

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

June 11, 2021

Agricultural Employment

Employment-related measures that survived last week's house-of-origin deadline are moving through policy committees in the second house; these Assembly measures were *passed* by the Senate Labor, Public Employment, and Retirement Committee on June 7:

AB 616 (Mark Stone, D-Monterey Bay) passed the Senate Labor Committee and was referred to the Senate Appropriations Committee on a 4-1 vote. AB 616 creates a new "ballot card" election option for labor unions seeking to unionize employees under the Agricultural Labor Relations Act (ALRA). The "ballot card" procedure amounts to "card check," allowing union organizers to coerce, intimidate, or otherwise induce agricultural employees to sign "ballot cards." AB 616 denies agricultural employees the right to an Agricultural Labor Relations Board-supervised secret ballot election that protects employees from intimidation from any party with an interest in the outcome (the reason secret ballot elections were strongly advocated by civil rights icon Cesar Chavez). Farm Bureau opposes. *Staff Contact: Bryan Little; blittle@cfbf.com.*

AB 857 (Ash Kalra, D-San Jose) passed the Senate Labor Committee and was referred to the Assembly Appropriations on a 4-1 vote. AB 857 is a re-tread of **SB 1102** (Monning, 2020), which was vetoed by Governor Newsom. AB 857 requires the DIR to create a duplicative notification requirement for H-2A employers and mandates a notification template that mischaracterizes the existing requirement for employers to compensate travel time at the employee's regular rate of pay rather than the minimum wage. Farm Bureau opposes. *Staff Contact: Bryan Little; blittle@cfbf.com.*

Two Senate bills *passed* the Assembly Labor Committee on May 8:

SB 331 (Leyva) passed the Assembly Judiciary Committee on an 8-3 vote and was referred to the Assembly Labor and Employment Committee. SB 331 would severely restrict the use of non-disparagement clauses as part of agreements employers and employees frequently use to facilitate payment of a severance financial package for the employee. The inability to include non-disparagement clauses in severance agreements will discourage their use, to the detriment of both employers and employees. Farm Bureau opposes. *Staff Contact: Bryan Little; blittle@cfbf.com*

SB 410 (Connie Leyva, D-Chino), which 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, passed the Assembly Labor and Employment Committee on a 5-2 vote and was referred to the Assembly Appropriations Committee. Farm Bureau opposes. *Staff Contact: Bryan Little; blittle@cfbf.com*

SB 685 (Mike McGuire, D-Healdsburg), which extends an existing allowance for the employment of minors aged 16 and 17 in packing facilities in Lake County for up to 10 hours per day and 48 to 60 hours per work

week when school is not in session, passed Assembly Labor and Employment Committee on a 4-2 vote. Farm Bureau supports. *Staff Contact: Bryan Little; blittle@cfbf.com.*

On June 9, the Cal/OSHA Standards Board withdrew revisions to the November 2020 COVID-19 Emergency Temporary Standard (ETS) they initially approved on June 3. This proposal made minor concessions to employers dealing with vaccinated employees but required all employees to be vaccinated to use of this regulatory relief and would have required extensive provision of N95 respirators that could be in short supply this summer as outdoor employers struggle to comply with the wildfire smoke regulation. This action has the effect of leaving the November 2020 with no accommodations for employers of vaccinated employees in effect until Governor Newsom or the Standards Board take further action; the current ETS will expire in October. *Staff Contact: Bryan Little; blittle@cfbf.com*

Budget

The Senate and Assembly have released the bills that will serve as vehicles for the State's 2021-2022 budget. these include **AB 128** (Phil Ting, D-San Francisco) and **SB 128** (Nancy Skinner, D-Berkeley). Though the bills do contain content, which Farm Bureau staff is in the process of analyzing, additional provisions may be added, removed, or amended as the Legislature and the Administration negotiate in the coming days. The Legislature has a constitutional obligation to move a budget forward to the Governor by June 15th. Many bills known as "trailer bills" will be released in the coming days as well, trailing the budget, with statutory authority to enact the specifics of the funded budget items. *Staff Contact: Taylor Roschen, troschen@cfbf.com*

Climate Change

The Air Resources Board hosted a Funding for Farmers webinar on June 8th, 2021, from 1:30 to 2:30 pm, which included presentations on funding opportunities within California Climate Investments and beyond. Information can be found [here](#). *Staff Contact: Taylor Roschen, troschen@cfbf.com*

The Air Resources Board hosted a three-day workshop series to initiate the development of the update to the Climate Change Scoping plan, which will reflect the State's goal to achieve carbon neutrality by 2045. The scoping plan update is due by 2022. Workshops included:

- June 8, 2021 Overview and Framework (8:30am-12:30pm)
- June 9, 2021 Focus Area Discussions
 - 9:30am-12pm Working Lands
 - 1:30pm 4pm Equity and Environmental Justice
- June 10, 2021 Focus Area Discussions
 - 9:30am-12pm Transportation Sector
 - 1:30pm 4pm Electricity Sector

Interested parties can review presentations by the Agencies and learn more about the process [here](#). Public comments are due by July 9th; Farm Bureau staff will be submitted comments. *Staff Contact: Taylor Roschen, troschen@cfbf.com*

The California Natural Resources Agency has launched a series of virtual topical workshops to allow members of the public to provide input on the State's commitment to conserve 30 percent of California's lands and coastal waters by 2030 (30x30). This is guided by Governor Newsom's Executive Order **EO N-82-20** charging California's natural and working lands to address climate change. Topical workshops have explored how to advance equity, biodiversity and conservation. A specific workshop on climate was held on June 8th and a summary of the presentations can be found [here](#). All workshops are recorded and posted on CNRA's [YouTube channel](#). More information about the workshops can be found [here](#).

Commodities

Several County Farm Bureaus have engaged on [AB 535](#) (Cecilia Aguiar-Curry, D-Winters), a bill which has passed the Senate and been amended. The bill would prohibit any reference to California made on the display panel (front label) of any olive oil container, unless the product was derived from 100% California-grown olives. The label may also not reference a specific region of California unless at least 85% of the olives were grown from that area. The recent amendments have removed seizure authority by the Department of Public Health and will be heard in Senate Agriculture Committee on June 17th. *Staff Contact: Taylor Roschen, troschen@cfbf.com*

Public Lands and Wildlife

[AJR 5](#) will be heard in the Assembly Water, Parks and Wildlife Committee next week. This resolution, authored by Luz Rivas (D – Arleta), would urge the federal government to immediately declare a moratorium on all further wild horse and burro roundups and would urge the United States Bureau of Land Management and the United States Forest Service to restore the wild horses and burros of California to their legal areas throughout the state. Farm Bureau has submitted a letter of concern to the author and committee which cites a recent [Sacramento Bee article](#) that illustrates many current issues facing wild horses in Modoc County. Farm Bureau has worked with stakeholders, including animal welfare advocates, in the past to create proposals that would benefit the entire eco-system. This bill, however, would halt all progress that has been made with no consideration of the negative impacts on native species, ranchers, and the wild horses' health. As this is a resolution and not a bill, Farm Bureau is not taking an "oppose" position at this time but did submit a letter of concern to the Committee. We will continue to monitor this issue and have conversations with all stakeholders. *Staff Contact: Katie Little, klittle@cfbf.com*

Waste

Last year, Farm Bureau and others supported legislation to extend the allowance for alternative management of treated waste wood, rather than be classified as a hazardous material governed by the Department of Toxic Substances. Without notice or an alternative, Governor Newsom vetoed the legislation, forcing the Department to scramble and develop an interim variance process. In response, Farm Bureau is supporting [AB 332](#) (Assembly Environmental Safety), a bill which would re-authorize the alternative management standards that have been in place in regulation since July 2008. This bill will be heard in Senate Environmental Quality Committee on Monday, June 14th. *Staff Contact: Taylor Roschen, troschen@cfbf.com*

Water

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, passed out of the Assembly 78-0-1 June 2nd. [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@cfbf.com*

As reported each year, the State Water Resources Control Board staff held the second of three Water Rights and Water Quality Fees Stakeholder meetings June 10th. It is still too early in the process to determine exactly what fees will look like for the water quality programs and the Waste Discharge Permit Fund (WDPF), but a clearer picture from SWRCB will come after the Governor signs the state budget. Depending on negotiations

between the Administration and unions staff predict the furlough savings from 2020-21 will go away and cause a 4.5 percent increase. The WDPF houses 8 program funds and they deferred the following increases last year, totaling about \$2.5 million:

1. WDR-2.9%
2. Land Disposal-0%
3. 401 certs-5.6%
4. Stormwater-3.0%
5. NPDES-3.8%
6. CAF-2.2%
7. ILRP-3.4%
8. Cannabis-0% (which is still a standalone program that the other 7 do not subsidize).

Water Board staff is projecting the following increases in 2021-22 for each program in the WDPF:

1. Waste Discharge Requirements (WDR)-13%
2. Land Disposal-2.4%
3. 401 certs-14.9%
4. Stormwater-13.3%
5. National Pollution Discharge Elimination System (NPDES)-9.2%
6. Confined Animal Facilities (CAF)-12.3%
7. Irrigated Lands Regulatory Program (ILRP)-9.8%
8. Cannabis-0% (is remaining downsized so no increased fees.) *It is important to note that Cannabis is a standalone program, NOT subsidized by the others in the WDPF.*

Staff is projecting a 4% increase for each program for the next two fiscal years, except cannabis. On the horizon we could be looking at direction from the Administration to the Water Board to shift some resources to Drought, Wildfire/Forest Health and Climate Change activities.

Foundational program costs are spread across all WDPF programs accounting for about 30 percent overall.

Foundational programs include:

1. Basin Planning
2. Total Maximum Daily Loads (TMDLs)
3. Surface Water Ambient Monitoring Program (SWAMP)
4. Groundwater Ambient Monitoring (GAMA)
5. SWRCB Fee Staff costs
6. Monitoring
7. Enforcement
8. Inspections
9. Etc.

During the Water Rights Fees Stakeholder meeting staff said they currently have a budget allocation for a 6.3 percent increase. The largest reason for that projection is the potential removal of the furlough savings in the 2020-21 budget which adds 3.6 percent to the 2021-22 budget. We also had a “Cost of Compliance Discussion” where we discussed efficiencies in reporting and enforcement (SB 88). The reporting of water diversions and use remains very low, about 50 percent or less. They prioritize pursuing enforcement actions, not going after less than 10 acre feet diversions. They have between 500 to 1,000 ACLs each year that takes about 4 ½ PYs. They may look into converting to a more straight forward ministerial action requiring less PYs and staff time. Also discussed was the consolidation of reporting dates to reduce duplication efforts. i.e. if an individual had both types of water rights that require an April 1st reporting date for one and July 1st for the other, they think it would be a savings for both the water right holder and the water board to consolidate the two dates to just one date. March 1st was mentioned, but that could be tough for some to report so early. Additionally, it was suggested that switching to a single reporting date based on a Water Year reporting cycle. The next and last Fee Stakeholder Meeting is August 5th and the Board is expected to adopt the fee schedule September 21st. Staff contact Danny Merkley, dmerkley@cfbf.com