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**AB-2551 Forestry and fire prevention: joint prescribed burning operations: watersheds.** (2017-2018)

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**Assembly Bill No. 2551**

**CHAPTER 638**

An act to amend Sections 4795 and 4796 of, to add Article 4.3 (commencing with Section 4497) to Chapter 7 of Part 2 of Division 4 of, and to add Part 4.7 (commencing with Section 71365) to Division 34 of, the Public Resources Code, relating to forestry and fire prevention.

[ Approved by Governor September 21, 2018. Filed with Secretary of State September 21, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2551, Wood. Forestry and fire prevention: joint prescribed burning operations: watersheds.

Existing law requires the Department of Forestry and Fire Protection to implement various fire prevention programs intended to protect forest resources and prevent uncontrolled wildfires.

Existing law establishes the forestry assistance program, to be conducted by the Department of Forestry and Fire Protection, to encourage forest resource improvements and otherwise facilitate good forest land management through a program of financial, technical, and education assistance, as well as through applied research.

Existing law authorizes the director of the department to enter into an agreement with an eligible landowner pursuant to which the landowner will undertake forest resource improvement work in return for an agreement by the director to share the cost of carrying out that work. Existing law authorizes the director to make various types of loans, including loans to cover all or part of the landowner's cost for the work. Existing law requires these loans to be made for a term not exceeding 20 years and bearing interest at the prevailing rate.

This bill would instead authorize the director to enter into those agreements with small nonindustrial landowners, as defined. The bill would delete the term and interest rate requirements relating to these loans and instead require the director to establish reasonable terms relating to the length of, and the interest rate for, the loans. The bill would also authorize the director to provide the director's share of the costs described above in advance of any performed work if the eligible landowner agrees in writing to undertake the forest resource improvement work and agrees to the condition that any funds provided for uncompleted work shall constitute grounds for a claim and lien upon the real property owned by the landowner, as provided. The bill would require any money recovered from the lien to be deposited into the fund.

This bill would also authorize the director to enter into an agreement with the owner or any other person who has legal control of any property, any public agency with regulatory or natural resource management authority over any property that is included within any wildland, or any nonprofit organization to conduct joint prescribed burning operations that serve the public interest and are beneficial to the state. The bill would require the agreement to adhere to specified requirements and would require each prescribed burn to be for one or more specified purposes.

This bill would authorize the Natural Resources Agency and the California Environmental Protection Agency to jointly develop and submit to the Legislature a specified plan for forest and watershed restoration investments in the drainages that supply the Oroville, Shasta, and Trinity Reservoirs, as prescribed. The bill would also authorize those agencies to jointly develop and propose to the relevant policy committees of the Legislature a pilot project for the coordinated, multiagency permitting of specified watershed restoration activities. The bill would establish the Headwaters Restoration Account in the General Fund and would authorize the deposit of funds into the account for use, upon appropriation by the Legislature, for those forest and watershed restoration purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** (a) The Legislature finds and declares all of the following:

- (1) California's forestlands and wildlands are our largest, safest, and most expandable carbon sink, also providing many other critical services including water supply.
- (2) Current forest and wildland conditions across much of the state are unhealthy, unstable, and lack resilience to disturbance, with no historical precedent.
- (3) Current forest and wildland conditions, combined with climate-driven drought and extreme weather events, also create conditions for uncharacteristically intense forest fires with adverse impacts to watershed health.
- (4) The large quantities of smoke from these extreme fire events have a significant impact on air quality and public health, far greater than would occur under a more natural fire regime.
- (5) Restoring health and resilience to our forests and wildlands is an urgent priority to protect water supplies, public health and safety, and to meet our climate goals.

### (b) It is the intent of the Legislature to do all of the following:

- (1) Coordinate policies, actions, and investments to restore and maintain resilience on the landscape to achieve state climate, water, public safety, and wildlife goals.
- (2) Increase the use of prescribed burning in the state.
- (3) Create partnerships between the Department of Forestry and Fire Protection and the Department of Corrections and Rehabilitation for year-round vegetation management and fire protection activities.

**SEC. 2.** Article 4.3 (commencing with Section 4497) is added to Chapter 7 of Part 2 of Division 4 of the Public Resources Code, to read:

#### **Article 4.3. Burning with Cooperators**

**4497.** The director may enter into an agreement with the owner or any other person who has legal control of any property, any public agency with regulatory or natural resource management authority over any property that is included within any wildland, or any nonprofit organization to conduct joint prescribed burning operations that serve the public interest and are beneficial to the state. The agreement shall establish guidelines for the cooperative management of joint prescribed burning operations and shall require the completion of a project agreement for each prescribed burn, which shall include all of the following:

- (a) A list of all participants.
- (b) A joint prescribed burn plan.
- (c) A display of the project costs to be assumed by each participant.
- (d) A summary of the benefits to be received by each participant.

**4497.2.** To be considered for the public interest and beneficial to the state, each prescribed burn, pursuant to Section 4497, shall be for any of the following purposes or any combination of the following purposes:

- (a) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.
- (b) Watershed management.
- (c) Range improvement.

- (d) Vegetation management.
- (e) Forest improvement.
- (f) Wildlife habitat improvement.
- (g) Air quality maintenance.

**SEC. 3.** Section 4795 of the Public Resources Code is amended to read:

**4795.** (a) The director may enter into agreements with eligible landowners pursuant to which the landowner will undertake forest resource improvement work in return for an agreement by the director to share the cost of carrying out the work. The director is authorized to share up to 90 percent of the lesser of either:

- (1) The landowner's actual cost per acre to accomplish the work.
- (2) The prevailing per acre cost as determined by the director pursuant to Section 4799.02.

(b) (1) The director may provide the funds for the director's share of the costs, as described in subdivision (a), in advance of any work performed if the eligible landowner agrees in writing to undertake the forest resource improvement work and agrees to the condition that funds provided for any uncompleted work shall constitute grounds for a claim and lien upon the real property owned by the landowner that is subject to this section. Any such lien shall attach to the property regardless of whether the responsible party is insolvent. A lien established pursuant to this subdivision shall be subject to notice and hearing procedures required by due process of the law.

(2) A lien authorized under this subdivision shall continue in effect until such time that the liability for repayment of funds, or a judgment against the responsible party, is satisfied. However, if it is determined by the court that the judgment against the responsible party will not be satisfied, the department may exercise its rights under the lien.

(3) A lien imposed pursuant to this subdivision shall have the force and effect of, and the same priority as, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record, as shown on the latest assessor's property tax assessment roll.

(4) All funds recovered pursuant to this subdivision shall be deposited in the Timber Regulation and Forest Restoration Fund established pursuant to Section 4629.3.

(c) The director shall prepare a schedule of cost share percentages applicable to agreements undertaken pursuant to this section. Required landowner cost share contributions may be made in the form of materials, services, or equipment as well as funds. The cost share percentage schedule shall set forth the percentage of required landowner's project cost share for various categories of forest resource improvement projects. The percentage of cost sharing required of the landowner may be decreased if the ownership contains less than 500 acres.

(d) The percentage of cost sharing required of the landowner may also be decreased to the extent that any of the following applies:

- (1) The project or other actions of the landowner would increase recreational opportunities for the public.
- (2) The project would provide relatively more employment opportunities than other proposed projects.
- (3) Forest land conservation measures or fish or wildlife habitat improvements are included in the project.

(e) Consistent with the criteria set forth in subdivisions (c) and (d), the director shall submit a schedule further specifying cost share percentages to the board for its review. The schedule shall apply to all agreements made pursuant to this section unless the board acts to change the schedule within 75 days of its submission by the director.

**SEC. 4.** Section 4796 of the Public Resources Code is amended to read:

**4796.** The director may make the following types of loans relating to forest resource improvement projects:

(a) The director may make loans for forest resource improvement work to cover all or part of a smaller nonindustrial landowner's cost share payment required pursuant to Section 4795. The director shall establish reasonable terms relating to the length of, and the interest rate for, a loan made pursuant to this subdivision. In order to secure repayment of the loan, the forest resource improvement loans shall be secured by a mortgage or deed of trust upon the parcel of land to which the forest improvement

project applies. The director shall record the mortgage or deed of trust in the office of the county recorder in the county in which the real property subject to the resource improvement loan is located.

(b) (1) The director may make loans for forest resource improvement work to landowners eligible pursuant to the provisions of subdivision (d) of Section 4797 for up to 100 percent of the lesser of either:

(A) The landowner's actual cost per acre to accomplish the work.

(B) The prevailing cost per acre as determined by the director pursuant to Section 4799.02.

(2) A loan made pursuant to this subdivision may be made for a term not exceeding 20 years and shall bear interest at the prevailing rate. In order to secure repayment of the loan, the forest resource improvement loans shall be secured by a mortgage or deed of trust upon the parcel of land to which the forest improvement project applies. The director shall record the mortgage or deed of trust in the office of the county recorder in the county in which the real property subject to the resource improvement loan is located.

(c) Any loan made pursuant to this section may be paid prior to the maturity date set forth in the loan agreement without an interest penalty being charged to the landowner.

(d) Payment of all or part of the principal and interest due under loans made pursuant to this chapter shall not be required upon a finding by the board that the parcel to which a forest resource improvement project applies, and that is subject to a loan, satisfies both of the following conditions:

(1) The parcel has been substantially damaged by fire, flood, insects, disease, or other natural causes.

(2) The damage was not caused by the negligence or willful act of the landowner.

**SEC. 5.** Part 4.7 (commencing with Section 71365) is added to Division 34 of the Public Resources Code, to read:

#### **PART 4.7. Forest and Watershed Restoration**

**71365.** (a) (1) To advance the goals of Item 0540-101-3228 of Section 2.00 of the Budget Act of 2018, the Natural Resources Agency and the California Environmental Protection Agency may jointly develop and submit to the Legislature, in compliance with Section 9795 of the Government Code, a plan for forest and watershed restoration investments for the drainages that supply the Oroville, Shasta, and Trinity Reservoirs.

(2) The spatially explicit plan authorized under paragraph (1) is intended to establish a comprehensive understanding of restoration needs and prioritize investment opportunities that will improve watershed function and resilience, water quality and supply reliability, forest carbon stores, wildlife habitat, and climate adaptation.

(b) Those agencies may jointly develop and propose to the relevant policy committees of the Legislature a pilot project for the coordinated, multiagency permitting of watershed restoration activities in the watersheds described in subdivision (a), as outlined in subdivision (c) of Section 108.5 of the Water Code.

(c) The Headwaters Restoration Account is hereby established in the General Fund. Funds may be deposited into the account and used, upon appropriation by the Legislature, for the purposes of this section.