

September 24, 2021

Agricultural Employment

On September 22, Governor Newsom vetoed **AB 616** (Stone). AB 616 would have created a new "ballot card" election option for labor unions seeking to unionize employees under the Agricultural Labor Relations Act (ALRA). The "ballot card" procedure amounted to "card check," allowing union organizers to coerce, intimidate, or otherwise induce agricultural employees to sign "ballot cards," denying agricultural employees the right to an Agricultural Labor Relations Board-supervised secret ballot election to protect employees from intimidation from any party with an interest in the outcome. Securing a Veto was the Farm Bureau's top priority for the year and thanks to the hard work of our members and the ag community at-large, we secured it. In his veto message, Governor Newsom wrote, "this bill contains various inconsistencies and procedural issues related to the collection and review of ballot cards. Significant changes to California's well-defined agricultural labor laws must be carefully crafted to ensure that both agricultural workers' intent to be represented and the right to collectively bargain is protected, and the state can faithfully enforce those fundamental rights. Therefore, I am directing the Labor and Workforce Development Agency to work collaboratively with the Agricultural Labor Relations Board and all relevant stakeholders to develop new policies for legislative consideration to address this issue." *Staff: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

Also on September 22, Governor Newsom signed into law **AB 701** (Lorena Gonzalez, D-San Diego), which establishes an entirely new regulatory regimen for warehousing and food processing employers with 100 or more employees at a site or 1000 or more statewide who use performance metrics, making such metrics difficult and legally hazardous to use. Farm Bureau opposed AB 701. In the legislative process, AB 701 was amended to significant narrowing its scope and removing language requiring Cal/OSHA to promulgate a regulation to protect employees from the putative dangers of working too fast to meet performance metrics. *Staff: Bryan Little; 916-561-5622 or blittle@cfbf.com*

AB 364 (Freddie Rodriguez, D-Pomona) failed Senate passage before the end of the 2021 session, being moved to the inactive bills file on September 10. AB 364 imposes 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 for the ostensible purpose of addressing human and labor trafficking. Farm Bureau opposes. *Staff: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

On September 23, the Cal/OSHA Standards Board held a day-long meeting to discuss the content of a permanent COVID-19 regulation that would replace the COVID-19 Emergency Temporary Standard (ETS) first adopted in November 2020, readopted in June of 2021, and scheduled for readoption in December 2021. The permanent regulation discussed on September 23 relies heavily on employers' implementation of COVID-19 workplace protections implemented through the employers' Illness and Injury Prevention Program (IIPP) and guidance and orders issued by the California Department of Public Health and other agencies, is far less prescriptive in many respects than the current ETS, and sunsets in two years after its effective date. In in some ways, it represents a significant improvement on the current ETS; in other ways, it is still problematic:

- Exclusion pay for workers unable to work due to exposure to COVID-19 or a positive test has been eliminated; the agency indicated that such a mandate is more properly a question for the Legislature.
- Testing obligations have been expanded – after a case is identified, even vaccinated close contacts must be tested.
- Vaccine verification – employers will need to maintain a copy of a physical or electronic vaccine record for an employee to qualify as vaccinated, eliminating the option for employee self-attestation. Booster shots has been added to this definition.
- Ventilation during outbreaks – the present ETS requires employers to upgrade their ventilation when a major outbreak occurs; current draft of the permanent reg requires improved ventilation whenever a non-major outbreak occurs.
- The requirement for employers to create and implement a long and detailed "COVID-19 Prevention Plan" has been removed and replaced with a requirement that employers must utilize their IIPP to address COVID-19 in the workplace. Handwashing and sanitation obligations have been removed.
- Recordkeeping – the draft clarifies that Cal/OSHA's present 30-year timeline for maintaining medical records would not apply to vaccine records; instead, it applies a 2-year sunset past the expiration of the regulation to hold such records.
- Requirements for housing and transportation were greatly simplified, mostly requiring employers operating housing and transportation to refer to the overall requirements of the reg.

Farm Bureau participated in the advisory committee representing agricultural employers. Labor advocates pushed strongly for reimposition of exclusion pay requirements and for reinstatement of stringent housing and transportation requirements similar to the current ETS. It is unclear if the agency and the Standards Board will organize another informal or formal opportunity to provide input prior to adoption. *Staff: Bryan Little; 916-561-5622 or blittle@cfbf.com*

Animal Health

CA Farm Bureau supports **AB 1103** (Megan Dahle, R – Bieber) which has passed out of both houses and awaits the governor's signature or veto. This bill would establish an agricultural pass program (Ag Pass) in the event of a natural disaster – most notably wildfires. The bill was amended to narrow the scope of the bill to only livestock producers. Ag Pass would provide immediate access to property for ranchers who can then evacuate livestock without having to wait for local authorities or emergency personnel. *Staff: Katie Little at klittle@cfbf.com or (916) 446-4647.*

Budget

Governor Newsom signed **SB 170** (Budget), which was the Cap-and-Trade Expenditure, Resources and Budget Bill Jr. and implements various funding priorities for the state including, but not limited to, education, healthcare, resources, public safety, and transportation. The following is an overview of the funds provided by the legislation:

Wildfire

- Appropriation of nearly $1 billion ($758 million in General Fund and $230 million in Green House Gas Reduction Funds (GGRF) as follows:
- $257 million for various forest health, resiliency and private land ownership programs;
- $139 million for the state conservancies to undertake wildfire prevention programs;
- $282 million for CalFire's fire prevention grant programs, prescribed fire and other projects;
- $51 million for forestry industry economic stimulus and workforce development.

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Water Resiliency

- Appropriation of $855 million ($730 million General Fund and $125 million in special funds), as follows:
- $120 million for implementation of the Sustainable Groundwater Management Act (SGMA);
- $130 million for flood protection;
- $25 million for remote sensing;
- $40 million for water resilience projects;
- $125 million for programs and projects that improve environmental conditions to promote recovery of native fish species in the Sacramento-San Joaquin watershed, including habitat restoration projects.

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Agricultural Programs

- Appropriation of $438 million ($200 million General Fund and $238 million special funds), as follows:
- $10 million for CDFA California Nutrition Incentive Program;
- $25 million for CDFA Healthy Soils Program;
- $32 million for CDFA Livestock Methane Reduction;
- $15 million for CDFA Pollinator Habitat Program;
- $213 million for FARMER Program;
- $30 million for Fresno-Merced Food Innovation Initiative.

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Pesticides

The Department of Pesticide Regulation has begun formal proceedings to review imidacloprid as it has been found in drinking water. DPR detected residues of imidacloprid in 15 groundwater wells at concentrations that exceeded the reporting limit of 0.05 parts per billion (ppb). Detected concentrations ranged from 0.051 to 5.97 ppb. Wells with detections above the reporting limit are located in Fresno, Santa Barbara, and Tulare counties. Based on its investigation, DPR determined the imidacloprid residues detected in groundwater were the result of legal agricultural use of a pesticide product or pesticide products containing imidacloprid. As such, DPR is initiating the PCPA review process for imidacloprid. Please see notice here. *Staff: Jim Houston at 916-446-4647 or jhouston@cfbf.com.*

Water

The State Water Resources Control Board Adopted the Water Quality and Water Rights Fee Schedules this week. As a reminder, the Waste Discharge Permit Fund (WDPF) houses funds for eight water quality programs which include the National Pollution Discharge Elimination System (NPDES) for Stormwater and Wastewater, Waste Discharge Requirements (WDR, or General Orders), Land Disposal, 401 Certification, Confined Animal Facilities (CAF), the Irrigated Lands Regulatory Program (ILRP, or Ag Lands) and in recent years Cannabis. Cannabis continues to be kept structurally separate in the WDPF so that other programs are not subsidizing the Cannabis program. Budget cost drivers attribute to 9.9 percent increases to the WDPF fees and they include: ending staff furloughs a year early, negotiated salary increases, stormwater budget change proposal and pro rata costs. Additionally, foundational programs such as basin planning, total maximum daily loads (TMDL), and monitoring and enforcement, are spread across all fee payers.
The following fee schedule was adopted:

PROGRAM	FY 20-21	Last Year's anticipated Change for FY 21-22	Actual Adopted Change for FY 21-22
WDR	+8.5%	+2.9%	+16.8%
Land Disposal	-	-	+4.4%
WQC (401 Cert)	+6.0%	+5.6%	+17%
NPDES Stormwater	+5.3%	+3.0%	+17.9%
NPDES Wastewater	+9.3%	+3.8%	+11.9%
CAF	+1.4%	+2.2%	+15.4%
Ag Lands	+3.5%	+3.4%	+15.6%
Cannabis	-	-	0%

Lastly, Water Board staff reported expenditures in the Division of Water Rights were up $2.2 million, or 17.6 percent. The Board voted to increase the annual per acre-foot charge for Permits & Licenses, and Pending Applications, from $0.090 to $0.099 per each acre-foot greater than 10 acre-feet, with no change in the base fee. *Staff: Danny Merkley, dmerkley@cfbf.com or 916-446-4647.*

Wildfire

AB 9 (Wood, D-Santa Rosa), a bill that establishes the Regional Forest and Fire Capacity Program in the Department of Conservation and creates a new position of Community Wildfire Preparedness and Mitigation within the Office of the State Fire Marshall, has been signed into law by Governor Newsom.

Assembly Bill 9 would remove some of the programmatic responsibilities of CALFIRE, including the operation of the Fire Prevention Grants Program, defensible space, wildfire mitigation financial assistance, consulting with the Wildfire Safety Division of the Public Utilities Commission, among many others, and reestablish those responsibilities with the new created office of Community Wildfire Preparedness and Mitigation. Farm Bureau engaged in numerous discussions with the author, and his respective staff, regarding the intent of the legislation. Given the recent challenges at CALFIRE, many of which have become the subject of legislative scrutiny and were captured quite thoroughly by the media, it's apparent that some changes are needed. California's wildfires are challenging our current capacities and our ability to make any meaningful reduction in existing fuel loads. These wildfires have created additional challenges related to insurance availability and affordability, air quality, environmental preservation and water quality, as well as the devastation of communities and tragic loss of life.

Farm Bureau did not oppose the overall intent and direction of this legislation. We admire the commitment of the author to continue his fierce advocacy to protect communities, agriculture, and the lives of Californians from the increasing threat of wildfire. However, it is uncertain if the changes will create an any better outcome than what currently exists. Farm Bureau had NO POSITION on the legislation and will continue our dialogue with the author, and respective agencies, as the bill is implemented.

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