Farm Bureau at work

California Farm Bureau's government affairs team is at the Capitol, advocating for farmers, ranchers and agriculture's future. Here are some key issues Farm Bureau is focused on this week.

April 5, 2024

Agriculture Employment Policy

The week of April 1 saw the beginning of policy committee movement of legislation related to agricultural employment.

On April 3, the Assembly Committee on Public Employment & Retirement passed AB 2421 Assemblymember Evan Low (D Campbell), and referred it to the Assembly Appropriations Committee for further consideration of its fiscal impact, a potentially important legislative waypoint given the current state fiscal situation. AB 2421, though limited in scope to public employment in California, sets a terrible precedent of conferring an attorney-client-like privilege on communications between an employee and a union or union representative, potentially hampering an employer's ability to investigate safety problems, harassment allegations and to engage in other employee communications that could result in disciplinary action against an employee. Should AB 2421 pass, it is certainly possible that a future legislature could expand this bad precedent to private sector employers. Farm Bureau opposes. *Staff: Bryan Little, blittle@cfbf.com*

Also on April 3, the Assembly Labor & Employment Committee moved two Farm Bureau-opposed measures.

AB 2499 Assemblymember Pilar Schiavo (D Chatsworth), expands the availability of job-protected leaves to employers of five employees (presently 25 employees) for virtually any conceivable eventuality related to supporting a family-member crime or violence victim (defined so broadly as to include non-family members) including seeking medical services, public support services, counseling, moving to a new residence, seeking civil or criminal services, financial services or benefits, preparing for legal proceeding, seeking or providing care for a dependent adult, or making safety-related modifications to a victim's home or vehicle. AB 2499 also requires an employee to offer reasonable accommodation for employees in these situations. These leave rights are redundant to leaves provided for under the California Family Rights Act or the Healthy Workplace Healthy Families Act (Paid Sick Leave), but AB 2499 would effectively lift existing caps on those leaves (CFRA leave is presently limited to 12 weeks; PSL is limited to 5 days or forty hours per year). The bill attracted some concerned questions from committee members about its impact on small employers. The committee passed AB 2499 and referred it to the Assembly Judiciary Committee. Farm Bureau opposes. *Staff: Bryan Little, blittle@cfbf.com*

Assembly Labor & Employment also passed AB 2738 Assemblymember Luz Rivas (D Sylmar)on April 3, referring it to the Assembly Judiciary Committee for further consideration. AB 2738 will encourage local prosecutor litigation against employers for alleged Labor Code violations (permitted for the first time by Farm Bureau-opposed AB 594 , Assemblymember Brian Maienschein (D San Diego) 2023 by requiring a California court to award attorney's fees to a public prosecutor prevailing in a Labor Code-related civil action. Farm Bureau opposes. *Staff: Bryan Little, blittle@cfbf.com*

On March 21, the Cal/OSHA Standards Board opened its meeting with an announcement from Board Chair Dave Thomas that the state Department of Finance had withdrawn previously granted approval for the cost analysis portion of the Standardized Regulatory Impact Assessment (SRIA), required of all proposed regulations reasonably anticipated to entail economic impact in excess of $50 million. Chair Thomas then

announced the Board would not be considering the proposed regulation, causing the one-year regulatory proposal clock to run out at the end of March requiring the regulatory procedure for indoor heat to start over.

Several hours of public comment ensued, with Labor and worker advocates growing increasingly agitated until they shut down the meeting with a marching picket line through the meeting, chants, and a bullhorn until sheriff's deputies removed them. During the disturbance, Chair Thomas adjourned the meeting.

After the disturbance was quelled, Chair Thomas resumed the meeting as though his ruling adjourning the meeting had been forgotten, and the Board undertook a discussion about what to do next about indoor heat illness. Chair Thomas was particularly withering and pointed in his criticism of the Newsom Administration, the Department of Finance, and the Department of Corrections and Rehabilitation, who he said he had been told had objected to DOF's approval of the SRIA over concerns about implementation costs and CDPR's budgetary constraints (not surprising given the state's current fiscal straights.)

Reluctant to start over on a regulation, options including another meeting before the end of March, adopting the rejected regulation as an emergency regulation (which does not require a regulatory impact assessment) and simply passing the proposed regulation originally slated for consideration were all discussed. In the end, the Board opted to pass the original proposed regulation in spite of its regulatory legal impediments.

It is unclear at this point what will be the fate of the indoor heat illness regulation; will it be implemented as the Standards Board approved it in spite of the lack of approvals required by the Administrative Procedures Act? If it is, it seems virtually certain to attract legal challenges on that basis alone. If it is not permitted to proceed, will the Board attempt to pass it as an emergency regulation not requiring a SRIA assessment? Given that the regulation was originally mandated by legislation passed in 2016, can it possibly be an "emergency?" Doesn't an emergency entail some actual urgency? Will the Legislature simply pass some version of the indoor heat illness regulation, as it recently did with the Workplace Violence Prevention Plan requirement?

The Office of Administrative Law acknowledged receipt of the Standards Board-approved indoor heat illness regulation on April 3, and has 30 days to approve or reject it. Farm Bureau and a number of other employer organizations filed a letter with OAL on April 3 lodging objections to approval of the regulations, pointing out the defective SRIA and cost impact analyses, and possible violations of open meetings laws with the Board's handling of the March 21 meeting. *Staff: Bryan Little, blittle@cfbf.com*

Dairy

CDFA is publishing their requirements for dairy breeds moving into California, that they:

1) Cannot have come from a premise that has H5N1.
2) If they are from an infected state, they must get a certified vet inspection within 7 days of shipment into CA.

They note that enforcement will be increased by Monday. Currently those states that have tested positive are Texas, New Mexico, Idaho, Ohio, Kansas, and Michigan. Haulers will not be turned around, but if they do not have appropriate paperwork, the cattle destination is immediately sent to the District Animal Health Branch Office for follow-up. Continuing or egregious violations can result in fines up to $1,000 per head per day. High risk cattle moved in violation may be quarantined by CDFA for 21 days. For international trade purposes, it is important to be clear that we are not stopping imports but rather are enforcing the existing import prohibition against bringing diseased cattle into California by adding more specifics.

HPAI (HIGH PATH AVIAN INFLUENZA) CONTINUES TO BE A CONCERN IN DAIRY CATTLE

What we know so far:

1. The commercial milk supply remains safe due to both state and federal animal health regulations and our universal pasteurization of milk.
2. Dairies in Texas, Kansas, New Mexico, Michigan, Idaho, and Ohio have tested positive for HPAI.
3. This is the same strain of HPAI virus that has been detected migratory birds in the Pacific and Central flyways since November and it seems likely that the disease was introduced onto dairies by infected wild birds.
4. There is now indication that it has spread from mammal to mammal (cow to cow).
5. A worker at an infected dairy tested positive for H5N1 (Bird Flu). It is the first case of avian influenza in Texas.
6. USDA has released recommendations for HPAI H5N1 virus in livestock. It is accessible here

California Farm Bureau is in contact with federal, state, and local officials and will continue to monitor the situation. *Staff: Steven Fenaroli, sfenaroli@cfbf.com*

Energy

Farm Bureau submitted several letters on bills being heard in the respective Energy and Utility committees this week.

- CAFB authored a coalition letter of support for Senate Bill (SB) 1374 authored by Senator Josh Becker (D Menlo Park). The bill, among other things, would allow Net Energy Metering Aggregation (NEMA) customers to net or "self-consume" energy in 15-minute intervals, which restores some of the benefits that were removed in the latest Public Utilities Commission (Commission) decision at the end of 2023. It does not fully restore the prior NEMA subtariff but is a step in the right direction. The bill was pulled at the last minute and will now be heard on April 22.

- CAFB filed an opposition letter for SB 1165 authored by Senator Steve Padilla (D San Diego) which is identical to SB 619 from last year which was ultimately vetoed by Governor Newsom. The bill would allow an electrical corporation that files an electrical transmission project application with the Public Utilities Commission (PUC) to simultaneously file an application with the Energy Commission. As the Governor noted in his veto, "[D]ecentralizing permitting between two agencies creates new coordination challenges, requires duplicative staffing, disrupts the sequencing of permitting workstreams and impedes the ability of either agency to consider the full scope of an electric transmission project. Ensuring that a single agency can account for and mitigate both significant costs to electric ratepayers and environmental impacts can lead to better results for Californians." The bill passed with 15 ayes and 1 no from Senator Kelly Seyarto (R Murrieta) and 2 abstentions. The bill is now headed to Senate Environmental Quality.

- CAFB filed an opposition letter to Assembly Bill (AB) 2292 authored by Cottie Petrie-Norris (D Irvine) which would remove the requirement to evaluate cost-effective alternatives in approving transmission projects at the Commission. The author contends the bill removes a duplicate procedure at the California Independent System Operator (CAISO). CAFB opposition rises from the removal of a review process at the Commission which is responsible for ultimate approval of transmission projects and their cost. CAFB pointed to the burden on stakeholders of tracking the process in two arenas and the less forthcoming process at the CAISO. The bill passed with 14 ayes and 2 abstentions and is now headed to Assembly Appropriations. *Staff contact: Kevin Johnston, kjohnston@cfbf.com*

Insurance

AB 1844 and AB 2260 authored by Assemblymember Lisa Calderon (D Whittier) and supported by the California Farm Bureau passed from the Assembly Committee on Insurance.

AB 1844 requires the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules to serve as nonvoting, ex officio members of the governing committee of the California FAIR Plan and would authorize each to name a designee to serve in their place. At a time when the FAIR Plan is growing at unprecedented rates, it is imperative for the Legislature to fully grasp the challenges facing California's in a chaotic insurance market by gaining transparent access to the FAIR Plan governing committee.

AB 2260 requires the FAIR Plan, until December 31, 2027, to quarterly provide specified information about policies and clearinghouse program progress to the Insurance Commissioner, the Assembly Committee on Insurance, and the Senate Committee on Insurance, and to post the information on the association's public internet website. You may recall that Farm Buruea sponsored SB 505 last year to establish the commercial policy clearinghouse in the FAIR Plan. AB 2260 brings transparency to the efforts of depopulating the volume of residential and commercial policies in the FAIR Plan.
Staff: Peter Ansel; pansel@cfbf.com

Land Use

AB 2528, authored by Assemblymember Joquin Arambula (D Fresno) has been amended. The bill is sponsored by the Large Solar Association and would allow for the cancellation of Williamson Act and Farmland Security Zone contracts without a cancellation fee, and with a ministerial process whereby a landowner and county board of supervisors would determine that the contract is suitable for immediate cancellation due to limited groundwater supplies. While Farm Bureau understands that groundwater management may result in the shifting of water use, we oppose AB 2528. The bill unnecessarily ties water availability to Williamson Act contracts to solar developments. Monterey County Farm Bureau and Tulare County Farm Bureau are also in opposition to AB 2528, with an open invitation for other county farm bureaus to add on. *Staff: Peter Ansel; pansel@cfbf.com*

Transportation

A FarmTeam alert was pushed out regarding AB 2870 Assemblymember Al Muratsuchi (D Torrance) which would prohibit the California Air Resources Board (CARB) from including avoided methane emissions in the calculation of carbon intensity under the Low Carbon Fuel Standard (LCFS) program. It would prohibit a fuel pathway holder from including avoided methane emissions in their calculation of carbon intensity and would provide that the LCFS regulations are null and void as applied to fuels derived from livestock manure. To send your legislator a letter, click here. *Staff: Steven Fenaroli, sfenaroli@cfbf.com*

Wildfire

SB 1159, authored by Senator Bill Dodd (D Napa) and supported by the California Farm Bureau requires that the state agencies with oversight of the California Environmental Quality Act (CEQA) to evaluate the inclusion of roadside projects no more than 5 road miles from a municipality or census designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects subject to a categorical exemption. The bill could help to expedite fuels mitigation work in those areas. The bill passed from Senate Environmental Quality Committee this week. *Staff: Peter Ansel; pansel@cfbf.com*

SB 1101, authored by Senator Monique Limon (D Santa Barbara) includes in the list of exceptions to a contract entered into by the Department of Forestry and Fire Protection for the purpose of providing logistical support for large-scale prescribed fire operations, and encourages detailed mapping to ensure that the best locations for prescribed fire operations are identified. Farm Bureau supports SB 1101 if

amended to include other types of wildfire mitigation operations in addition to prescribed burns, seeking to ensure that all of the tools being utilized to reduce wildfire risk benefit from the same type of expedited contracting. *Staff: Peter Ansel; pansel@cfbf.com*