
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Josh Becker, Chair

2025 - 2026 Regular

Bill No: AB 1808 **Hearing Date:** June 23, 2026
Author: Carrillo
Version: April 22, 2026 Amended
Urgency: No **Fiscal:** Yes
Consultant: Katharine Moore

Subject: Western Joshua Tree Conservation Act: industrial projects and commercial projects: single-family residences: public works projects

SUMMARY

This bill would authorize the California Department of Fish and Wildlife to delegate to a city permitting authority under the Western Joshua Tree Conservation Act for commercial and industrial projects to take up to 40 western Joshua trees; further authorize the California Department of Fish and Wildlife to authorize, without fees or other mitigation the removal or trimming of up to 10 western Joshua trees by the owner of a single family residence or up to 40 western Joshua trees for a public works project where certain criteria are met; and waive the California Environmental Quality Act for these single-family home projects until the California Department of Fish and Wildlife certifies a programmatic environmental impact report; among other provisions, as provided.

BACKGROUND AND EXISTING LAW

*The western Joshua tree (Yucca brevifolia)*¹

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

¹ The eastern Joshua tree (*Yucca jaegeriana*) is a distinct variety of Joshua tree found mostly in the eastern Mojave Desert. It is not considered in this bill analysis.

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) 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 California 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 WJTCA. 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 WJT and its habitat while providing pathways for development with appropriate permitting and mitigation, including in-lieu fees for the take of 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

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.

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.

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. These fees 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 June 2026 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 such as 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. Certain long-planned public works projects incurred additional costs in the millions of dollars.

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. (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) Authorize CDFW to enter into an agreement with a city to delegate to the city the ability to authorize the take of a WJT associated with developing commercial and industrial projects concurrent with the city's approval of a project, as provided.
 - a) Limit the city's delegated take authorization to no more than 40 individual WJT.
 - b) Require the city to obtain CDFW's written concurrence that a commercial or industrial project has avoided and minimized the take of WJT for projects that take more than 20 individual WJT.
 - c) Authorize only commercial and industrial projects in certain locations to pay in-lieu fees to satisfy the project's mitigation requirements.
- 2) Authorize CDFW to authorize by permit – without payment of fees or other mitigation – both of the following:
 - a) Removing no more than 10 WJTs or trimming of WJTs by an owner of an existing single-family residence (SFR) if the WJTs are:
 - i) Within 30 feet of an existing SFR or within 15 feet of an existing accessory structure, or
 - ii) Within the construction footprint or within 15 feet of the construction footprint of a new accessory structure proposed for an existing SFR.
 - b) Removing no more than 40 WJTs or trimming of WJTs by the proponent of a public works project if the WJTs are within the construction footprint, or within 15 feet of the construction footprint, of a public works project to repair, rehabilitate, replace, or maintain an existing structure.
 - c) Require a property owner or proponent of a public works project seeking a permit to submit a request to CDFW on a form provided by CDFW that requires the following information:
 - i) Name, telephone number, mailing and email address of the property owner or public works project proponent.
 - ii) The street address of the SFR or public works project on which each WJT requested to be removed or trimmed is located, or alternative location information, as provided.
 - iii) A statement on how each WJT requested to be trimmed or removed meets the conditions of (a) or (b) above.

- iv) The size class of each WJT requested to be trimmed or removed.
 - v) The distance of each WJT requested to be trimmed or removed from the SFR, existing accessory structure or construction footprint of a new accessory structure that is proposed or of the public works project.
 - vi) Photographs of each WJT requested to be removed or trimmed that depict its location relative to the SFR, existing accessory structure, or construction footprint of a new accessory structure that is proposed to be constructed or of the public works project.
- d) Require the department, within 60 days of receipt of a request for a permit, to either:
- i) Notify the property owner or public works project proponent that the department will issue the permit, as provided.
 - ii) Deny the request if the request does not demonstrate a permit can be issued. Require the denial to include a brief description explaining why a permit cannot be issued.
- 3) Provide that CEQA does not apply to issuing a permit pursuant to 2) until the department certifies a PEIR that addresses actions with the potential to result in limited take of WJTs for SFRs and accessory structures and there is a final unappealable judgment in litigation, if any, challenging the PEIR.
- 4) Make various conforming changes to statute.

ARGUMENTS IN SUPPORT

According to the author, “The Western Joshua Tree is an iconic symbol of the High Desert region, and I support the preservation of this species. Although the state has been moving in the right direction to protect this iconic species while meeting our state’s goals, we need to address the burden on single family homeowners and public works, as well as the need to streamline permitting for projects vital to economic development. Single family homeowners who love the Western Joshua Tree struggle as they are expected to spend tens of thousands of dollars on fees to upgrade from a septic tank or build a shed. Local governments that represent historically disenfranchised areas are expected to spend millions of additional dollars on upgrading infrastructure, some of which haven’t been upgraded since the 19th century. All the while these same governments are unable to permit vital economic development projects, as their constituency grows rapidly due to lack of space and affordability in the LA Metropolitan area. We must strike a balance between conservation and the needs of an increase in population.”

ARGUMENTS IN OPPOSITION

Taking an “oppose unless amended” position, the Center for Biological Diversity in a joint sign-on letter writes that amendments to the bill have resolved some concerns, but that others remain. They write, however, that other amendmen taken in the assembly

“put some additional sideboards in the bill such as a limit on the number of trees to be removed. Unfortunately, those limitations are inadequate, overbroad and duplicative.”

“Existing law already allows for permitting flexibility for the project covered by Section 2 [of the bill]. [...] CDFW has indicated that it plans to reduce fees to single family residences. It is duplicative and inefficient to enact legislation regarding fees while CDFW is going through a fee adjustment process. If this bill became law in January 2027, CDFW would likely have to redo its fee setting process.”

“[In] the spirit of collaboration” the Center requests amendments to limit the new permit to primary homeowners in single family residences and that “before CDFW allows the specified projects to proceed without mitigation that the permittee must first avoid and minimize the impacts to Joshua trees before removing them without mitigation or payment of fees.”

COMMENTS

This bill is double-referred. This bill has been referred to both this Committee and the Senate Environmental Quality Committee. Elements of this bill under the Senate Environmental Quality Committee’s jurisdiction are included here for context and completeness only and will be discussed before that Committee.

Negotiations underway. The author is in discussions with CDFW regarding potential modifications to the bill in print.

The author completed negotiation with the opposition and other stakeholders to address their concerns including in the proposed new permit to clarify the “avoid and minimize” language applies to public works mitigation, and the single-family home permit applies to primary homes only.

In view of this, the Committee may wish to take author’s amendments reflecting the negotiated outcome as Committee amendments. [Amendments #1, #2]

Further, the Committee may wish to direct staff to continue working with the author’s office and stakeholders as negotiations continue. In the event that the bill’s language changes substantially, the Committee may wish to re-hear the bill.

Minor technical amendment. The Committee may wish to amend the bill to fix a minor drafting error. [Amendment #3]

PEIR delayed. At the June 2026 WJTCA quarterly meeting, CDFW indicated that the certification of the PEIR is likely not to occur by the end of 2026, but is instead delayed until mid-2027.

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 1663 (Wallis, 2026) would provide an additional no-fee permitting pathway under the WJTCA for single family homes that are a primary residence for repair, maintenance, and replacement of existing infrastructure and utilities and for meeting certain wildfire prevention, health, and safety requirements, 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.

Legislative Deadlines and Committee Amendments. Due to the time needed to process bill amendments and Legislative deadlines, the amendments committed to by the author in this Committee will be taken in the Senate Environmental Quality Committee.

SUGGESTED AMENDMENTS

AMENDMENT 1

In proposed FGC §1927.3.5 amend (a)(1) to read:

(1) The removal of no more than 10 western Joshua trees or trimming of western Joshua trees by an owner of an existing single-family residence, that is occupied by a person who maintains a homeowner's property tax exemption on the residence pursuant to Section 218 of the Revenue and Taxation Code, if the western Joshua trees are either of the following:

AMENDMENT 2

In proposed FGC §1927.3.5 insert a new subdivision (b) and renumber the section accordingly:

(b) A property owner or proponent of a public works project seeking a permit under this subdivision shall avoid and minimize impacts to, and the taking of, the western Joshua tree to the maximum extent practicable.

AMENDMENT 3

In proposed FGC §1927.3.5 (c)(1): revise “the western Joshua tree.” to “a western Joshua tree.”

SUPPORT

Associated General Contractors of California
Bighorn-Desert View Water Agency
California Association of Realtors
California Building Industry Association
California Construction and Industrial Materials Association
California Farm Bureau
Community Water Systems Alliance
County of San Bernardino
Hi-Desert Water District
Morongo Basin Residents for Reasonably Joshua Tree Regulation
Palmdale Water District

One individual

OPPOSITION

California Native Plant Society (unless amended)
Center for Biological Diversity (unless amended)
Defenders of Wildlife (unless amended)
Mojave Desert Land Trust (unless amended)
Native American Land Conservancy (unless amended)
Sierra Club California

-- END --