



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.<sup>2</sup>

### ***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 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.<sup>3</sup> 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.

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

<sup>3</sup> 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 August 2025, CDFW released the Western Joshua Tree Relocation Guidelines and Protocols to guide how and when to relocate WJTs to minimize impacts to populations, prevent habitat fragmentation, and preserve WJT connectivity. Of note, the current guidelines state that CDFW will generally not require relocation for any project that will lethally take fewer than 75 WJTs and that will impact less than 10 acres of WJT habitat, although it will consider additional factors such as whether or not the project is located within predicted climate refugia or will otherwise minimize lethal take. CDFW will undertake a process to determine the number of relocations required as a minimization measure, if feasible. In assessing relocation sites, CDFW notes that “efforts should be made to relocate each salvage tree as close to its original location as is possible.” Where relocation is required, a relocation plan must be prepared by the permittee and approved by CDFW prior to the issuance of a WJTCA ITP. A relocation plan includes information about where the salvage trees are located, and where they will be moved to, among other requirements. There are pre-relocation, relocation, and post-relocation protocols to help to ensure successful relocation, such as siting, timing, methods of removal and transport, post-planting stabilization, maintenance and monitoring (including site visits), and reporting.

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, CDFW is currently reviewing comments received and new information, and CDFW is anticipated to provide its recommendations to the commission this summer.
- 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 by the Spring. 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 by the end of the year.

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. (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) Specify for the purposes of the WJTCA that “take” does not include unintentionally or accidentally causing the death of a WJT.
- 2) Exempt from the WJTCA, the relocation of a WJT that is relocated within the same parcel or relocated to a contiguous parcel that is owned by the same owner of the parcel where the WJT is being relocated from.

### **ARGUMENTS IN SUPPORT**

According to the author, “SB 1061 clarifies that, for the purposes of the WJTCA, ‘take’ does not include the unintentional or accidental death of a Western Joshua tree, ultimately aligning the law with the biological reality of stationary plants and ensuring that enforcement is focused on deliberate actions rather than unforeseen outcomes. This change protects property owners from liability for accidental damage while preserving CDFW’s ability to investigate and enforce against intentional harm, as CDFW retains the authority to assess evidence of intent and apply existing penalties for violations or false claims.”

“In addition, SB 1061 establishes a targeted exemption for the relocation of Western Joshua trees within the same parcel or to a contiguous parcel under the same ownership, recognizing that such actions do not result in a net loss of trees and therefore should not trigger permitting requirements.”

“Together, these updates reduce unnecessary regulatory burdens, provide clarity, and support practical, conservation-minded land management without weakening protections for the species.”

### **ARGUMENTS IN OPPOSITION**

In a joint sign-on opposition letter, the Center for Biological Diversity writes that SB 1061 “would significantly alter the [WJTCA] by weakening critical protections for the western Joshua Tree and undermining the delicate and carefully negotiated compromise that led to the Act’s passage.”

“As amended, SB 1061 is uniquely problematic because it would categorically exempt the relocation of any number of western Joshua trees within the same parcel, or to a contiguous parcel under common ownership, from all provisions of the WJTCA. This

exemption would apply universally – regardless of project type, size or location – fundamentally undermining the statutory framework designed to conserve the species.”

“In practice, SB 1061 would render the WJTCA permitting framework largely meaningless by circumventing oversight by the California Department of Fish and Wildlife, including its science-based guidelines and protocols governing the relocation of western Joshua trees. By allowing relocation without regard to whether individual trees are suitable candidates, and without requiring practicable avoidance, minimization, or mitigation measures, SB 1061 would authorize actions that may result in significant mortality.”

“Moreover, the bill provides no accountability or recourse when relocation efforts fail.”

### COMMENTS

***Fundamentally undermines the WJTCA.*** This bill, as written, would allow unlimited relocation of WJTs to contiguous parcels of any size, and without any requirements on how the relocation would be conducted. It would apply to single- and multi-family homeowners who may need to take a handful of trees for a project and also to a large energy generation facility project that may need to take thousands. The unlimited relocation coupled with the proposed change to the definition of ‘take’ (as discussed below) suggests that numerous WJTs could be without recourse under this provision.

However, exempting WJT relocation from the WJTCA would not change the WJT’s candidacy status under CESA which would still apply and require permitting to take WJTs. The WJTCA provides for a more streamlined permitting process than CESA.

Still, it is a fair point that WJTCA implementation remains underway. The WJTCA is a relatively new program with some apparent growing pains. CDFW recognizes that and its effort to develop and certify a PEIR – an unusual step to take by an agency for the general public without explicit legislative direction – is an example.

As noted above in the description of CDFW’s relocation guidelines, CDFW is unlikely to require WJT relocation for a relatively small project for a single-family or multi-family home. Still there may be circumstances where a property owner may wish to relocate WJTs in order to minimize the take of WJTs by a project. In such cases, the existing WJT Hazard Management Permit could be an option and provides no fee permitting in certain circumstances.

In view of this, the Committee may wish to:

- Authorize a person under the WJTCA to relocate up to 10 WJTs without payment of any fees or other mitigation if certain conditions are met. These conditions include that the WJTs are located on a parcel containing either a single-family home that is a primary residence or a multi-family residence that is primary residence for most residents; the person seeking to relocate the WJTs is authorized to do so; and the WJTs will be relocated within 2.5 kilometers of their existing location.
- Require the person to complete a relocation permit application to CDFW.

- Require the person to comply with the relocation permit's terms and conditions if CDFW approves the completed application and issues a relocation permit.
- Limit the number of WJTs eligible for relocation to 10 on any one parcel.
- Require relocation to be consistent with CDFW's WJT Relocation Guidelines and Protocols.
- Require CDFW to maintain a list of relocation permits issued and sufficient information to assess the success or failure of the relocation and any contributing factors. [Amendment #1]

If a property owner wished to relocate more trees, that would be possible through the existing WJTCA ITP process. In addition, as there is limited research available on WJT relocation, this no fee relocation permit presents an opportunity to gain information that could be used to refine the existing relocation guidelines and protocols.

***The definition of take.*** As noted above, "take" has a broad definition generally inclusive of all species under CDFW's jurisdiction. A key word in the definition is "or" which recognizes that all kinds of take do not apply to each species covered. There are many plants – in addition to the WJT – whose take is prohibited and has been prohibited for years under the same definition of take without apparent confusion.

The author seeks to make explicit for WJT that the unintentional or accidental killing does not count as take. During the public forum following the WJT Quarterly meeting held by CDFW on March 27, 2026, this specific issue was raised. As noted in the CDFW response, WJTs may die or fall over for multiple reasons, including those WJTs that are not part of a proposed or permitted project.

There are accidental take provisions that permit take of protected species during certain agricultural activities, and a safe harbor agreement is also available as a tool under CESA to authorize take if certain conditions are complied with. It is currently unclear that WJTs merit this consideration and modifying the definition of take itself is potentially the camel's nose under the tent for future additional modifications to the definition of take. It would be an unprecedented change in the context of CESA.

In view of this, the Committee may wish to remove the redefinition of the take of WJT. [Amendment #2]

The author may wish to continue working with CDFW on this issue, and the Committee may wish to direct staff to continue working with both CDFW and the author as well.

***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 (Carrillo, 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.

**Three bills and one author.** Acknowledging the importance of the topic to the author, it remains unusual to have three bills on the same topic by one author. This is particularly true when the bills seek to modify the same code section in multiple ways. The author may wish to consolidate language as the bills move forward.

### **Recent related legislation**

SB 1062 (Ochoa Bogh, 2026) would authorize CDFW to, upon the request from a state or local public agency, establish project-specific conditions for a WJT project related to a life-sustaining service, as defined, and would provide that project-specific conditions may include, but are not limited to, the creation of projectwide standards for avoidance, minimization, or mitigation measures, a reduction or waiver of in-lieu mitigation fees, or other compliance flexibility or concession the department deems appropriate to facilitate timely and cost-effective maintenance, operation, or construction of a project. *(This bill is pending before this 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 is pending before this Committee.)*

AB 1808 (Carillo, 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 western Joshua tree 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 the Assembly Water, Parks, and Wildlife Committee.)*

AB 1663 (Wallis, 2026) would exempt from the WJTCA a project or activity located within a parcel that contains, or will contain, a single-family residence that has been continuously owned by the same person, as specified, on or before July 10, 2023, and the parcel owner complies with applicable local ordinances regarding WJTs as those local ordinances read on July 10, 2023, as provided. *(This bill is pending before the Assembly Water, Parks, and Wildlife Committee.)*

AB 1089 (Carillo, 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 (Carillo, 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

Replace proposed FGC §1928.1 with the following section within the WJTCA chapter:

**1927.20. (a) A person may relocate up to 10 western Joshua trees without payment of fees or other mitigation if all of the following conditions are met:**

**(1) The western Joshua trees are located on a parcel containing a single-family residence that is the primary residence of the person seeking to relocate the trees or the western Joshua trees are located on a parcel**

containing a multifamily residence that is the primary residence of at least half of the families.

(2) The person seeking to relocate the western Joshua trees is the property owner of the parcel the trees are located on or is authorized to do so by the property owner of the parcel.

(3) The trees are to be relocated to a new location within 2.5 kilometers of their existing location. (4) The person seeking to relocate the western Joshua trees is the property owner of the parcel containing the relocation site or is authorized by the property owner of the parcel containing the relocation site to relocate western Joshua trees there.

(5) The person completes an application to the department to relocate the western Joshua trees on a form determined by the department.

(6) The department approves the completed application in writing, and issues a relocation permit.

(7) The person complies with the relocation permit's terms and conditions, including monitoring, maintenance, and reporting requirements.

(b) No more than 10 western Joshua trees on any one parcel are eligible for relocation pursuant to this section while this chapter remains in effect.

(c) Relocation pursuant to this section shall be consistent with the Western Joshua Tree Relocation Guidelines and Protocols released by the department in August 2025 or a successor document.

(d) The department shall maintain a list of permits issued pursuant to this section and sufficient information regarding each relocation to be able to assess the success or failure of the relocation, and the factors contributing to that success or failure.

## **AMENDMENT 2**

Delete proposed FGC §1927.1(l):

~~(l) "Take" does not include unintentionally or accidentally causing the death of a western Joshua tree.~~

## **SUPPORT**

Bighorn-Desert View Water Agency

City of Big Bear Lake

Greater High Desert Chamber of Commerce

Morongo Basin Residents for Reasonable Joshua Tree Regulations

Western Manufactured Housing Communities Association

Two individuals

## **OPPOSITION**

California Native Plant Society

Center for Biological Diversity

Defenders of Wildlife

Mojave Desert Land Trust

Native American Land Conservancy

One individual

**-- END --**