

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

April 30, 2021

Agricultural Employment

Several Assembly measures of interest to agricultural employers have recently been referred to the Assembly Appropriations Committee or placed on the Assembly Appropriations Committee suspense file, awaiting further consideration of the fiscal issues they present:

AB 73 (Robert Rivas, D-Hollister) would require the Department of Industrial Relations (DIR) to maintain a stockpile of N-95 respirators to be made available to agricultural employers as a backstop for shortages of respirators to comply with the Cal/OSHA wildfire smoke regulation. AB 73 was amended on April 12th to add an urgency clause, meaning it will be effective immediately if passed by the Legislature and signed by the Governor, but passage will require a 2/3 vote of both houses. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 95 (Evan Low, D-Silicon Valley) imposes a new unpaid leave requirement in the Labor Code for bereavement. This is problematic because it exposes employers to mis-apply or fail to comply with the bereavement leave mandate to liability under the Private Attorneys General Act (PAGA); employer representatives have suggested that such leave must be mandated, it should be provided under in the Government Code as part of the existing California Family Rights Act, avoiding PAGA liability. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 364 (Freddie Rodriguez, D-Chino) would impose duplicative registration, bonding and other regulatory requirements on farm labor contractors who employ H-2A temporary visa workers by designating them as foreign labor contractors to address human and labor trafficking. Farm Bureau opposes this measure. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 654 (Eloise Reyes, D-San Bernardino) requires California Department of Public Health (CDPH) to make names and locations of workplaces where COVID-19 outbreaks (three or more cases) have occurred, exposing employers to needless public attention when their employee contract COVID-19 in the non-work interactions. Farm Bureau opposes. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

Several Senate measures of concern to Farm Bureau have passed policy committee and have been referred to the Appropriations Committee for further fiscal consideration:

SB 355 (Cortese, D-San Jose) severely restricts employers' ability to control workers' compensation costs by reducing the timeframe for investigation of claims from 90 to 45 days, giving an employer inadequate time to determine if a claimed injury is legitimate or work-related. SB 355 passed the Senate Labor, Public Employment and Retirement Committee on April 26th and was referred to the Senate Appropriations Committee. Farm Bureau opposes SB 355. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

SB 338 (Lena Gonzalez, D-Long Beach) expands possible joint liability for various employment and workplace safety violations committed by port drayage motor carriers (motor carriers who move freight into or out of port facilities from off-site terminals) on shippers, increasing shipping costs for agricultural exports and possibly compounding already serious port congestion. SB 338 passed the Senate Judiciary Committee on April 22. Farm Bureau opposes this bill. Staff Contact: Bryan Little; 916-561-5622 or blittle@cbbf.com.

SB 410 (Connie Levya, D-Chino) exempts occupational safety and health regulations from the standard regulatory impact analysis current required of all proposed regulations with an economic impact in excess of \$50 million. Farm Bureau opposes. SB 410 passed the Senate Labor, Public Employment and Retirement Committee on April 20. Staff Contact: Bryan Little; 916-561-5622 or blittle@cbbf.com

The California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) has reportedly referred significant revisions of the COVID-19 Emergency Temporary Standard to the Cal/OSHA Standards Board for consideration required before adoption. Those revisions will make some concessions from the ETS' requirements in situations where employees are fully vaccinated, but the extent of those changes are unclear at this time. The ETS revisions are expected to be considered at the Standards Board's May 20 meeting. If they become effective on June 1st, the ETS will extend to early 2022. Staff Contact: Bryan Little; 916-561-5622 or blittle@cbbf.com

Appointments

The Undersecretary at the California Department of Food and Agriculture, **Jenny Lester-Moffitt**, has been nominated by President Biden to serve as Undersecretary for Marketing and Regulatory Programs at the United States Department of Agriculture (USDA). This position requires Senate confirmation.

Biodiversity

The California Natural Resources Agency has been hosting regional workshops to hear public input on how to achieve the Governor's 30x30 Executive Order. This order requires the State to develop a pathway to conserve 30% of lands and 30% of waters by 2030. The remainder of the public workshops can be found below and participants can register [here](#). In addition to the workshops, farmers and ranchers can respond to an online [questionnaire](#). The remainder of the regional workshops are as follows:

- May 4th 4-6pm—North Coast—Lake, Mendocino, Humboldt, Trinity, Del Norte, and Siskiyou
- May 5th 4-6pm—LA—Ventura, LA, Orange, and west side of San Bernardino and Riverside
- May 6th 4-6pm—Inland Desert—Imperial, and east side of San Bernardino, and Riverside
- May 11th 4-6pm—San Diego

Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.

Climate Change

AB 1395 (Al Muratsuchi, D-Torrance) recently passed the Assembly Natural Resources Committee and will next be heard in the Assembly Appropriations Committee. This bill would require the State to achieve carbon neutrality by 2045 and maintain net negative greenhouse emissions thereafter. This bill goes further than the carbon neutrality executive order previously provided and would specify that in achieving carbon neutrality, it must be achieved 90% through emission reductions and 10% by carbon dioxide removal (carbon sequestration and capture/storage). Farm Bureau has joined a coalition to oppose this bill stating that it is unwise to cap the amount of carbon removal can be achieved through sequestration efforts on natural and working lands given the State's actions to incentivize scaling up these practices. The bill is also unclear about how emissions reductions to this extent are expected to be achieved—by operation specific, industry sectors or statewide. Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.

The Scientific Advisory Panel at the Department of Food and Agriculture has made a presentation at a recent public meeting and released a draft Request for Proposals for the proposed Agriculture Conservation Activity Plan (CAP) Program. This Program would award grants (up to \$250,000) to technical service providers, nonprofits, agricultural cooperatives, academia, and RCDs to work with farms and ranches to develop various conservation plans for use on farm. Eligible plans would include nutrient management, grazing management, integrated pest management (IPM), soil health and irrigation management, agricultural energy, transition to organic, pollinator habitat plan, and carbon farm plans. Farm Bureau commented at the Panel meeting and will submit comment on the specifics of the proposal to ensure that all of agriculture (including commodities, farm sizes and systems) are eligible for funding and that proposals be as user-friendly for farmers and ranchers that choose to apply. The draft RFP can be found [here](#) under Agenda Item 5. *Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.*

Commodities

Eduardo Garcia's (D-Coachella) bill, AB 778 passed another hurdle in the State Legislature, unanimously approved by the Assembly Agriculture Committee. This bill would replace the 5% purchase preference in state law for California agricultural products on state contracting bids with a mandate that all state institutions buy California-grown or raised ag products, with few exceptions. The bill is supported by the Farm Bureau and will next be heard by the Assembly Appropriations Committee. *Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.*

A Farm Bureau supported bill, AB 434 (Robert Rivas, D-Salinas), was held without a hearing in the Assembly Water, Parks and Wildlife Committee. This bill would have required grazing permits issued by the Department of Fish and Wildlife, the State Lands Commission and the Parks Department be for at least 5 years and not more than 20 years for public lands. The bill is no longer eligible to move this year but can be addressed in 2022. *Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.*

Natural Resources

Two resources bond measures, AB 125 (Robert Rivas, D-Salinas) and AB 1500 (Eduardo Garcia, D-Coachella) have been held and not heard by the Assembly Natural Resources Committee. Farm Bureau staff had reported out previously on concerns with the former measure. Given that both items were not heard, they may no longer be considered this year, but can be in 2022. There is one remaining natural resources bond, [SB 45](#) (Anthony Portantino, D-Pasadena), that is still active and is set to be heard in Senate Appropriations Committee on May 3rd. *Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.*

Packaging

Friday Review readers may remember, SB 54 (Benjamin Allen, D-Santa Monica), a packaging bill that is returning, with adjustments from last year's legislative session. This bill would require all single use plastic packaging be compostable and recyclable and prohibit all sales or distribution of non-conforming packaging in California by January 1, 2023. This packaging could include things like plastic films or plastic bags on raw produce, meat, and dairy products. Though the bill does have an exemption for packaging of food products when field-packed, it would apply to all produce and products packed off the harvest site at processing facilities, cold storage or packing sheds. Farm Bureau has joined a coalition to oppose the bill unless greater clarity is provided on the specifics of the bill and the exemption for agriculture is expanded. The bill passed Senate Environmental Quality Committee and will be next heard in Senate Appropriations Committee where it will likely require significant amendments. *Staff Contact: Taylor Roschen, troschen@cbbf.com or 916-446-4647.*

Water

A measure that would provide grant funding for repairs on the Friant-Kern Canal, the State Water Project and the Delta Mendota Canal passed out of the Senate Natural Resources this week. [SB 559](#) (Melissa Hurtado, D-

Sanger), was initially introduced in 2019, but became a two-year bill. The measure successfully made it to the Governor's desk last year before being vetoed. In his veto message the Governor acknowledged California's aging water delivery system suffers from subsidence but said state agencies are and should holistically assess the needs of all of California's water systems for the entirety of the state, not one project at a time. SB 559 as reintroduced this session would establish the Canal Conveyance Capacity Restoration Fund in the State Treasury to be administered by the Department of Water Resources. The bill would require the dollars to be appropriated by the Legislature in support of subsidence repair costs, including environmental planning, permitting, design, construction and any necessary road and bridge upgrades to accommodate capacity improvements. The bill would require the department to distribute from the fund, upon appropriation by the Legislature, \$308 million for a grant to the Friant Water Authority to restore the capacity of the Friant-Kern Canal, \$187 million for a grant to the San Luis and Delta-Mendota Water Authority to restore the capacity of the Delta-Mendota Canal, \$194 million to restore the capacity of the San Luis Field Division of the California Aqueduct, and \$96 million to restore the capacity of the San Joaquin Division of the California Aqueduct. Local and federal funding has also been identified, and the state funds provided in the measure are contingent upon those local and federal funds being provided. Farm Bureau supports the measure. *Contact: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

A measure that would require the Department of Conservation to establish a program named the "Multi-benefit Land Repurposing Incentive Program" to provide grants to groundwater sustainability agencies (GSAs), counties, or other specified entities designated by GSAs or counties, went to the Assembly Appropriations Committee Suspense File this week. [AB 252](#) (Robert Rivas, D-Hollister) would establish the program to develop or implement local programs supporting multi-benefit land repurposing at the basin scale. A similar measure sponsored by the Environmental Defense Fund, [AB 2642](#) (Rudy Salas, D-Bakersfield), was introduced last year but failed to move forward in the legislative process. Farm Bureau has not positioned on AB 252 but has worked with the sponsor and author to address concerns. Farm Bureau opposes permanent conversion of productive agricultural land to other uses after being idled by SGMA. *Staff Contact: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

The State Water Resources Control Board held a Central Valley-Salinity Alternatives for Long-Term Sustainability (CV-SALTS) Nitrate Control Program virtual public workshop this week. Farm Bureau has been actively involved in the CV-SALTS program for 13 years and monitored this week's workshop. CV-SALTS is a collaborative stakeholder driven and managed program to develop sustainable salinity and nitrate management planning for the Central Valley. This week's workshop focused on the Early Action Plans (EAP) that kick off May 7th in the Priority 1 Area that includes the Stanislaus/Turlock, Chowchilla and Tule management zones. Three panels presented and took questions and comments during the 3-hour workshop. The first panel included representatives from the management zones, second was California Rural Legal Assistance (CRLA), and the third panel represented Environmental Justice organizations. *Staff Contact: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

The State Water Board held a second stakeholder meeting this week to discuss fees for the Statewide General Waste Discharge Requirements for Winery Process Water (Winery General Order). As previously reported, the State Water Board adopted the Winery General Order in January. This second fee stakeholder meeting was intended to fine tune fees necessary to sustain the Winery General Order, offer options and to take questions and suggestions from fee payers. Staff is proposing to fine tune numbers further and take proposals to the Water Board for adoption at the July 20th Board meeting. Farm Bureau, the Wine Institute, California Association of Winegrape Growers, Family Winemakers and others have been meeting with Water Board staff since 2015 to address concerns. *Staff Contact: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*

The Senate Budget and Fiscal Review Subcommittee No. 2 on Resources, Environmental Protection and Energy met this week to discuss the Senate Budget Plan on Drought, Safe Drinking Water, Water Supply Reliability, and Ratepayer Assistance. The Senate proposal includes a total of \$3.41 billion in one-time state

and federal funds as reported in the April 16th Friday Review. *Staff Contact: Danny Merkley, dmerkley@cbbf.com or (916) 446-4647.*