



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.<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

---

<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.

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 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, 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) Define “life-sustaining service” to mean an activity related to critical infrastructure, including, but not limited to, infrastructure that provides electricity, gas, water, sewer, or telecom service or work related to wildfire hardening.
- 2) Define “distribution infrastructure” to include, but not be limited to, an electrical pole, a gas main, a water main, and a sewer main, but excludes facilities, including, but not limited to, a power generation or storage facility, a gas production or storage facility, a water treatment plant, or a wastewater treatment plant.
- 3) Authorize CDFW to issue permits to take WJT, without payment of fees or other mitigation, upon demonstration to CDFW that the take of WJT is related to the maintenance, operation, or construction of a life-sustaining service connection to a single-family residence or multifamily residence, including distribution infrastructure.
- 4) Require CDFW to approve or deny a permit within 30 days of receipt of the request. Require CDFW to approve or deny a permit within 10 days of receipt of the request where the permit is to address a threat to health or safety.
- 5) Require the permittee to complete the WJT take authorized by a permit issued pursuant to (3) within 60 days. Authorize CDFW to extend the 60 day period at its discretion.
- 6) Make additional minor and technical changes.

### **ARGUMENTS IN SUPPORT**

According to the author, “The Western Joshua tree is a native plant species found throughout California’s high desert, including in communities where residents rely on wells, septic systems, overhead powerlines, and other infrastructure to maintain safe and habitable homes. In recent years, state law has established new protections for the species, requiring permits before certain activities can occur near Western Joshua trees.”

“Under current law, homeowners must obtain permission from the California Department of Fish and Wildlife (CDFW) if they intend to perform any kind of activity that would require the removal or trimming of a Western Joshua tree, even if the tree is dead.”

“This process requires an applicant to submit forms, wait for approval, and pay mitigation fees, even for routine projects like connecting electricity, repairing septic systems, or maintaining water lines. In many cases, homeowners may also be required to pay for and coordinate the relocation and care of a living tree for the remainder of its life. This level of government involvement in basic property maintenance has created costly delays, added financial burdens, and limited homeowners’ ability to maintain safe and functional living conditions on their own land.”

“While these protections serve an important conservation purpose, they have also created unintended consequences for homeowners attempting to install or maintain critical infrastructure, such as connecting to the electrical grid, repairing septic systems, or replacing damaged utility lines. Residents can face lengthy permitting timelines, unmanageable fees, and regulatory uncertainty, and in some cases, these obstacles

can prevent or significantly postpone access to life-sustaining utilities, jeopardizing public health and safety.”

“By allowing a permit to be issued without fee collection or complex mitigation measures and requiring CDFW to grant or deny a permit within 30 days, SB 1063 improves equity and access for rural homeowners, and ensures they can obtain essential utility services without facing disproportionate financial burdens or indefinite regulatory delays.”

### **ARGUMENTS IN OPPOSITION**

The Center for Biological Diversity, in a joint sign-on opposition letter, writes that this bill “would significantly alter the Western Joshua Tree Conservation Act (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.”

[...]

SB 1063 “would substantially alter this structure by authorizing CDFW to reduce or waive mitigation fees, or otherwise relax or generalize avoidance, minimization, and mitigation requirements, for projects associated with so-called ‘life sustaining activities.’”

[...]

“The breadth of the activities encompassed by the bill’s definition of ‘life sustaining activities,’ together with the absence of statutory limits on the scope or frequency of mitigation reduction or waivers, raises serious concerns about cumulative impacts. Over time, repeated use of this authority could substantially diminish mitigation funding and weaken the WJTCA’s ability to achieve its conservation objectives.”

[...]

With respect to the PEIR they note, “Because the planned PEIR is intended to streamline permitting for infrastructure and wildfire-related activities while maintaining the WJTCA’s conservation safeguards, the proposed statutory amendments are both unnecessary and premature.”

[...]

“Appropriate mitigation is essential to achieving the central goal of the WJTCA: conserving the western Joshua tree and its habitat such that listing under CESA will not be warranted. By weakening avoidance, minimization, and mitigation requirements – and by creating broad exemptions and uncertainty – [this bill] undermine[s] this objective and jeopardize[s] the long-term effectiveness of the law, which may result in the need to finalize the listing of the Western Joshua tree under the California Endangered Species Act.”

### **COMMENTS**

***Fundamentally undermines the WJTCA.*** This bill, as written, essentially removes infrastructure maintenance, operation, or construction of a “life sustaining service” from paying any in lieu- mitigation fees with the exception of the associated facility so long as there is an arguable connection to a single- or multi-family home. In other words, a power generating facility would have to pay in-lieu mitigation fees, but any distribution line and associated infrastructure, so long as there is a connection to a residence at some point, would be exempt from in-lieu mitigation fees. Given the likely size of the proposed exemption, it is unlikely the conservation goals of the WJTCA would be met.

***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.

**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 1061 (Ochoa Bogh, 2026) would exempt from WJTCA the relocation of a WJT that is relocated to a site within the same parcel or a contiguous parcel owned by the same owner, and would specify that take under the WJTCA does not include unintentionally or

accidentally causing the death of a WJT, as provided. *(This bill is pending before this Committee.)*

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.)*

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 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 (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: none**

#### **SUPPORT**

Bighorn-Desert View Water Agency  
California Building Industry Association  
City of Big Bear Lake  
Community Water Systems Alliance  
Greater High Desert Chamber of Commerce  
Hi-Desert Water District

Joshua Basin Water District  
Mission Springs Water District  
Mojave Water Agency  
Morongo Basin Residents for Reasonable Joshua Tree Regulations  
Town of Apple Valley  
Town of Yucca Valley  
Western Manufactured Housing Communities Association

A few individuals

**OPPOSITION**

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

One individual

**-- END --**