

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1512

Introduced by Assembly Member Bauer-Kahan

February 19, 2021

~~An act to amend Section 4491 of the Public Resources Code, relating to forest practices. An act to add Section 5090.42 to the Public Resources Code, relating to parks and recreation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1512, as amended, Bauer-Kahan. ~~Forest practices: burning of brush-covered lands. Off-highway vehicular recreation: Carnegie State Vehicular Recreation Area: Alameda-Tesla Expansion Area.~~

Existing law, the Off-Highway Motor Vehicle Recreation Act of 2003, states it is the intent of the Legislature that the Department of Parks and Recreation should support both motorized recreation and motorized off-highway access to nonmotorized recreation.

This bill would require the department to preserve, in perpetuity, land known as the "Alameda-Tesla Expansion Area," which is currently part of the Carnegie State Vehicular Recreation Area, for conservation purposes, including for nonmotorized public recreation, as provided. The bill would require the department to work with other entities to have \$9,000,000 appropriated, transferred, or donated to the Off-Highway Vehicle Trust Fund for these purposes, as specified.

~~Existing law allows any person, firm, or corporation that owns or controls brush-covered land within a state responsibility area to apply to the Department of Forestry and Fire Protection for permission to burn the brush from those lands. Existing law provides that cooperation by the department with any person desiring to use prescribed burning~~

~~as a means of converting brush-covered lands into forage lands, as specified, is declared to be a public purpose and requires the department to provide certain advisory service to applicants for a burning permit.~~

~~This bill would make nonsubstantive changes in those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *To support the global effort to combat the biodiversity and*
4 *climate crises, it is the goal of the state to conserve at least 30*
5 *percent of California’s land and coastal waters by 2030. The*
6 *Natural Resources Agency, along with other relevant state*
7 *agencies, in consultation with the California Biodiversity*
8 *Collaborative, are directed pursuant to Governor Gavin Newsom’s*
9 *Executive Order No. N-82-20 to develop and report strategies to*
10 *the Governor no later than February 1, 2022, to achieve this goal*
11 *in a manner that:*

- 12 (1) *Protects and restores biodiversity.*
- 13 (2) *Enables enduring conservation measures on a broad range*
14 *of landscapes, including natural areas and working lands, in*
15 *partnership with land managers and natural resource user groups.*
- 16 (3) *Expands equitable outdoor access and recreation for all*
17 *Californians.*

18 (b) *To advance efforts to conserve biodiversity, the Natural*
19 *Resources Agency is directed pursuant to Governor Gavin*
20 *Newsom’s Executive Order No. N-82-20 to take the following*
21 *actions within existing authority and resources:*

- 22 (1) *Strategically prioritize investments in cooperative,*
23 *high-priority actions that promote biodiversity protection, habitat*
24 *restoration, wildfire-resilient, sustainably managed landscapes*
25 *and other conservation outcomes.*
- 26 (2) *Implement actions to increase the pace and scale of*
27 *environmental restoration and land management efforts by*
28 *streamlining the state’s process to approve and facilitate these*
29 *projects.*
- 30 (3) *Collaborate with federal and state research institutions to*
31 *utilize innovative scientific observation technology and with tribal*

1 *partners to incorporate tribal expertise and traditional ecological*
2 *knowledge to better understand our biodiversity and threats it*
3 *faces.*

4 *(c) On January 12, 2021, a court ruling on a petition by the*
5 *County of Alameda challenging the Carnegie State Vehicular*
6 *Recreation Area environmental impact report and general plan,*
7 *which included opening the Alameda-Tesla Expansion Area to*
8 *off-highway vehicle recreation, found that the environmental*
9 *impact report and general plan violated the California*
10 *Environmental Quality Act (Division 13 (commencing with Section*
11 *21000) of the Public Resources Code) and ordered that the*
12 *environmental impact report and general plan be set aside and*
13 *that the Department of Parks and Recreation’s Off-Highway Motor*
14 *Vehicle Recreation Division can use moneys from the Off-Highway*
15 *Vehicle Trust Fund for conservation and nonmotorized recreation,*
16 *including to preserve the Alameda-Tesla Expansion Area.*

17 *(d) Specifically, the court said, “The Court, exercising its*
18 *independent judgment with regard to Respondents’ statutory*
19 *interpretation finds Respondents have failed to proceed in the*
20 *manner required by law. Paragraph (3) of subdivision (c) of*
21 *Section 5090.02 of the Public Resources Code directs Respondents*
22 *to support both motorized recreation and motorized off-highway*
23 *access to nonmotorized recreation.”*

24 *(e) The court also said the “statute does not mandate*
25 *Respondents to prioritize OHV [off-highway vehicle] use, but*
26 *rather directs Respondents to strike a balance to support both*
27 *activities. Respondents have not cited to any authority that*
28 *prohibits them from adding acreage to an existing SVRA [state*
29 *vehicular recreation area] without including OHV recreation*
30 *opportunities on the newly acquired acreage or, considering the*
31 *Carnegie SVRA as a whole, utilizing the additional acreage with*
32 *a reduced use alternative.”*

33 *(f) Furthermore, the court said, “Clearly, in the present*
34 *circumstances OHV recreation opportunities are already available*
35 *in the Carnegie SVRA, therefore if the [Alameda-Tesla] Expansion*
36 *Area includes solely off-highway motorized access to nonmotorized*
37 *recreation (or, more likely, minimal OHV recreation as was*
38 *presented in the reduced use alternative) the Carnegie SVRA as*
39 *a whole complies with the legislative intent concerning SVRAs.”*

1 SEC. 2. Section 5090.42 is added to the Public Resources Code,
2 to read:

3 5090.42. (a) For purposes of this section, “land” means the
4 land known as the “Alameda-Tesla Expansion Area,” which
5 encompasses approximately 3,100 acres in the County of Alameda
6 and is currently part of Carnegie State Vehicular Recreation Area.

7 (b) The department shall preserve, in perpetuity, the land for
8 conservation purposes, including for nonmotorized public
9 recreation, consistent with Sections 5019.71 and 5019.74.

10 (c) The department shall work with other entities to have nine
11 million dollars (\$9,000,000) appropriated, donated, or transferred
12 to the Off-Highway Vehicle Trust Fund, established pursuant to
13 subdivision (c) of Section 38225 of the Vehicle Code, for purposes
14 of subdivision (b), by January 1, 2025.

15 SECTION 1. ~~Section 4491 of the Public Resources Code is~~
16 ~~amended to read:~~

17 ~~4491. (a) Cooperation by the department, as provided in this~~
18 ~~article, with a person desiring to use prescribed burning as a means~~
19 ~~of converting brush-covered lands into forage lands or to help meet~~
20 ~~wildland management goals, which has as its objective the~~
21 ~~prevention of high intensity wildland fires, watershed management,~~
22 ~~range improvement, vegetation management, forest improvement,~~
23 ~~wildlife habitat improvement, restoring ecological integrity and~~
24 ~~resiliency, community wildfire protection, carbon resiliency,~~
25 ~~enhancement of culturally important resources, and maintenance~~
26 ~~of air quality, or any combination of those activities, is declared~~
27 ~~to be for a public purpose.~~

28 ~~(b) This article shall be administered by the director or, if~~
29 ~~responsibility for administration is delegated by the director, by~~
30 ~~the chief of a county fire department in a county contracting with~~
31 ~~the department pursuant to Section 4129.~~

32 ~~(c) In furtherance of this article, the department shall provide~~
33 ~~advisory service to applicants for permits as to precautions to be~~
34 ~~taken by the applicant to prevent damage to the property of others~~
35 ~~by reason of the prescribed burning, and shall provide standby fire~~
36 ~~protection, to the extent the personnel, fire crews, and firefighting~~
37 ~~equipment are available.~~

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