

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 17, 2004

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**

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**Introduced by Senator Kuehl**

**(Coauthor: Senator Romero)**

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

February 18, 2004

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An act 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.

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, in determining whether CEQA requires an environmental impact report, negative declaration, or mitigated negative declaration, to determine whether a project in its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment, and would require that the plan contain~~ county, if it determines there may be a significant effect to oak woodlands, to require one or more of specified mitigation alternatives ~~and procedures to minimize impacts to mitigate the significant effect of the conversion of oak woodlands in specified areas.~~ The bill would exempt specified activities from its requirements. By imposing new duties on local governments with respect to ~~the preparation and implementation of an oak woodlands management plan or ordinance~~ mitigation, the bill would impose a state-mandated local program.

(2) 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 21083.4 is added to the Public
- 2 Resources Code, to read:
- 3 21083.4. (a) For purposes of this section, “oak” means a
- 4 native tree species in the genus *Quercus*, not designated as Group
- 5 A or Group B commercial species pursuant to regulations adopted
- 6 by the State Board of Forestry and Fire Protection pursuant to
- 7 Section 4526, and that is 5 inches or more in diameter at breast
- 8 height.



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

8 ~~(1) Alternatives for mitigating the conversion of oak~~  
9 ~~woodlands that comply with this section.~~

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

13 ~~(e)~~

14 *(b) As part of the determination made pursuant to Section*  
15 *21080.1, a county shall determine whether a project within its*  
16 *jurisdiction will may result in a conversion of oak woodlands that*  
17 *will have a significant effect on the environment. If there is a*  
18 *finding of significant effect a county determines that there may be*  
19 *a significant effect to oak woodlands, the county shall consider*  
20 *require one or more of the following oak woodlands mitigation*  
21 *alternatives to mitigate the significant effect of the conversion of*  
22 *oak woodlands:*

23 *(1) Conserve in perpetuity oak woodlands, through the use of*  
24 *conservation easements, two oak trees of the same species for each*  
25 *oak tree that is removed.*

26 ~~(2) Restore former oak woodlands provided that at least twice~~  
27 ~~as many trees will be restored as the project removes. easements.~~

28 *(2) (A) Plant an appropriate number of trees, including*  
29 *maintaining plantings and replacing dead or diseased trees.*

30 *(B) The requirement to maintain trees pursuant to this*  
31 *paragraph terminates seven years after the trees are planted.*

32 *(C) Mitigation pursuant to this paragraph shall not fulfill more*  
33 *than one-half of the mitigation requirement for the project.*

34 *(D) The requirements imposed pursuant to this paragraph also*  
35 *may be used to restore former oak woodlands.*

36 *(3) Contribute funds to the Oak Woodlands Conservation*  
37 *Fund, as established under subdivision (a) of Section 1363 of the*  
38 *Fish and Game Code, for the purpose of purchasing oak woodlands*  
39 *conservation easements, as specified under paragraph (1) of*  
40 *subdivision (d) of that section and the guidelines and criteria of the*



1 Wildlife Conservation Board. ~~The amount of the contribution shall~~  
 2 ~~be approximately equivalent to the cost of implementing another~~  
 3 ~~mitigation alternative.~~ A project applicant that contributes funds  
 4 under this paragraph shall not receive a grant from the Oak  
 5 ~~Woodland Woodlands~~ Conservation Fund as part of the mitigation  
 6 for the project.

7 ~~(d) Up to 20 percent of the total mitigation for a project~~  
 8 ~~undertaken pursuant to this section may be mitigated by the~~  
 9 ~~planting of seedlings. A county shall require the planting of three~~  
 10 ~~seedlings for each oak tree that is removed provided that both of~~  
 11 ~~the following conditions are met:~~

12 ~~(1) Requirements for the planting, care, maintenance,~~  
 13 ~~monitoring, and replanting of dead or diseased trees are~~  
 14 ~~incorporated into the mitigation.~~

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

17 ~~(e) The mitigation may occur on the site of a project or may~~  
 18 ~~occur within the county or as close to the project as is reasonably~~  
 19 ~~practicable, provided that the same species of oak trees affected by~~  
 20 ~~the project are indigenous to the area proposed for mitigation.~~  
 21 ~~Conservation easements in perpetuity shall be obtained to protect~~  
 22 ~~all trees planted as mitigation pursuant to this section.~~

23 ~~(f)~~

24 ~~(4) Other mitigation measures developed by the county.~~

25 ~~(c) Notwithstanding subdivision (d) of Section 1363 of the Fish~~  
 26 ~~and Game Code, a county may use a grant awarded pursuant to the~~  
 27 ~~Oak Woodlands Conservation Act (Article 3.5 (commencing with~~  
 28 ~~Section 1360) of Chapter 4 of Division 2 of the Fish and Game~~  
 29 ~~Code) to prepare an oak conservation element for a general plan,~~  
 30 ~~an oak protection ordinance, or an oak woodlands management~~  
 31 ~~plan, or amendments thereto, that meets the requirements of this~~  
 32 ~~section.~~

33 ~~(g) The oak woodlands management plan shall exempt the~~  
 34 ~~following activities:~~

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

37 ~~(2) An~~

38 ~~(d) The following are exempt from this section:~~

39 ~~(1) Projects undertaken pursuant to an approved Natural~~  
 40 ~~Community Conservation Plan or approved subarea plan within an~~



1 approved Natural Community Conservation Plan that includes  
2 oaks as a covered species-

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

5 ~~(4) Projects within oak woodlands in which oak trees that are~~  
6 ~~not greater than five inches in diameter at breast height are to be~~  
7 ~~removed or projects that do not encroach upon the dripline of oak~~  
8 ~~trees greater than five inches at breast height.~~

9 ~~(5) or that conserves oak habitat through natural community~~  
10 ~~conservation preserve designation and implementation and~~  
11 ~~mitigation measures that are consistent with this section.~~

12 (2) Affordable housing projects for lower income households,  
13 as defined pursuant to Section 50079.5 of the Health and Safety  
14 Code, that are located within an urbanized area, or within a sphere  
15 of influence as defined pursuant to Section 56076 of the  
16 Government Code.

17 ~~(6)-~~

18 ~~(3) Conversion of oak woodlands on agricultural land that~~  
19 ~~includes land that is used to produce or process plant and animal~~  
20 ~~products for commercial purposes.~~

21 ~~(4) Projects undertaken pursuant to Section 1373 of the Fish~~  
22 ~~and Game Code or Section 21080.5 of the Public Resources Code.~~

23 ~~(h) Counties with ordinances or conservation programs in~~  
24 ~~effect prior to the effective date of the act adding this section, in~~  
25 ~~which the required mitigation contained is in substantial~~  
26 ~~conformance with this section, do not need to adopt a new~~  
27 ~~ordinance.~~

28 ~~(i)-~~

29 ~~(e) (1) A lead agency that adopts, and a project that~~  
30 ~~incorporates, one or more of the measures specified in this section~~  
31 ~~to mitigate the significant effects to oaks and oak woodlands shall~~  
32 ~~be deemed to be in compliance with this division only as it applies~~  
33 ~~to effects on oaks and oak woodlands.~~

34 (2) The Legislature does not intend this section to modify  
35 requirements of this division, other than with regard to effects on  
36 oaks and oak woodlands.

37 (f) This section does not preclude the application of Section  
38 21081 to a project.

39 (g) This section, and the regulations adopted pursuant to this  
40 section, shall not be construed as a limitation on the power of a



1 public agency to comply with this division or any other provision  
2 of law.

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

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