

AMENDED IN ASSEMBLY JUNE 23, 2004
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 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 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 impose an excise tax on a distributor for the privilege of distributing timber products, *as defined*, 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 $2/3$ of the membership of each house of the Legislature.

Vote: $2/3$. Appropriation: yes. 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.



1 (c) The current budget crisis presents an opportunity to
2 reevaluate financing of the timber harvesting plan review process
3 that currently draws approximately twenty-one million dollars
4 (\$21,000,000) annually from the General Fund.

5 (d) It is appropriate that the public through the most broadly
6 based system that is practicable, support the timber harvesting plan
7 review process, contribute to the existing Forest Resources
8 Improvement Fund at the California Department of Forestry and
9 Fire Protection that enhances the timberland environment,
10 protects wildlife habitat and provides incentives for timberland
11 owners to improve their environmental performance in harvesting
12 timber, and help fund the reduction of wildland fires in California
13 that threatens the economic base of the timber industry as well as
14 numerous rural communities.

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

20 (f) Under those conditions, it is inequitable to add twenty
21 million dollars (\$20,000,000) or more in timber harvesting plan
22 review costs to applicants, many of whom are individual
23 landowners. If the approximately twenty million dollars
24 (\$20,000,000) were evenly divided among the approximately
25 1,000 timber harvesting plans applied for annually, the increase in
26 review costs would be twenty thousand dollars (\$20,000) per
27 timber harvesting plan application, which is too onerous a burden.

28 (g) It is also inequitable to impose an increase in the yield tax
29 on timber producers that is not broadly based and that will further
30 add to costs of production in California that could potentially make
31 the price of California timber products less competitive in the
32 global marketplace.

33 (h) 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 forest lands now and in the
40 future.



1 (i) The Legislature has concluded that broadly based public
2 financial support for the review of timber harvest plan
3 applications, support of the Forest Resources Improvement Fund,
4 and fuel reduction efforts to protect timberlands and communities
5 is a fair and equitable approach given the state’s budget crisis and
6 given that this approach will result in significant savings to the
7 General Fund.

8 (j) As an alternative to a direct fee or tax on landowners and
9 industrial timberland owners who apply for timber harvest plan
10 permits, a timber products user fee for timber restoration and fire
11 risk reduction could generate sufficient funds to adequately review
12 timber harvesting plan applications, fund the removal of dead and
13 diseased trees that pose significant fire risks to California
14 timberlands, and fund the Forest Resources Improvement Fund.

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

18
19 Article 10. Timber Harvest Review, Fire Protection, and
20 Forest Restoration Account

21
22 4629. Unless the context requires otherwise, the following
23 definitions apply to this article:

24 (a) “Account” means the Timber Harvest Review, Fire
25 Protection, and Forest Restoration Account.

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

27 (c) “Board foot” means the cubic volume of sawn lumber
28 equal to 144 cubic inches.

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

31 (1) For an engineered wood product, the board foot equivalent
32 is calculated based on the cubic volume of the product using its
33 nominal size calculated by multiplying its length, width, and
34 thickness.

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

38 (3) For a nonuniform solid wood product, the board foot
39 equivalent is equal to the cubic volume calculated from the
40 exterior dimensions of a solid packed unit.



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

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

4 (2) The importing of timber products into this state, and the
5 sale, donation, consignment for sale, barter, or use of the timber
6 products in this state unless the state is prohibited by the
7 Constitution or laws of the United States from imposing a tax with
8 respect to that sale, donation, consignment for sale, barter or use.

9 (3) The receiving in this state by a distributor of timber
10 products with respect to which there has been no prior taxable
11 distribution, or the receipt in this state by any person of timber
12 products with respect to which there has not been a prior
13 distribution on which tax has been paid pursuant to this part, and
14 the sale, donation, consignment for sale, barter, or use of the timber
15 products in this state

16 (f) “Distributor” means a person who, within the meaning of
17 the term “distribution” as defined in this section, distributes
18 timber products. “Distributor” does not include any person who
19 qualifies as a “timber owner” pursuant to Section 38104 of the
20 Revenue and Taxation Code. *A sawmill, that grosses one hundred
21 thousand dollars (\$100,000) or less annually, that would
22 otherwise be subject to this bill, is exempt from this article.*

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

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

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

37 (j) “Person” means an individual, firm, partnership, joint
38 venture, association, social club, cooperative organization,
39 fraternal organization, corporation, limited liability company,
40 limited liability partnership, estate, trust, business trust, receiver,



1 trustee, syndicate, this state, any county, city, city and county,
2 municipality, district, public agency, or subdivision of this state,
3 or any other group or combination acting as a unit.

4 (k) “Timber product” means a product sold in California in
5 which wood or wood fiber is a principal component part,
6 including, but not limited to, a solid sawn board, an engineered
7 wood product, or a nonuniform solid wood product. *Timber*
8 *product does not include a product sold at wholesale or retail that*
9 *requires no further manufacturing.*

10 4629.1. The Timber Harvest Review, Fire Protection, and
11 Forest Restoration Account is hereby established in the General
12 Fund. Moneys in the account may be appropriated only for the uses
13 set forth in this article.

14 4629.2. The State Board of Equalization shall collect an
15 excise tax on all of the timber products described in Section 4629.3
16 that are sold for consumption in California and deposit in the
17 account all taxes that are collected. The State Board of
18 Equalization shall administer the excise tax imposed pursuant to
19 this article in accordance with the Fee Collection Procedures Law
20 (Part 30 (commencing with Section 55001) of Division 2 of the
21 Revenue and Taxation Code).

22 4629.3. For the privilege of distributing timber products, a
23 distributor shall pay an excise tax at a rate of two cents (\$0.02) for
24 each board foot, or board foot equivalent, of timber products
25 distributed by that distributor. An excise tax on composite
26 products manufactured from various wood and nonwood
27 materials shall conform to the appropriate following subdivision
28 that most closely applies to the product that is sold:

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

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

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

39 4629.4. (a) The excise tax imposed pursuant to Section
40 4629.3 is due and payable to the board quarterly on or before the



1 25th day of the calendar month following the quarterly period for
2 which the tax is due. A taxpayer, on or before the 25th day of the
3 month following each quarterly period, shall make out a return for
4 the preceding quarterly period, in the form prescribed by the
5 board.

6 (b) All taxes imposed shall be paid in the form of remittances
7 payable to the State Board of Equalization. The board shall
8 transmit payment to the account and reimburse its administrative
9 costs for collecting, auditing, and making refunds associated with
10 the account, not to exceed 3 percent of the account per fiscal year.
11 The board shall prescribe by regulation a method by which a
12 timber product distributor shall calculate the board foot or board
13 foot equivalent.

14 4629.5. Money in the account shall, when appropriated by the
15 Legislature, be spent solely for the following purposes:

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

18 (b) (1) To administer and review operations directly
19 connected with the review of timber harvesting plans of a
20 department, board, or commission that reviews timber harvesting
21 undertaken pursuant to this chapter, or pursuant to any regulation
22 of the department or the State Board of Forestry and Fire
23 Protection.

24 (2) For purposes of this paragraph, a reviewing department,
25 board, or commission means the Department of Forestry and Fire
26 Protection, the Department of Fish and Game, the Department of
27 Conservation, and certain California regional water quality
28 control boards.

29 (c) For transfer to the Forest Resources Improvement Fund
30 within the Department of Forestry and Fire Protection.

31 (d) To provide grants to local agencies responsible for fire
32 protection and to voluntary associations, including fire safe
33 councils, to undertake hazardous fuel reduction projects on forest
34 lands to reduce the costs of wildland fire suppression, improve
35 forest health, and protect homes and communities.

36 (1) The Legislature shall appropriate the funds specified in this
37 subdivision to the Department of Forestry and Fire Protection to
38 operate a grant program to fund hazardous fuel reduction projects
39 and may reserve no more than 4 percent of the total appropriation
40 for its administrative costs.



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

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

8 (A) The project shall result in the application of management
9 practices to wildlands in which the primary impact to the
10 vegetation is the reduction of surface and ladder fuels.

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

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

17 (D) The treatments that reduce crown densities on timberlands
18 shall be included only for the purpose of affecting fire behavior,
19 and where it is reasonably demonstrated that the likelihood of
20 crown fire is reduced.

21 (E) A registered professional forester with the department or
22 on behalf of a private landowner shall do both of the following:

23 (i) Certify that the fuel reduction objectives were achieved for
24 removal of surface fuels, brush, and ladder fuels and were
25 accomplished by means that are consistent with this subdivision.

26 (ii) Certify that 80 percent or more of the treated landscape will
27 have a posttreatment fuel load that will result in a flamelength of
28 4 feet or less and a minimum of 8 feet separation from the ground
29 to the crown of live trees.

30 4629.6. (a) Notwithstanding any other provision of law, the
31 revenues in any fiscal year may be accounted for on an accrued
32 basis. The department may borrow against anticipated revenues to
33 the Timber Harvest Review, Fire Protection, and Forest
34 Restoration Account to meet cashflow needs.

35 (b) Notwithstanding any other provision of law, a loan obtained
36 pursuant to subdivision (a) shall be interest free. The department
37 shall repay the loan in a timely manner from revenues received into
38 the account.

39 4629.7. To implement this article in the 2004–05 fiscal year,
40 _____ dollars (\$_____) is hereby appropriated from the Timber



- 1 Harvest Review, Fire Protection, and Forest Restoration Account
- 2 to the State Board of Equalization.

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