterly period for
21 which the tax is due. A taxpayer, on or before the 25th day of the
22 month following each quarterly period, shall make out a return for
23 the preceding quarterly period, in the form prescribed by the
24 board.

25 (b) All taxes imposed shall be paid in the form of remittances
26 payable to the State Board of Equalization. The board shall
27 transmit payment to the account and reimburse its administrative
28 costs for collecting, auditing, and making refunds associated with
29 the account, not to exceed 3 percent of the account per fiscal year.
30 The board shall prescribe by regulation a method by which a
31 timber product distributor shall calculate the board foot or board
32 foot equivalent.

33 4629.5. Money in the account shall, when appropriated by the
34 Legislature, be spent solely for the following purposes:

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

37 (b) (1) To administer and review operations directly connected
38 with the review of timber harvesting plans of a department, board,
39 or commission that reviews timber harvesting undertaken



1 *pursuant to this chapter, or pursuant to any regulation of the*
2 *department or the State Board of Forestry and Fire Protection.*

3 *(2) For purposes of this paragraph, a reviewing department,*
4 *board, or commission means the Department of Forestry and Fire*
5 *Protection, the Department of Fish and Game, the Department of*
6 *Conservation, and certain California regional water quality*
7 *control boards.*

8 *(c) For transfer to the Forest Resources Improvement Fund*
9 *within the Department of Forestry and Fire Protection.*

10 *(d) To provide grants to local agencies responsible for fire*
11 *protection and to voluntary associations, including fire safe*
12 *councils, to undertake hazardous fuel reduction projects on forest*
13 *lands to reduce the costs of wildland fire suppression, improve*
14 *forest health, and protect homes and communities.*

15 *(1) The Legislature shall appropriate the funds specified in this*
16 *subdivision to the Department of Forestry and Fire Protection to*
17 *operate a grant program to fund hazardous fuel reduction projects*
18 *and may reserve no more than 4 percent of the total appropriation*
19 *for its administrative costs.*

20 *(2) The department shall ensure that all grants made pursuant*
21 *to this subdivision fund only hazardous fuel reduction projects and*
22 *shall give first priority, in issuing these grants, to projects in the*
23 *urban-wildland interface that will help implement the California*
24 *Fire Plan.*

25 *(3) A hazardous fuel reduction project funded pursuant to this*
26 *subdivision shall meet all of the following requirements:*

27 *(A) The project shall result in the application of management*
28 *practices to wild lands in which the primary impact to the*
29 *vegetation is the reduction of surface and ladder fuels.*

30 *(B) The management practices that are applied by the project*
31 *shall include, but are not limited to prescribed fire, machine or*
32 *hand piling for burning, pruning and thinning.*

33 *(C) The tree removal shall be by the method known as thinning*
34 *from below, and shall be limited to trees that are 16 inches or less*
35 *in diameter at breast height.*

36 *(D) The treatments that reduce crown densities on timberlands*
37 *shall be included only for the purpose of affecting fire behavior,*
38 *and where it is reasonably demonstrated that the likelihood of*
39 *crown fire is reduced.*



1 (E) A registered professional forester with the department or on
2 behalf of a private landowner shall do both of the following:
3 (i) Certify that the fuel reduction objectives were achieved for
4 removal of surface fuels, brush, and ladder fuels and were
5 accomplished by means that are consistent with this subdivision.
6 (ii) Certify that 80 percent or more of the treated landscape will
7 have a post-treatment fuel load that will result in a flamelength of
8 4 feet or less and a minimum of 8 feet separation from the ground
9 to the crown of live trees.
10 4629.6. (a) Notwithstanding any other provision of law, the
11 revenues in any fiscal year may be accounted for on an accrued
12 basis. The department may borrow against anticipated revenues to
13 the Timber Harvest Review, Fire Protection, and Forest
14 Restoration Account to meet cash flow needs.
15 (b) Notwithstanding any other provision of law, a loan obtained
16 pursuant to subdivision (a) shall be interest free. The department
17 shall repay the loan in a timely manner from revenues received into
18 the account.
19 4629.7. To implement this article in the 2004–05 fiscal year,
20 _____ dollars (\$_____) is hereby appropriated from the Timber
21 Harvest Review, Fire Protection, and Forest Restoration Account
22 to the State Board of Equalization.

