

AMENDED IN ASSEMBLY JUNE 7, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE APRIL 28, 2004

AMENDED IN SENATE MARCH 31, 2004

SENATE BILL

No. 1334

Introduced by Senator Kuehl

(Coauthor: Senator Romero)

(Coauthors: Assembly Members Hancock, *Koretz*, and Liu)

February 18, 2004

An act to add Section 1373 to the Fish and Game Code, and to add Section 21083.4 to the Public Resources Code, relating to oak woodlands conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as amended, Kuehl. Oak woodlands conservation: environmental quality.

(1) The Oak Woodlands Conservation Act provides funding for the conservation and protection of California's oak woodlands.

This bill would require a county with oak woodlands, in conjunction with agricultural and conservation organizations, to develop voluntary oak conservation mitigation alternatives for oak woodlands that are proposed to be converted to other agricultural uses. The bill would also require that county to direct the county agricultural commissioner or another county officer or agency to monitor agricultural oak woodlands conversions, as specified. By imposing new duties on local governments with respect to the development of voluntary oak

conservation mitigation alternatives for oak woodlands conversions, the bill would impose a state-mandated local program.

(2) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a discretionary project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA provides some exemptions from its requirements for specified projects.

This bill would require that a county with oak woodlands include in an oak woodlands management plan, developed pursuant to the Oak Woodlands Conservation Act, a provision that requires mitigation of any conversion of oak woodlands, and would require that the plan contain specified mitigation alternatives and procedures to minimize impacts to oak woodlands in specified areas. By imposing new duties on local governments with respect to the preparation and implementation of an oak woodlands management plan or ordinance, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1373 is added to the Fish and Game
 2 Code, to read:
 3 1373. (a) In conjunction with agricultural and conservation
 4 organizations, a county with oak woodlands shall develop
 5 voluntary oak conservation mitigation alternatives for oak
 6 woodlands that are proposed to be converted to other agricultural



1 uses. It is the intent of the Legislature that a county develop
2 voluntary oak conservation mitigation measures for agriculture
3 that conform with Section 21083.4 of the Public Resources Code.

4 (b) A county with oak woodlands shall direct the county
5 agricultural commissioner or another county officer or agency to
6 monitor agricultural oak woodlands conversions. The designated
7 official or agency shall monitor proposed conversions of
8 agricultural ~~lands~~ *land* into other agricultural uses, and shall
9 maintain records that include, but are not limited to, all of the
10 following:

- 11 (1) Location of the conversion.
- 12 (2) Number and species of oak trees that were removed.
- 13 (3) Whether mitigation was ~~required~~ and successfully
14 implemented.
- 15 (4) Whether the mitigation was in conformance with Section
16 21083.4 of the Public Resources Code.

17 (c) *For the purposes of this section, agricultural land includes*
18 *land that is used for the purpose of producing or processing plant*
19 *and animal products for commercial purposes.*

20 SEC. 2. Section 21083.4 is added to the Public Resources
21 Code, to read:

22 21083.4. (a) For purposes of this section, “oak” means a
23 native tree species in the genus *Quercus*, not designated as Group
24 A or Group B commercial species pursuant to regulations adopted
25 by the State Board of Forestry and Fire Protection pursuant to
26 Section 4526, *and that is 5 inches or more in diameter at breast*
27 *height.*

28 (b) ~~(1)~~ A county with oak woodlands shall include in an oak
29 woodlands management plan developed pursuant to the Oak
30 Woodlands Conservation Act (Article 3.5 (commencing with
31 Section 1360) of Chapter 4 of Division 2 of the Fish and Game
32 Code), a provision that requires mitigation as provided in this
33 ~~subdivision~~ *section* of a conversion of oak woodlands. The oak
34 woodlands management plan shall provide for all of the following:

- 35 ~~(A)~~
- 36 (1) Alternatives for mitigating the conversion of oak
37 woodlands that comply with this ~~division~~ *section*.
- 38 ~~(B)~~



1 (2) Procedures to minimize impacts to oak woodlands along
2 riparian zones, near wetlands, and those that contain snags, or that
3 are near caves, cliffs, and burrows that are used by wildlife.

4 ~~(C) Mitigation implemented pursuant to this subdivision shall~~
5 ~~fully mitigate the significant effects of a project. Mitigation shall~~
6 ~~conserve in perpetuity, through the use of conservation easements,~~
7 ~~two oak trees of the same species for each oak tree that is removed,~~
8 ~~except as provided in subparagraph (D).~~

9 ~~(D)~~

10 (c) *As part of the determination made pursuant to Section*
11 *21080.1, a county shall determine whether a project within its*
12 *jurisdiction will result in a conversion of oak woodlands that will*
13 *have a significant effect on the environment. If there is a finding*
14 *of significant effect, the county shall consider the following oak*
15 *woodlands mitigation alternatives:*

16 (1) *Conserve in perpetuity, through the use of conservation*
17 *easements, two oak trees of the same species for each oak tree that*
18 *is removed.*

19 (2) *Restore former oak woodlands provided that at least twice*
20 *as many trees will be restored as the project removes.*

21 (3) *Contribute funds to the Oak Woodlands Conservation*
22 *Fund, as established under subdivision (a) of Section 1363 of the*
23 *Fish and Game Code, for the purpose of purchasing oak*
24 *woodlands conservation easements, as specified under paragraph*
25 *(1) of subdivision (d) of that section and the guidelines and criteria*
26 *of the Wildlife Conservation Board. The amount of the*
27 *contribution shall be approximately equivalent to the cost of*
28 *implementing another mitigation alternative.*

29 (d) Up to 20 percent of the total mitigation for a project
30 undertaken pursuant to this ~~subdivision~~ *section* may be mitigated
31 by the planting of seedlings. A county shall require the planting of
32 three seedlings for each oak tree that is removed provided that both
33 of the following conditions are met:

34 (i)

35 (1) Requirements for the planting, care, maintenance,
36 monitoring, and replanting of dead or diseased trees are
37 incorporated into the mitigation.

38 (ii)

39 (2) The requirements to maintain the plantings and replace
40 dead or diseased trees does not expire for seven years.



1 ~~(E)~~
2 (e) The mitigation may occur on the site of a project or may
3 occur within the county or as close to the project as is reasonably
4 practicable, provided that the same species of oak trees affected by
5 the project are indigenous to the area proposed for mitigation.
6 Conservation easements in perpetuity shall be obtained to protect
7 all trees planted as mitigation pursuant to this section.

8 ~~(2)~~
9 (f) Notwithstanding any other provision of law, a county may
10 use a grant awarded pursuant to the Oak Woodlands Conservation
11 Act (Article 3.5 (commencing with Section 1360) of Chapter 4 of
12 Division 2 of the Fish and Game Code) to prepare an oak
13 conservation element for a general plan, an oak protection
14 ordinance, or an oak woodlands management plan, or amendments
15 thereto, that meets the requirements of this ~~subdivision~~ section.

16 ~~(e)~~
17 (g) The oak woodlands management plan shall exempt the
18 following activities:

19 (1) The harvesting of fuelwood for noncommercial use by the
20 landowner on the parcel of land from which it is harvested.

21 (2) An approved Natural Community Conservation Plan or
22 approved subarea plan within an approved Natural Community
23 Conservation Plan that includes oaks as a covered species.

24 (3) The removal of dead and diseased trees that pose significant
25 risks to life, property, or to healthy trees.

26 (4) Projects within oak woodlands in which oak trees that are
27 not greater than five inches in diameter at breast height are to be
28 removed or projects that do not encroach upon the dripline of oak
29 trees greater than five inches at breast height.

30 (5) Affordable housing projects for lower income households,
31 as defined pursuant to Section 50079.5 of the Health and Safety
32 Code, that are located within an urbanized area, or within a sphere
33 of influence as defined pursuant to Section 56076 of the
34 Government Code.

35 ~~(d)~~
36 (6) *Projects undertaken pursuant to Section 1373 of the Fish
37 and Game Code or Section 21080.5 of the Public Resources Code.*

38 (h) *Counties with ordinances in effect prior to the effective date
39 of the act adding this section, in which the required mitigation*



1 *contained is in substantial conformance with this section, do not*
2 *need to adopt a new ordinance.*

3 (i) This section, and the regulations adopted pursuant to this
4 section, ~~may~~ shall not be construed as a limitation on the power of
5 a public agency to comply with this division or any other provision
6 of law.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 a local agency or school district has the authority to levy service
10 charges, fees, or assessments sufficient to pay for the program or
11 level of service mandated by this act, within the meaning of
12 Section 17556 of the Government Code.

