

AMENDED IN ASSEMBLY MAY 29, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 135

Introduced by Assembly Member Jeffries

January 20, 2009

An act to amend Sections ~~4799.04~~ 4464, 4475, 4475.5, 4799.04, and 4799.12 of the Public Resources Code, relating to public resources, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 135, as amended, Jeffries. Public resources: forest ~~resource~~ *improvement* protection: urban forestry: cost sharing.

(1) *Existing law, the Wildland Fire Protection Management Act of 1978, authorizes the Director of Forestry and Fire Protection to enter into contracts, with the approval of the Director of General Services, for prescribed burning or other hazardous fuel reduction with the owner or any person who has legal control of any property or any public agency with regulatory or natural resource management authority over certain lands. The act authorizes the state to assume a proportionate share of the costs of site preparation and prescribed burning or other hazardous fuel reduction.*

This bill would change the term “contract” to “agreement” and would delete the requirement of approval by the Director of General Services. The bill would also authorize the director to accept grants and donations of equipment, materials, or funds from any source for the purpose of supporting or facilitating the prescribed burning or other

hazardous fuels reduction work. The director would be authorized to waive the cost sharing requirements of the act where the funding source prohibits cost sharing requirements.

(1)

(2) Existing law authorizes the Department of Forestry and Fire Protection to enter into agreements and make loans to encourage private and public investment in, and improved management of, forest lands and resources within the state to ensure adequate future high-quality timber supplies, related employment and other economic benefits, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations. The Director of Forestry and Fire Protection is authorized to enter into agreements for forest resource improvement work with eligible landowners that require cost sharing on the part of the landowner and is required to deposit into the Forest Resource Improvement Fund funds from any source for forest resource improvement purposes.

This bill would allow the department to waive the cost sharing requirement when the funding source for the authorized forest resource improvement work prohibits cost sharing requirements. The bill would ~~exempt funds received pursuant to the federal American Recovery and Reinvestment Act of 2009 from a requirement that those funds be deposited by the Director of Forestry and Fire Protection in~~ *delete the requirement that funds be deposited into the Forest Resources Improvement Fund.*

(2)

(3) Existing law, the California Urban Forestry Act of 1978, authorizes the Department of Forestry and Fire Protection to implement a program in urban forestry to, among other things, encourage better management and planting of trees in urban areas and assist cities in innovative solutions to problems, including greenhouse gas emissions, urban heat island effect, stormwater management, lack of green space, and vandalism. The director, with advice from other appropriate state agencies and interested parties, is authorized to make grants to provide assistance of 25 to 90% of costs for projects meeting guidelines established by the State Board of Forestry and Fire Protection, upon recommendation by the director.

This bill would allow the director to waive the cost sharing requirement when the funding source for a grant prohibits cost sharing requirements.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{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. *Section 4464 of the Public Resources Code is*
2 *amended to read:*

3 4464. Unless the context clearly requires otherwise, the
4 following definitions govern the construction of this chapter:

5 (a) ~~“Wild land” means any land that is classified as a state~~
6 ~~responsibility area pursuant to Article 3 (commencing with Section~~
7 ~~4125) of Chapter 1 and includes any land having a flammable plant~~
8 ~~cover. “Wild land” also means any land not classified as a state~~
9 ~~responsibility area where the geographic location of these lands~~
10 ~~and accumulation of wild land fuel is such that a wild land fire~~
11 ~~occurring on these lands would pose a threat to a state~~
12 ~~responsibility area.~~

13 (b) ~~“Wild land fuel” means any timber, brush, grass, or other~~
14 ~~flammable vegetation, living or dead, standing or down.~~

15 (c) ~~“Wild land fire” means any uncontrolled fire burning on~~
16 ~~wild land.~~

17 (d) ~~“Prescribed burning” or “prescribed burning operation”~~
18 ~~means the planned application and confinement of fire to wild land~~
19 ~~fuels on lands selected in advance of that application to achieve~~
20 ~~any of the following objectives:~~

21 (1) ~~Prevention of high-intensity wild land fires through reduction~~
22 ~~of the volume and continuity of wild land fuels.~~

23 (2) ~~Watershed management.~~

24 (3) ~~Range improvement.~~

25 (4) ~~Vegetation management.~~

26 (5) ~~Forest improvement.~~

27 (6) ~~Wildlife habitat improvement.~~

28 (7) ~~Air quality maintenance.~~

29 (e) ~~“Prescribed burn crew” means personnel and firefighting~~
30 ~~equipment of the department that are prepared to contain fire set~~
31 ~~in a prescribed burning operation and to suppress any fire that~~
32 ~~escapes during a prescribed burning operation.~~

1 ~~(f) “Person” means any natural person, firm, association,~~
2 ~~partnership, business trust, corporation, limited liability company,~~
3 ~~company, or combination thereof, or any public agency other than~~
4 ~~an agency of the federal government.~~

5 ~~(g) “Hazardous fuel reduction” means the application of~~
6 ~~practices to wild lands, the primary impact of which to the~~
7 ~~vegetation is generally limited to the reduction of surface and~~
8 ~~ladder wild land fuels. These practices include, but are not limited,~~
9 ~~to prescribed fire, piling by machine or by hand in preparation for~~
10 ~~burning, thinning, pruning, or grazing. Treatments that reduce~~
11 ~~crown densities shall be prescribed only for the purpose of~~
12 ~~impacting fire behavior, and where it can be reasonably concluded~~
13 ~~based on the proposed treatment that the likelihood for the~~
14 ~~formation of crown fires is reduced.~~

15 ~~(a) “Hazardous fuel reduction” means the application of~~
16 ~~practices to wild lands, the primary impact of which to the~~
17 ~~vegetation is generally limited to the reduction of surface and~~
18 ~~ladder wild land fuels. These practices include, but are not limited~~
19 ~~to, prescribed fire, piling by machine or by hand in preparation~~
20 ~~for burning, thinning, pruning, or grazing. Treatments that reduce~~
21 ~~crown densities shall be prescribed only for the purpose of~~
22 ~~impacting fire behavior, and where it can be reasonably concluded,~~
23 ~~based on the proposed treatment, that the likelihood for the~~
24 ~~formation of crown fires is reduced.~~

25 ~~(b) “Nonprofit organization” means any California corporation~~
26 ~~organized under Section 501(c)(3) or 501(c)(4) of the federal~~
27 ~~Internal Revenue Code.~~

28 ~~(c) “Person” means any natural person, firm, association,~~
29 ~~partnership, business trust, corporation, limited liability company,~~
30 ~~company, nonprofit organization, or a combination of those, or~~
31 ~~any public agency other than an agency of the federal government.~~

32 ~~(d) “Prescribed burn crew” means personnel and firefighting~~
33 ~~equipment of the department that are prepared to contain fire set~~
34 ~~in a prescribed burning operation and to suppress any fire that~~
35 ~~escapes during a prescribed burning operation.~~

36 ~~(e) “Prescribed burning” or “prescribed burning operation”~~
37 ~~means the planned application and confinement of fire to wild~~
38 ~~land fuels on lands selected in advance of that application to~~
39 ~~achieve any of the following objectives:~~

1 (1) *Prevention of high-intensity wild land fires through reduction*
2 *of the volume and continuity of wild land fuels.*

3 (2) *Watershed management.*

4 (3) *Range improvement.*

5 (4) *Vegetation management.*

6 (5) *Forest improvement.*

7 (6) *Wildlife habitat improvement.*

8 (7) *Air quality maintenance.*

9 (f) *“Wild land” means any land that is classified as a state*
10 *responsibility area pursuant to Article 3 (commencing with Section*
11 *4125) of Chapter 1 and includes any land having a flammable*
12 *plant cover. “Wild land” also means any land not classified as a*
13 *state responsibility area where the geographic location of these*
14 *lands and accumulation of wild land fuel is such that a wild land*
15 *fire occurring on these lands would pose a threat to a state*
16 *responsibility area.*

17 (g) *“Wild land fire” means any uncontrolled fire burning on*
18 *wild land.*

19 (h) *“Wild land fuel” means any timber, brush, grass, or other*
20 *flammable vegetation, living or dead, standing or down.*

21 SEC. 2. *Section 4475 of the Public Resources Code is amended*
22 *to read:*

23 4475. *The director, with the approval of the Director of General*
24 *Services, may enter into a contract an agreement, including a grant*
25 *agreement, for prescribed burning or other hazardous fuel reduction*
26 *that is consistent with this chapter and the regulations of the board*
27 *with (1) the owner or any other person who has legal control of*
28 *any property or (2) any public agency with regulatory or natural*
29 *resource management authority over any property that is included*
30 *within any wild land for any of the following purposes, or any*
31 *combination thereof of those purposes:*

32 (a) *Prevention of high-intensity wild land fires through reduction*
33 *of the volume and continuity of wild land fuels.*

34 (b) *Watershed management.*

35 (c) *Range improvement.*

36 (d) *Vegetation management.*

37 (e) *Forest improvement.*

38 (f) *Wildlife habitat improvement.*

39 (g) *Air quality maintenance.*

1 No ~~contract~~ *agreement* may be entered into pursuant to this
2 section unless the director determines that the public benefits
3 estimated to be derived from the prescribed burning or other
4 hazardous fuel reduction pursuant to the ~~contract~~ *agreement* will
5 be equal to or greater than the foreseeable damage that could result
6 from the prescribed burning or other hazardous fuel reduction.

7 *SEC. 3. Section 4475.5 of the Public Resources Code is*
8 *amended to read:*

9 4475.5. (a) The state may assume a proportionate share of the
10 costs of site preparation and prescribed burning or other hazardous
11 fuel reduction conducted pursuant to this article on wild lands
12 other than wild lands under the jurisdiction of the federal
13 government. The state's share of those costs shall bear the same
14 ratio to the total costs of the operation as the public benefits bear
15 to all public and private benefits to be derived from the prescribed
16 burning operation or other hazardous fuel reduction, as estimated
17 and determined by the director. The state's share of the costs may
18 exceed 90 percent of the total costs of the operation only if the
19 director determines that no direct private economic benefits will
20 accrue or will be utilized by a person that owns or controls any
21 property under contract pursuant to Section 4475.

22 (b) The board shall adopt regulations establishing standards to
23 be used by the director in determining the state's share of these
24 costs and in determining whether, pursuant to Section 4475, the
25 public benefits of a prescribed burning operation or other hazardous
26 fuel reduction will equal or exceed the foreseeable damage
27 therefrom.

28 (c) The determination of public and private benefits pursuant
29 to this section shall reflect any substantial benefit to be derived
30 from accomplishing any of the purposes specified in Section 4475
31 and the prevention of degradation of air quality.

32 (d) All or part of these costs to be borne by the person
33 contracting with the department may be met by the value of
34 materials, services, or equipment furnished by that person directly,
35 or furnished by that person pursuant to an agreement with a private
36 consultant or contractor, or furnished by a combination of both
37 means, that are determined by the department to be suitable for
38 the preparation for, and the conduct of, the prescribed burning
39 operation or other hazardous fuel reduction.

1 (e) *The director may accept grants and donations of equipment,*
2 *materials, or funds from any source for the purpose of supporting*
3 *or facilitating the prescribed burning or other hazardous fuels*
4 *reduction work undertaken pursuant to this chapter. The director*
5 *may waive the cost sharing requirements of this chapter when the*
6 *funding source prohibits cost sharing requirements.*

7 SECTION 1.

8 SEC. 4. Section 4799.04 of the Public Resources Code is
9 amended to read:

10 4799.04. To effectuate the purposes of this chapter, the
11 department is authorized to:

12 (a) Collect or contract for adequate supplies of high-quality seed
13 and take whatever steps are necessary to insure to the maximum
14 degree feasible that seeds or seedlings planted as part of forest
15 resource improvement projects undertaken pursuant to this chapter
16 are adapted to the planting site and measures are taken to assure
17 appropriate diversity of forest species.

18 (b) Contract for seedling production and, in cooperation with
19 other state, local, and federal agencies, encourage the production
20 of seedlings needed to accomplish reforestation in the state by
21 small business entities in or near areas where planting will be
22 carried out.

23 (c) Provide technical assistance to private seedling nurseries
24 and conduct a program for certification of the quality and
25 adaptability of seeds and tree seedlings supplied for forest resource
26 improvement projects undertaken pursuant to this chapter.

27 (d) Increase availability of genetically improved seed and
28 planting stock by expansion of seed orchards or other recognized
29 tree improvement techniques.

30 (e) In cooperation with other public and private entities or
31 persons:

32 (1) Conduct necessary research and take other appropriate
33 measures to protect the genetic integrity and diversity of forest
34 tree species, including, but not limited to, a seed depository.

35 (2) Conduct research and make grants or enter into contracts or
36 cooperative agreements with public and private entities or persons
37 concerning measures to increase the contribution of trees to
38 improve the natural environment and economy of the state and
39 measures to otherwise accomplish the purposes of this chapter.

1 (f) Purchase necessary equipment or materials and, in
2 accordance with the State Civil Service Act (commencing with
3 Section 18570 of the Government Code), appoint such deputies,
4 officers, and other employees as may be necessary.

5 (g) In cooperation with other public and private entities and
6 persons, establish such training and educational programs as may
7 be appropriate to increase the number of workers with necessary
8 skills to carry out seed collection, seedling production, and forest
9 resource improvement projects.

10 (h) To accept grants and donations of equipment, seedlings,
11 materials, or funds from any source for the purpose of supporting
12 or facilitating forest resource improvement work undertaken
13 pursuant to the provisions of this chapter. ~~Any funds received,
14 except funds received pursuant to the federal American Recovery
15 and Reinvestment Act of 2009 shall be deposited by the director
16 in the Forest Resource Improvement Fund established pursuant to
17 Chapter 3 (commencing with Section 4799.13) of this part.~~

18 (i) Waive the landowner cost sharing requirements of this
19 chapter when the funding source for the authorized forest resource
20 improvement work prohibits cost sharing requirements.

21 ~~SEC. 2.~~

22 *SEC. 5.* Section 4799.12 of the Public Resources Code is
23 amended to read:

24 4799.12. The director, with advice from other appropriate state
25 agencies and interested parties, may make grants to provide
26 assistance of 25 to 90 percent of costs for projects meeting
27 guidelines established by the board upon recommendation by the
28 director. The director may waive the cost sharing requirement for
29 projects that are in disadvantaged and severely disadvantaged
30 communities. The director may also waive the cost sharing
31 requirement when the funding source for a grant prohibits cost
32 sharing requirements. Grants may be made to cities, counties,
33 districts, and nonprofit organizations. Contributions required as a
34 condition of grants made pursuant to this section may be made in
35 the form of material, services, or equipment, or funds. Authorized
36 assistance may include, but is not limited to, any of the following
37 needs:

38 (a) Funding for development of urban tree plans that include
39 coordination of local agency efforts and citizen involvement.

1 (b) Funding for development of urban tree plans that include
2 coordination of multiple jurisdictions, multiple agency efforts, and
3 citizen involvement.

4 (c) Funding for development of urban forest master plans or
5 similar plans designed to provide comprehensive protection,
6 maintenance, and management of the urban forest.

7 (d) Provision of seedling and tree stock.

8 (e) Tree planting projects.

9 (f) Funding and other assistance to local agencies and nonprofit
10 organizations for partnerships as follows:

11 (1) Energy saving urban forest programs similar to the Los
12 Angeles Department of Water and Power's Trees for Green LA
13 program and the Sacramento Municipal Utility District's
14 Sacramento Shade Tree program.

15 (2) Developing projects or programs that use urban forests for
16 water conservation, improving water quality, or stormwater capture.

17 (3) Developing projects or programs that use urban forests for
18 air quality improvement, reduction in greenhouse gas emissions,
19 or reduction of urban heat island effect.

20 (4) Developing community education and engagement programs
21 on the benefits and proper care of trees.

22 (g) Funding for the development of training and educational
23 materials on the benefits of the urban forest.

24 (h) Funding for the development of training and educational
25 materials on proper care and maintenance of trees and the urban
26 forest, including young and mature tree care.

27 (i) Funding and other assistance, based on criteria developed
28 by the department, for management of urban forests to ensure their
29 survival and ability to optimize the benefits that urban forests
30 provide the community and the environment.

31 (j) Funding and other assistance for demonstration projects in
32 urban forestry with special attention given to projects or programs
33 assisting the state in meeting the requirements of the Global
34 Warming Solutions Act of 2006 (Division 25.5 (commencing with
35 Section 38500) of the Health and Safety Code), improving energy
36 and water conservation, capturing and filtering urban stormwater,
37 improving water quality, reducing the urban heat island effect,
38 improving air quality, and wood and fiber utilization projects,
39 including, but not limited to, biofuel and bioenergy.

1 (k) Other categories of projects recommended by the director
2 and approved by the board.

3 *SEC. 6. This act is an urgency statute necessary for the*
4 *immediate preservation of the public peace, health, or safety within*
5 *the meaning of Article IV of the Constitution and shall go into*
6 *immediate effect. The facts constituting the necessity are:*

7 *In order to receive and expend needed funds recently made*
8 *available by Congress as part of the federal American Recovery*
9 *and Reinvestment Act of 2009 as soon as possible, it is necessary*
10 *that this act take effect immediately.*