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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### **AB 1089 (Carrillo) - Western Joshua Tree Conservation Act: industrial projects and commercial projects: tree removal and trimming**

**Version:** July 21, 2025

**Urgency:** No

**Hearing Date:** August 18, 2025

**Policy Vote:** N.R. & W. 6 - 0

**Mandate:** No

**Consultant:** Ashley Ames

**Bill Summary:** This bill would authorize the California Department of Fish and Wildlife (CDFW) to enter into an agreement with any city to delegate to the city the taking of a western Joshua tree associated with commercial and industrial projects in certain conditions, as provided.

#### **Fiscal Impact:**

- Unknown but potentially significant ongoing costs, likely in the high hundreds of thousands of dollars annually (General Fund), for CDFW to implement the provisions of this bill.

#### **Background:**

*The western Joshua tree (Yucca brevifolia)*: According to the Assembly Water, Parks, and Wildlife Committee, the western Joshua tree (WJT) is a member of the Agave family. The WJT is a monocot in the subgroup of flowering plants that also includes grasses and orchids. Many birds, mammals, reptiles, and insects depend on the WJT for food and shelter, and it is both culturally and ecologically important. WJT seeds germinate rarely, and young WJTs may grow quickly in the first five years, then slow down considerably thereafter. WJT grow at rates between 0.5 – 3 inches annually, and the tallest WJT can be more than forty feet high. Some researchers think an average lifespan for a WJT is about 150 years, but some of the largest trees may be older.

WJTs are widely distributed in the Mojave Desert region of California. According to the California Department of Fish and Wildlife's (CDFW's) Status Review of the species, estimates indicate that the abundance of the WJT is currently relatively high, but there is considerable uncertainty in population size estimates.

*Threats to the WJT.* WJT populations within the state declined following European settlement of the Mojave Desert region, primarily due to habitat loss and degradation related to agricultural conversion and development. CDFW estimates that approximately 30% of the habitat occupied by WJT in California may have been modified between European settlement and the present. Habitat loss, wildfires, aridification, and other climate change effects are major threats to the WJT. For example, in 2020, the Dome Fire incinerated 1.3 million Joshua trees in a part of the Mojave National Preserve called the Cima Dome. While potentially less immediate than other threats, climate change could represent an existential threat to the WJT. CDFW anticipates that some of the impacts of climate change (e.g., increased temperatures and decreased total water availability locally) will in all likelihood contribute to a decline in WJT populations within

the state by 2100. In addition, CDFW estimates that 7.2% of the WJT range has been developed for other uses.

*Proposed WJT listing under the California Endangered Species Act (CESA).* In response to these threats, the WJT was proposed for listing as threatened under CESA at the Fish and Game Commission (commission) in late 2019. The commission accepted the WJT as a candidate species in 2020, and has not made a final decision on the listing yet. While a candidate for listing, the western Joshua tree has similar protections to those of a listed species. This includes take prohibitions and take authorization through permits obtained from CDFW. Since becoming a candidate, take permits were issued under Fish and Game Code (FGC) §2081 and §2084.

*The Western Joshua Tree Conservation Act (WJTCA).* To provide protections to WJT and in an effort to prevent an official listing under CESA while enabling development, WJTCA was enacted in 2023. The WJTCA provides a carefully circumscribed additional and alternative permitting mechanism for “take” of the species. The WJTCA prohibits the import, export, take, possession, purchase, or sale of any WJT in California unless authorized by CDFW. WJTCA authorizes CDFW to issue permits for the incidental take of one or more western Joshua trees if the permittee meets certain conditions. Permittees may pay specified fees in lieu of conducting mitigation activities. WJTCA also authorizes CDFW to issue permits for the removal of dead western Joshua trees and the trimming of live western Joshua trees under certain circumstances.

Pursuant to the WJTCA, CDFW may enter into an agreement with any county or city to delegate limited authority to permit WJT take associated with developing single-family residences, multifamily residences, accessory structures, and public works projects. These so-called delegation agreements limit the number of WJTs that may be taken depending on the type of project. CDFW may similarly enter into delegation agreements with any county or city to permit the removal of dead western Joshua trees and the trimming of live western Joshua trees. No delegation agreements have yet been executed to Committee staff knowledge, and they have been available for only about 1-1/3 years.

Under WJTCA, all in-lieu fees collected will be deposited into the Conservation Fund for appropriation to CDFW solely for the purposes of acquiring, conserving, and managing WJT conservation lands and completing other activities to conserve the WJT. Additionally, WJTCA requires CDFW to develop and implement a WJT conservation plan, as provided. The final conservation plan was approved by the commission in June 2025. CDFW must also compile annual reports assessing WJT conservation status and submit them to the commission and Legislature annually. The first report was delivered earlier this year. The commission is expected to postpone final consideration of the petition to list the WJT until CDFW submits an updated status review to the commission by no later than January 1, 2033.

*WJTCA implementation* In July 2024, CDFW released the WJT Relocation Guides and Protocols to guide how and when to relocate WJTs to minimize impacts to populations, prevent habitat fragmentation, and preserve WJT connectivity. CDFW has also implemented two permitting systems: to date, 25 incidental take permits and 350 hazardous management permits have been issued. The 258 projects authorized during 2023–2024 have resulted in the taking of 3,175 WJTs, the development of 2,888 acres

of WJT woodland and just over \$3 million in in-lieu fees remitted. CDFW purchased 283 acres of WJT habitat near the Kern River Valley.

**Proposed Law:** This bill would authorize CDFW to enter into an agreement with any city to delegate to the city the taking of a WJT associated with commercial and industrial projects in certain conditions, as provided.

Specifically, this bill would:

1. Authorize CDFW to additionally enter into a delegation agreement with a city to authorize the take of a WJT associated with developing commercial and industrial projects concurrent with the city's approval.
  - a. Require the commercial or industrial project to take no more than 10 WJT.
  - b. Prohibit the commercial or industrial project from using the reduced in lieu mitigation fees, unless those projects are within a certain boundary, as specified.
  - c. Make technical and conforming changes.
2. Allow CDFW to issue a permit to authorize either the removal or trimming of a WJT, as provided, without payment of fees or other mitigation, provided that either of the following apply:
  - a. A dead western Joshua tree or any limb to be removed meets one of the following conditions:
    - i. (i) Has fallen over and-is within 30 feet of a structure.
    - ii. Is leaning against an existing structure.
    - iii. Creates an imminent threat to public health or safety.
  - b. A western Joshua tree is located within 100 feet of an existing single-family home and any associated accessory structure, and removal or trimming is necessary for the homeowner to meet defensible space requirements pursuant to Section 51182 of the Government Code, Section 4291 of the Public Resources Code, or a local ordinance. Subdivision (c) of Section 21080.49 of the Public Resources Code applies to all permits issued by the department to the homeowner, pursuant to this subparagraph, for the removal or trimming of any western Joshua tree within 100 feet of a structure in the state responsibility area, and high and very high fire hazard severity zones in the local responsibility area.

#### **Related Legislation:**

SB 131 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2025) establishes a statutory exemption from the California Environmental Quality Act for defensible space projects to reduced wildfire risk, among other provisions.

AB 2443 (Carrillo, 2024) would have addressed commercial and industrial projects under the WJTCA in a similar fashion to this bill. (This bill was subsequently amended into a bill about transaction and use tax.)

SB 122 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2023), a public resources budget trailer bill, establishes the WJTCA.

AB 1183 (Ramos), Chapter 380, Statutes of 2021, establishes the California Desert Conservation Program at the Wildlife Conservation Board to acquire, preserve, restore, and enhance desert habitat within the California deserts region.

**-- END --**