

California Farm Bureau

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

April 9, 2021

Agricultural Employment

AB 73 (Rob 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. Farm Bureau is working with Rivas' office seeking clarifications of the requirement for agricultural employers to report their levels of employment to DIR. *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. AB 95 was approved by the Assembly Labor and Employment Committee on April 8 and referred to the Assembly Appropriations Committee. *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. Proponents claim AB 364 is necessary to close a loophole in the 2014 legislation (SB 477, Steinberg) creating foreign labor contractor registration, though the office of the author of the SB 477 told Farm Bureau in 2014 that the omission of farm labor contractors was intentional and the Assembly Judiciary Committee report on the bill cited farm labor contractor licensing as a reform that helps curtail labor trafficking. Farm Bureau opposes AB 364 and testified at the Assembly Labor Committee. AB 364 passed the Assembly Labor Committee on April 8 and was referred to the Assembly Appropriations Committee. *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. AB 654 passed the Assembly Labor and Employment Committee on April 8 and was referred to the Assembly Appropriations Committee. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 857 (Ash Kalra, D-San Jose) 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 the mis-characterizes 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 AB 857 and testified at the Assembly Labor and Employment Committee. AB 857 passed the Assembly Labor

and Employment Committee on April 8 was referred to the Assembly Appropriations Committee. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 1041 (Buffy Wicks, D-Oakland) amends the California Family Rights Act (CFRA) to require employers to make unpaid CFRA leaves available to care for any individual an employee regards as a family member. Farm Bureau opposes due to the uncertainty and ambiguity that will be caused by the changes. AB 1041 passed the Assembly Labor and Employment Committee on April 8 and was referred to the Assembly Appropriations Committee. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

AB 1119 (Wicks) amends the California Fair Employment and Housing Act (FEHA) to add family responsibilities to the list of protected characteristics on the basis of which an employer may not discriminate without violating FEHA. Farm Bureau opposes due to the uncertainty and ambiguity that will be caused by the changes. *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 Labor, Public Employment, and Retirement Committee on April 6, and was referred to the Senate Judiciary Committee. Farm Bureau opposes. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

SB 606 (Gonzalez) creates a new classification of employment law violations that will cause some employers to be dubbed "egregious employers" and would thereby subject them to much higher penalty levels. These would be levied on an employee-by-employee basis rather than location by location. Farm Bureau opposes. SB 606 was approved April 6 by the Senate Committee on a 9-2 vote and referred to the Senate Appropriations Committee. *Staff Contact: Bryan Little; 916-561-5622 or blittle@cfbf.com.*

Climate Change

Assembly Agriculture Committee will hear AB 1289 (Ash Kalra, D-San Jose) next week on Thursday, April 15th. This bill would create a Smart Climate Ag Program at the Department of Food and Agriculture to subsidize the transition from livestock, dairy and animal feed producers to "plant-based agriculture" that is "lower water use." Beyond impractical and fraught with questions, the bill makes disparaging and concerning claims about the dairy and livestock sector and would establish a policy to reduce/eliminate livestock and dairying in the State. Farm Bureau is leading a coalition of organizations in opposition to the measure. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Commodities

The Assembly Health Committee will be hearing AB 535 (Cecilia Aguiar-Curry) on Tuesday, April 13th. This bill would prohibit the representation of olive oil as "California olive oil" unless the olives used were produced in California. This bill would also prohibit the representation of olive oil from a particular region in California unless at least 85% of the olives used were produced in that region. This prohibition would extend to brand names, labels, advertising, and packaging. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Economic Relief

The Department of Food and Agriculture is seeking public comments on a draft Request for Proposals for the California Underserved and Small Producer Grant Program. The Program is intended to facilitate assistance to small and socially disadvantaged farmers and ranchers who need support applying for economic relief

programs and assistance with business planning and marketing. Funding will be provided for technical assistance providers and direct assistance. The draft RFP can be found here and awards are contingent upon funding in the budget. Public comments can be submitted until April 22, 2021. The Department will also be hosting a workshop on April 19th from 1-3pm. Registration for the workshop can be found here. Farm Bureau will be reviewing the draft RFP and commenting. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Economic Development

The Assembly Accountability and Administrative Review Committee is set to hear, AB 778 (Eduardo Garcia, D-Coachella) on Wednesday, April 14th. This bill would require all state institutions to purchase California-grown and raised products over other domestic and non-domestic agricultural commodities, unless the products are not grown or in season in the State. This would replace the current modest 5% purchase preference available for California producers on state contract bids. Farm Bureau is supporting this bill. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Food Safety

The Food and Drug Administration posted several updates regarding food safety on April 6th. First, was a release of the report on an investigation into the Fall 2020 outbreak of the E. coli 0157:H7 linked to leafy greens. The report describes findings from the investigation, as well as trends key to understanding leafy greens outbreaks linked to the California Central Coast growing region (encompassing the Salinas Valley and Santa Maria growing areas) that have occurred every fall since 2017. The FDA also released an updated version of the Leafy Green Shiga-toxin producing ***E. coli*** (STEC) Action Plan, reaffirming the need for collaborative action to improve the safety of leafy greens, and building on the work accomplished in 2020 *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Insurance

SB 11 (Rubio, D-Baldwin Park), Farm Bureau's sponsored legislation to authorize the California FAIR Plan to underwrite insurance coverage for commercial farms and ranches, was heard in the Senate Insurance Committee. The legislation passed unanimously by a vote of 12-0 and has been referred to the full Senate for a final vote. SB 11 has no opposition and is supported by a coalition of our agricultural colleagues and insurance associations. *Staff Contact: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647.*

Taxation

AB 1253 (Santiago, D-Los Angeles), a bill which would impose a new personal income tax surcharge, ranging from 1 percent to 3.5 percent, on certain earners and businessowners that file under the personal income tax laws, is being opposed by Farm Bureau and a coalition of other taxpayer and business organizations. At a time when California is experiencing a $22 billion budget surplus, which may increase to as much as $40 billion if you add in special fund reserves, it's difficult to argue for the need to further increase revenues. In addition, California is set to receive more than $100 billion in federal "relief" dollars related to COVID-19. For these reasons and others, Farm Bureau is opposing AB 1253. The bill is currently awaiting a hearing in the Assembly Revenue and Taxation Committee. *Staff Contact: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647.*

AB 65 (Low, D-Silicon Valley), a bill which would impose yet another new 1 percent personal income tax to fund a universal basic income program in California, is being opposed by Farm Bureau and a coalition of taxpayer and business organizations. As California appears to be fairly secure financially, a new and additional income tax on certain earners is ill-advised when such a program, if deemed necessary, could be funded via the state's general fund. It should be noted that AB 65, at this time, only imposes the 1 percent tax

on those earning $2 million or more. Nothing prevents the legislature from lowering the $2 million threshold to other, lower income earners in the future. This is especially true given the highly volatile fluctuations in income tax earnings for California's highest earners. The bill is currently awaiting a hearing in the Assembly Revenue and Taxation Committee. *Staff Contact: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647.*

Transportation

SB 287 (Grove, R-Bakersfield), a bill which would resolve an ongoing licensing issue related to hauling horse and stock trailers, is being supported by Farm Bureau. Under existing law, any person operating a single vehicle with two axles having a gross vehicle weight of less than 26,000lbs or pulling a trailer with a Gross Vehicle Weight Rating (GVWR) of less than 10,000lbs can drive with a noncommercial Class C driver's license. Even if the towing vehicle is pickup truck, once a trailer exceeds a GVWR of 10,000lbs, a driver must have a valid Class A commercial driver's license (CDL), with certain limited exceptions.

In 2019, the California Highway Patrol (CHP) issued formal clarification regarding the California driver license requirements for towing horse and/or stock trailers, fueling confusion among the agricultural and equine communities. CHP determined that operators of horse and stock trailer combinations with a GVWR greater than 10,000lbs used in a "recreational capacity" are ineligible for any of the farmer and rancher exclusions provided in California Vehicle Code section 12804.9(b)(3)(G). The determination means that horse trailers leaving a horse show, or from a backcountry trailhead, are not considered "agriculture" and thus are ineligible for the exclusion provided above. Instead, these operators would otherwise be required to have a valid Class A commercial driver's license. SB 287 corrects this flawed interpretation and would grant operators the same licensing flexibility as others with recreational vehicle endorsements. The bill will be heard in the Senate Transportation Committee on Tuesday, April 13. *Staff Contact: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647.*

Utilities

AB 525 (Chiu, D-San Francisco), a bill which would require the development and then mandated procurement of offshore wind generated electricity for California's investor owned utilities, is being opposed by California Farm Bureau and a coalition of other electrical ratepayers. Generally, Farm Bureau is supportive of a diverse portfolio of renewable energy; however, we believe that AB 525 inappropriately elevates offshore wind projects above all other, and potentially less expensive, renewable sources of energy. As a result, California ratepayers will be forced to pay billions of dollars in offshore wind infrastructure that will circumvent existing processes designed to identify the most appropriate array of energy resources needed by the state. AB 525 predetermines winners and losers related to energy development and ignores the very significant rate impacts that would result from procurement. AB 525 awaits a hearing in the Assembly Utilities and Energy Committee. *Staff Contacts: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647 and Karen Mills at kmills@cfbf.com.*

AB 1087 (Chiu, D-San Francisco), a bill which would eliminate the California Climate Credit on electricity bills of residential, agricultural and commercial ratepayers to fund the Environmental Justice Community Resiliency Hubs Program (Program), is being opposed by Farm Bureau as part of a coalition of business, industry and other agricultural organizations. The coalition doesn't oppose the creation of the (Program), as some of California's most disadvantaged communities continue to lack access to many of state's clean energy programs. However, we fundamentally disagree with the funding source.

Currently, over 85 "emissions-intensive trade-exposed" industrial categories are eligible to receive a California Industry Assistance Credit on their utility bill to protect against "emission leakage." This includes a wide variety of industrial sectors from wineries, cement manufacturers, and dairies, to food processors and

petroleum refineries. This credit protects eligible industrial sectors against emissions leakage by compensating them for a portion of the GHG emission costs associated with the electricity they buy.

Even with these climate credits, California industrial, agricultural, and commercial ratepayers are already subject to some of the highest electricity costs in the nation. We have only just begun to pay for the necessary improvements to our electrical infrastructure to minimize wildfire risk and reduce the use of public safety power shutoff (PSPS) events, which will account for tens of billions of ratepayer dollars. All of this while business and individuals are still forced to shoulder the financial implications and impacts of PSPS events, and additional costs to ensure that the state does not experience further rolling blackouts. This makes these critical protections for these ratepayers even more important as higher electricity costs have the potential to further increases the costs of goods and services across the state. The legislation is double referred to the Assembly Utilities and Energy Committee and Assembly Natural Resources Committee – it recently passed in the Utilities and Energy Committee by a vote of 8-3. *Staff Contacts: Robert Spiegel at rspiegel@cfbf.com or (916) 446-4647 and Karen Mills at kmills@cfbf.com.*

Senator Josh Becker's (D-San Mateo) SB 345 was heard in Senate Appropriations Committee on April 5, 2021 and placed on the Suspense File. It would require that the California Public Utility Commission (CPUC) develop a common definition of "nonenergy benefits" in all distributed energy resource programs, which, in many circumstances could be contrary to the core purpose of the CPUC to determine appropriate rates and ensure reliable utility services. Although the bill was amended in the Policy Committee, it expanded the circumstances in which nonenergy benefits would apply. CAFB joined with a coalition to oppose the legislation because the CPUC's core expertise is in setting appropriate rates and ensuring oversight over the state's regulated utilities to ensure appropriate and cost-effective utility service. Its functions are fundamentally economic ones; ensuring that California's ratepayers are not paying more than they need to for reliable services. Prioritization of nonenergy benefits over other cost-effectiveness factors may result in increased costs that burden those very customers sought to be benefited by this bill. Incorporating environmental benefits into all of the CPUC's demand response programs could cause unforeseen difficulties, including unnecessary increases in rates with marginal environmental benefit. *Staff Contact: Karen Mills at kmills@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 developing an interim variance process. In response, Farm Bureau is supporting AB 332 (Assembly Environmental Safety), a bill which would re-authorizing the alternative management standards that have been in place in regulation since July 2008. The bill passed Assembly Environmental Safety and Toxic Materials Committee this week unanimously and will next be heard in Assembly Appropriations Committee. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Wildlife

AB 391 (Carlos Villapudua, D-Stockton) proposes to allocate $5 million from the General Fund to the Department of Food and Agriculture to partner with organizations, such as RCDs, UC Cooperative Extension and USDA, to deliver technical assistance, outreach and grants to incentivize participation in state and federal pollinator habitat and forage establishment. Farm Bureau is supporting the measure and it will be heard in Assembly Agriculture Committee on April 15th. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*

Friday Review readers may remember, AB 564 (Lorena Gonzalez, D-San Diego), a bill which would codify the Governor's Executive Order to require the state to conserve 30% of lands and 30% of coastal waters by 2030 in the effort to promote biodiversity. Farm Bureau led a coalition in opposition to a similar bill, AB 3030 (Ash Kalra, D-San Jose), last year. This new bill, however, contains a more concerning provision that's not within the Executive Order which states that public agencies shall not approve projects that are inconsistent with or would impair the successful implementation of the 30x30 goal. We question how this provision could be used to justify contestation of any host of actions, including voluntary agreements, the irrigated lands regulatory program, actionable pests and diseases, vegetation management, incidental take, and waste discharge requirements, among other things. The bill has been assigned to Assembly Accountability and Administrative Review to be heard on Wednesday, April 14th. Farm Bureau is leading a large coalition in opposition. *Staff Contact: Taylor Roschen, troschen@cfbf.com or 916-446-4647.*