

change (e.g., increased temperatures and decreased total water availability locally) is likely to render much of the WJT's existing range to no longer be viable habitat by 2100. In addition, CDFW estimates that over 7% of the WJT range has been developed for other uses.²

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 the WJT remains a candidate species today. While a candidate for listing, the WJT 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 for WJTs were issued under Fish and Game Code (FGC) §2081 and §2084, and, as applicable, via permits under the Western Joshua Tree Conservation Act. 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 no later than January 1, 2033, as required by the WJTCA.

The Western Joshua Tree Conservation Act (WJTCA)

The WJTCA was enacted to conserve the WJT and its habitat while providing pathways for development with appropriate permitting and mitigation, including in-lieu fees for the take of the WJT. 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 WJTs if the permittee meets certain conditions. These include that the permittee mitigates all impacts to, and taking of, the WJT, and avoids and minimizes impacts to, and the taking of, the WJT to the maximum extent practicable. Permittees may pay specified fees in lieu of conducting mitigation activities.³ WJTCA also authorizes CDFW to issue permits for the removal of dead WJTs and the trimming of live WJTs under certain circumstances. These two permits are the WJTCA incidental take permit (ITP), and the Hazard Management Permit, respectively.

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 WJTs and the trimming of live WJTs. The goal of the delegation agreements was to provide a single permitting process for project applicants. No delegation agreements have yet been executed to Committee staff knowledge.

² California Department of Fish and Wildlife (CDFW). 2025. Western Joshua Tree Conservation Plan. Presented to the California Fish and Game Commission, June 12, 2025.

³ The in-lieu fees in the “standard” fee area are currently \$2,609 for a WJT taller than 5 meters, \$521.75 for a WJT between 1 and 5 meters in height, and \$354.75 for WJTs shorter than 1 meter in height. The in-lieu fees for each WJT in the reduced fee area are \$1,043.50, \$208.75, and \$156.50, respectively, for the same size classes. The total in-lieu fee would be the number of WJTs in each size class to be taken multiplied by the fee for that size class summed over all applicable size classes.

Under WJTCA, all in-lieu fees collected will be deposited into the WJT Conservation Fund (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.

WJTCA implementation status

As of the end of Fiscal Year (FY) 2023-2024, CDFW had issued 9 ITPs under the WJTCA and 249 Hazard Management permits authorizing the take of 3,175 WJTs. Most of the authorized take was under the ITPs which provided for the development of 2,888 acres of WJT habitat. In-lieu mitigation fees totaling \$3,075,570 were collected which funded the acquisition of 283 acres of “ecologically core” lands for conservation over 3 parcels. Only 5 WJTs were relocated during FY 2023-2024 as the relocation guidelines had not yet been released.

In addition, as required by the WJTCA, two processes are currently underway:

- The commission is required to review the status of the WJT and the effectiveness of the WJT conservation plan by August 31, 2026 and every two years thereafter. CDFW is required to make recommendations to amend the conservation plan, if needed. A public meeting was held in January 2026, At the recent WJTCA Quarterly Meeting, CDFW announced that it would recommend no changes.
- In addition to authorized indexing, CDFW is authorized, beginning this year, to adopt regulations to adjust the in-lieu mitigation fees to ensure WJT conservation. An informational public forum was held in January and CDFW is currently drafting the Initial Statement of Reasons for a regulatory change which is anticipated to be released later this year. The fee adjustment costs will consider restoration, monitoring, land acquisition, conservation easements, and endowments for stewardship of land acquisitions or conservation easements, and do not include CDFW staffing costs. According to its presentation, “CDFW is looking for opportunities to make fees more proportionate to impacts,” and notes that revenues will likely need to increase to ensure WJT conservation.

Additionally, although not required by the WJTCA, CDFW has begun the preparation of a WJTCA Permitting Programmatic Environmental Impact Report (PEIR). WJTCA permitting requires compliance with the California Environmental Quality Act (CEQA), and applicants are generally responsible for CEQA documentation which can cause a disproportionately high financial strain and time delays on homeowners and small projects. The goal of the PEIR preparation is to reduce the time and cost of CEQA compliance for applicants with qualifying projects. Types of qualifying projects include single- and multi-family residences and accessory structures; commercial, industrial, institutional or religious structures; utilities, infrastructure, facilities and buildings; and defensible space and on-site safety actions. Qualifying projects may include a limitation on habitat acreage involved and the number of WJTs to be removed. Non-qualifying projects include land development including subdivisions, utility-scale energy

generation, transmission or storage projects; or mining operations. Certification of the PEIR is anticipated in mid-2027.

State-mandated conservation and permitting for WJT – either as a candidate species under CESA or through the WJTCA – has been controversial.

Existing law:

- 1) Establishes CDFW and the commission in the California Natural Resources Agency. In general, CDFW implements and enforces the regulations set by the commission and provides data and expertise to inform the commission's decision making.
- 2) Specifies that CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish and Game Code (FGC) §1802).
- 3) Defines "take" as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. (FGC §86).
- 4) Prohibits the taking of an endangered or threatened species, except in certain situations. Provides that a candidate species receives CESA protections while its status is pending. (FGC §§2070 *et seq.*).
- 5) Allows CDFW to authorize the taking of listed species pursuant to an ITP if the taking is incidental to an otherwise lawful activity, the impacts are minimized and fully mitigated, and the issuance of the permit would not jeopardize the continued existence of the species. (FGC §§2081; 2084).
- 6) Establishes the WJTCA that enacts the following (FGC §§1927 *et seq.*):
 - a) Prohibits any person or public agency from importing into the state, exporting out of the state, or taking, possessing, purchasing, or selling within the state, a WJT or any part or product of the WJT, except pursuant to the WJTCA, CESA, or the Natural Community Conservation Planning Act (NCCP Act).
 - b) Authorizes WJT take under CESA or by paying certain in-lieu fees specified by the WJTCA when the WJT is a candidate species under CESA.
 - c) Requires the WJTCA to remain operative if the commission determines that listing the WJT under CESA is not warranted. Requires WJT take permitting under CESA or pursuant to the NCCP Act if the commission determines that listing the WJT under CESA is warranted, which would render the WJTCA inoperative.
 - d) Authorizes CDFW to issue a permit for the taking of a WJT if specified conditions are met, including, that the permittee mitigates all impacts to, and taking of, the WJT. Authorizes CDFW to include in its permit conditions the requirement that the permittee relocate one or more WJTs. Requires permittees to bear responsibility for implementing measures to assist the survival of relocated WJTs.

- e) Authorizes a permittee, in lieu of completing the mitigation measures on its own, to elect to satisfy the mitigation obligation by paying a fee pursuant to a specified fee schedule.
- f) Requires CDFW to annually adjust the fees for inflation, and to review the fees by December 31, 2026, and every three years thereafter, to ensure the conservation of WJT.
- g) Requires all fees remitted to CDFW to be deposited into the Conservation Fund, as provided, and requires the moneys in the Conservation Fund, upon appropriation by the Legislature, to be used solely for the purposes of acquiring, conserving, and managing WJT conservation lands and completing other activities to conserve the WJT.
- h) Authorizes CDFW to enter into an agreement with any county or city to delegate to the county or city the ability to authorize the taking of a WJT associated with developing single-family residences, accessory structures, and public works projects, as defined, concurrent with the city's or county's approval of the project. Limits the number of WJTs taken associated with single-family residences, multifamily residences, or accessory structures projects to 10 under this delegation.
- i) Authorizes CDFW or its designee to issue a permit to authorize the removal or trimming of a dead WJT or the trimming of a live WJT, as provided.
- j) Requires CDFW to develop and implement a WJT conservation plan, as provided. Specifies that CDFW shall present the final conservation plan at a public meeting of the commission, for its review and approval, by December 31, 2024, and requires the commission to take final action on the plan by June 30, 2025.
- k) Requires CDFW to submit an annual report to the commission and the Legislature addressing the conservation status of the WJT, as provided.
- l) Requires the commission, beginning in 2026, and at least every two years thereafter, to, at a public meeting, review the status of the WJT and the effectiveness of the conservation plan, as specified.
- m) Requires CDFW to submit to the commission an update of the status review required under CESA that incorporates any new scientific information and includes an evaluation of conservation efforts under the WJTCA by January 1, 2033.

PROPOSED LAW

This bill would:

- 1) Expand CDFW's authority to issue a permit to authorize the removal or trimming of a WJT, not just the removal or trimming of a dead WJT or trimming of a live WJT.
- 2) Authorize CDFW to issue permits without payment of fees or other mitigation if either:

- a) A dead WJT or any limb to be removed has fallen over and is within 30 feet of a structure, is leaning against an existing structure, or creates an imminent threat to public health or safety.
 - b) A WJT is located on a parcel that contains an existing single-family residence that is occupied by a person who maintains a homeowner's property tax exemption, as provided; and the removal or trimming of the WJT is necessary to maintain, repair, or replace existing infrastructure or utilities serving the residence or to comply with department-approved fire, health, or safety requirements, including defensible space requirements.
 - c) No more than 10 individual WJTs or any limbs may be removed for each permit under b).
- 3) Require photographs and a signed attestation from a desert native plant specialist that the WJT meets the definition of dead for a permit request for dead WJT under 2a) above.
 - 4) Require proof of maintenance of a property tax exemption, a description of how removal of the WJT is necessary and photographs of WJT that visually depict the WJTs to be removed or trimmed for a permit request for a WJT under 2b) above.
 - 5) Require CDFW to approve or deny a permit request within 30 days for a dead WJT or any limb that has fallen over and is within 30 feet of a structure or is leaning against an existing structure. Require CDFW to approve or deny a permit request within 10 days of receipt for a dead WJT that creates an imminent threat to public health or safety.
 - 6) Expand CDFW's authorization to delegate to any county or city to delegate to the county or city the ability to authorize the removal or trimming of a WJT, not just the removal or trimming of a dead WJT or the trimming of a live WJT. Similarly, expand CDFW's authority to suspend or revoke an agreement with a county or city to delegate to the county or city the ability to authorize the removal of a WJT, as provided.

ARGUMENTS IN SUPPORT

According to the author, "The Western Joshua Tree Conservation Act treats a commercial developer clearing acreage and a homeowner managing their own property, the same. A homeowner who needs to trim a Joshua tree to maintain a water line, or remove one to meet defensible space requirements, faces the same permit process and the same fees as a large-scale project. The California Department of Fish and Wildlife has acknowledged in its own conservation plan that those fees fall disproportionately on low-income residents and single-family homeowners."

"AB 1663 creates a fee-free permit pathway for owner-occupied single-family residences. A qualifying homeowner may apply to remove or trim up to 10 western

Joshua trees to maintain, repair, or replace existing infrastructure or utilities, or to comply with fire, health, or safety requirements including defensible space.”

“People who live among western Joshua trees have a long-term stake in the health of that landscape. The routine maintenance activities this bill covers, trimming a tree to reach a water line or clearing one for defensible space, do not threaten the survival of the species. Applying the full weight of the Act to those activities was not the point of the law. AB 1663 addresses that overburden narrowly, without disturbing the Act’s conservation framework.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

Largely technical amendments. While the overall structure of the bill’s proposed new no fee permitting pathway for single-family homeowners is clear, there are multiple details that might usefully be clarified. As follows:

- There is no permit review timeline provided for the new permitting pathway. The existing Hazard Management Permit provides for 10 and 30 day permit review timelines.
- The new no fee permit refers to CDFW approved fire, health, or safety requirements. CDFW does not approve the standards for fire, health, or safety, although it may agree that standards for fire, health, or safety set by other agencies qualify for the new no fee permit.
- It is not clear how the limit of 10 applies to trimmed limbs. Additionally, it is not clear why a limit of 10 is designated per permit as an unlimited number of permits could be applied for.

In view of this, the Committee may wish to amend the bill to add a 30 day review timeline for the new no fee permit, revise the applicable laws and regulations that CDFW has to identify as qualifying for fire, health or safety purposes to use the new no fee permit and require CDFW to develop and maintain guidance for homeowners on the applicable fire, health, and safety requirements, clarify that the limbs trimmed are on 10 WJT, and that for each incident involving infrastructure and utilities, one new no fee permit is available, as specified. [Amendments #1 and #2]

Additional technical amendments. CDFW has proposed various minor technical amendments to the WJTCA to the author which the author has accepted. These include correcting the name of an organization, deleting the requirement for a signed attestation that a WJT is dead when photos are provided for a permit, and authorizing a property owner’s agent to submit WJT permitting requests.

The Committee may wish to amend the bill to incorporate those minor changes. [Amendments #3 and #4]

The AB 1089 veto message. Opponents make a fair point that the WJTCA represented a heavily negotiated balance between competing interests, and changes to the WJTCA have the potential to either delay further implementation or upset the perceived balance between interests.

Last year, Governor Newsom in his veto message for AB 1089 (Carillo, 2025) which would have added no fee WJT take for defensible space to the WJTCA, among other provisions, stated:

I am returning Assembly Bill 1089 without my signature.

This bill authorizes the 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 addition, this bill revises CDFW's authority to issue a permit for the removal of a Western Joshua Tree around single-family homes.

The Western Joshua Tree Conservation Act (Act) of 2023 was carefully crafted to balance the need to develop housing and clean energy projects in the Mojave Desert region, while creating a robust but practical permitting process aimed at protecting one of California's most iconic species. The Act currently authorizes CDFW to enter into an agreement with any county or city and delegate limited authority to permit the taking of a Western Joshua Tree associated with developing single-family residences, multifamily residences, accessory structures, and public works projects.

While I recognize the desire to expand this delegated authority to include the taking of these trees where commercial and industrial projects are sited, this bill goes too far in authorizing the blanket removal of these trees near single-family homes that will ultimately undermine Western Joshua Tree protections and conservation requirements under the Act. Furthermore, this bill would increase the complexity and time required to manage the permitting process as modified by this measure.

For these reasons, I cannot sign this bill.

While AB 1089 (Carillo, 2025) is a different WJTCA bill than this one, the veto message highlights the reticence of the Newsom Administration to make substantive changes to the WJTCA when it is still in the beginning phases of implementation.

The author may wish to continue working closely with CDFW on this bill's scope.

Recent related legislation

SB 1061 (Ochoa Bogh, 2026) would exempt from WJTCA the relocation of up to 10 WJT from one parcel to another, as provided. (*This bill is pending before the Assembly, Water, Parks, and Wildlife Committee.*)

SB 1062 (Ochoa Bogh, 2026) would authorize CDFW to develop a tiered fee structure for the WJTCA, as provided. *(This bill is pending before the Assembly Water, Parks, and Wildlife Committee.)*

SB 1063 (Ochoa Bogh, 2026) would authorize CDFW to permit the taking of a WJT without payment of fees or other mitigation upon demonstration to CDFW that the taking of a WJT is related to the maintenance, operation, or construction of a life-sustaining service, as defined, including through a service connection to a single-family residence or multifamily residence, including distribution infrastructure, as specified. The bill would also require CDFW to grant or deny that permit within 30 days of a request, or within 10 days of a request to address a threat to health or safety, among other provisions. *(This bill failed in this Committee.)*

AB 1808 (Carrillo, 2026) 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, and would authorize CDFW to permit, without payment of fees or other mitigation, the removal or trimming of a WJT by the owner of an existing single-family residence or by the developer of a public works project, under certain circumstances, as provided. *(This bill is pending before this Committee.)*

AB 1089 (Carrillo, 2025) would have authorized 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, and would have revised CDFW's authority to issue a permit for the removal of WJT, including to meet defensible space requirements, among other provisions, as specified. *(This bill was vetoed by Governor Newsom.)*

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.

SUGGESTED AMENDMENTS

AMENDMENT 1

Revise FGC §1927.4 (a)(2)(B)(ii) and (C) as follows:

(ii) The removal or trimming of the western Joshua tree is necessary to maintain, repair, or replace existing infrastructure or utilities serving the residence or to comply with ~~department approved fire, health, or safety requirements, including defensible space requirement~~ Section 4291 of the Public Resources Code, Section 51182 of the Government Code, Section 17920.3 of the Health and Safety Code, or any other applicable state or local law, ordinance, or regulation governing fire, health, or safety. The department shall develop and maintain guidance for property owners of eligible activities.

(C) No more than 10 individual western Joshua trees ~~or any limbs~~ may be removed or trimmed for each permit issued pursuant to subparagraph (B). One permit may be issued pursuant to subparagraph (B) per incident related to existing infrastructure or utilities.

AMENDMENT 2

Amend FGC §1927.4 (a)(4)(A) as follows:

(4) (A) Within 30 days of receipt of a request for a permit pursuant to clause (i) or (ii) of subparagraph (A) or subparagraph (B) of...

AMENDMENT 3

Add and amend FGC §1927.2 (h) to read:

(h) ~~This section shall not preclude the~~ The department may authorize from authorizing, by permit or memorandum of understanding, the taking, possession, purchase, or sale within the state of a western Joshua tree to aid the conservation and recovery of the western Joshua tree, ~~or entering and may enter~~ into memoranda of understanding with California Native American tribes to provide for the taking, ~~and~~ possession, purchase or sale of western Joshua trees for tribal cultural purposes, ~~or as otherwise required by applicable law.~~

AMENDMENT 4

Add and amend FGC §1927.1 (e): replace “Arborists” with “Arboriculture”
In FGC §1927.4 (a)(3)(C)(ii): delete clause (ii)
In FGC §1927.4 (a)(3), FGC §1927.4 (a)(3)(A), FGC §1927.4 (a)(3)(B), FGC §1927.4 (a)(4)(C), FGC §1927.4 (a)(4)(D), FGC §1927.4 (a)(5): add “or its agent” after “property owner”

SUPPORT

- 13-37 Design
- Blu Haus
- California Association of Realtors
- Clint Edwards Counseling
- Compass Consulting Enterprises, Inc.
- Hi-Desert Water District
- Inspire Real Estate
- Joshua Tree Gateway Association of Realtors
- Mission Springs Water District
- Morongo Basin Residents for Reasonable Joshua Tree Regulations
- The Honorable Dawn Rowe, Supervisor – 3rd District, San Bernardino County
- The Lux Properties

Five individuals

OPPOSITION

None received

-- END --