



August 25, 2017

The legislature has returned from Summer Recess. Activity has commenced on legislation affecting agriculture with the following occurring this week.

Energy:

[AB 920](#) (Cecilia Aguiar-Curry, D-Napa) addresses baseload electric generation facilities (biomass and geothermal) and requires the California Public Utilities Commission to determine what types of generation resources investor owned utilities are required to procure. Publicly owned utilities would be required to make the same assessment. Although the bill now has no specific percentage requirements for baseload generation, it will help continue the discussion about the importance of addressing the use of biomass generation in the state. AB 920 was heard in the Senate Appropriations Committee and was placed on the Suspense file due to state costs. CFBF supports.

Labor:

[AB 450](#) (David Chiu, D-San Francisco) forbids an employer from granting federal immigration enforcement authorities access to their place of business without a search warrant or providing employee-related records to federal immigration enforcement authorities without a subpoena. It also requires an employer to provide notice to employees of known future enforcement action by a federal immigration agency; requires the employer to provide to employees any written notice of the findings of a federal enforcement audit or inspection, and of any actions required of the employer by the federal immigration enforcement agency. AB 450 further requires an employer to notify the Labor Commissioner of any federal immigration agency action or any action by the employer to check the work authorization documents of current employees within 24 hours and includes penalties for violations ranging from \$10,000 to \$25,000 per violation. It was placed on the Suspense file by the Senate Appropriations Committee. Farm Bureau opposes.

[AB 978](#) (Monique Limon, D-Goleta) requires employers, upon receipt of a written request, to provide a paper or electronic copy of the employer's Injury and Illness Prevention Plan (IIPP) to a current employee or his/her authorized representative. AB 978 was approved by the Senate Appropriations Committee and is awaiting a vote on the Senate floor. Farm Bureau opposes.

[AB 1008](#) (Kevin McCarty, D-Sacramento) has been amended to allow an employer flexibility to avoid hiring a potentially dangerous former felon for sensitive jobs. Employers' groups, including Farm Bureau, are considering withdrawing opposition. AB 1008 was approved by the Senate Judiciary Committee on a vote of 5 to 1 with one abstention and was referred to the Senate Appropriations Committee

[AB 1565](#) (Tony Thurmond, D-Richmond) immediately increases the minimum salary that must be paid to an overtime-exempt employee to \$3956 monthly by immediately implementing the minimum salary threshold for overtime exempt employees that would have been in effect because of the upcoming minimum wage increase in 2020 for employers of 26 or more employees, or in 2021 for employers of 25 or fewer employees. It was approved by the Senate Appropriations Committee and is awaiting a final vote by on the Senate floor. Farm Bureau opposes.

Natural Resources:

[SB 49](#) (Kevin De Leon, D-Los Angeles and Henry Stern, D-Canoga Park) would require California to enforce the federal Clean Air Act, Clean Water Act, Endangered Species Act (ESA), and their implementing regulations and policies as were in place on January 19, 2017. If it is determined that the federal government has weakened any of those laws, California agencies are required to adopt regulations, without any public input, at least as stringent as what was in place on January 19, 2017. Additionally, the bill would create a private right of action in state law for citizen enforcement of the Clean Air Act, Clean Water Act, and ESA if the citizen suit provisions are removed from these federal laws. Specific to the Clean Water Act provisions, SB 49 requires the State Water Resources Control Board to ensure that all waste discharge requirements, permits issued, and water quality control plans adopted after January 1, 2018 to be at least as protective of the environment and public health as federal standards in place as of January 19, 2017. SB 49 also would add all species native to California that are listed under the federal ESA to the list of species protected by the California Endangered Species Act.

SB 49 was placed on the Assembly Appropriations Committee's suspense file this week due to an estimated \$22 million in minimum costs to the state. The fate of bills on the suspense file will be determined late next week.

Transportation:

[SB 158](#) (Bill Monning, D-Carmel), would create new requirements for obtaining Class A and Class B Commercial Drivers Licenses (CDLs), including a behind the wheel training (BTW) requirement of 30 and 15 hours, respectively. We mentioned previously that the bill was amended in July to exempt agricultural carriage from its provisions for 5 years, however, consultants for the Assembly Appropriations Committee say these amendments are contrary to federal law because the language can be interpreted to provide an outright exemption for agricultural from having to obtain a CDL at all. Therefore, they say the agricultural exemption language must be removed from the bill. Also, the Teamsters have expressed opposition to the exemption provisions.

The federal law does require states to adopt new training requirements for truck drivers needing CDLs, **but it does not require BTW training**. Farm Bureau has told Senator Monning and Assembly Transportation Committee staff that the exclusionary language can be written in a way to merely exempt farmers and ranchers from the BTW provision and not the entire CDL licensing requirement. If the exemption language is removed entirely from the bill we will remove our support for the bill and take an oppose position.

Water:

[SB 623](#) (Bill Monning, D-Carmel), which we have reported on previously, would establish the Safe and Affordable Drinking Water Fund and insure that monies in the fund are continuously appropriated to the State Water Resources Control Board to provide emergency, interim, and long-term assistance to

community water systems whose wells exceed the maximum contaminant levels (MCL) for [arsenic](#), [hexavalent chromium](#), lead, [manganese](#), [MTBE](#), [nitrate](#) and [perchlorate](#). The measure has been a work in progress for many months with negotiations underway between several farm organizations and the environmental justice community. The goal is to come up with a workable program that provides new funding for drinking water programs while providing a level of protection for farmers and ranchers from enforcement actions by the State Water Resources Control Board, a regional board and from liability under the Porter Cologne water quality statute.

This last week, the stakeholder team negotiating the legislation proposed comprehensive amendments to the bill identifying funding sources for the Safe and Affordable Drinking Water Fund as follows:

1. **Fertilizer Safe Drinking Water Fee** - Would require licensed fertilizer manufacturers to pay a fee of \$0.006 per dollar of sales to the Secretary of Food and Agriculture beginning January 1, 2018 and until January 1, 2033, generating approximately **\$18 to \$19 million** per year. After January 1, 2033 the fee would be reduced to \$0.002. Additionally, the licensee shall charge an unlicensed purchaser the \$0.006 fertilizer fee and include it on the bill of sale as a separate line item. This measure also allows a licensee to include the \$0.003 mills currently being collected from licensees in the same line item. These other mill assessment funds are used to fund the fertilizer inspection program as well as the Fertilizer Research and Education Program.
2. **Dairy Safe Drinking Water Fee** - Would require a \$0.01355 deduction per cwt. from milk producers' payments, beginning January 1, 2020, until January 1, 2035, generating approximately **\$5.8 million** per year.
3. **Confined Animal Facilities (excluding dairies) Safe Drinking Water Fee** - Would include, but is not limited to, bovine, poultry, swine and other livestock operations. Beginning July 1, 2020, the Secretary of Food and Agriculture shall establish a fee payable to the secretary by each confined animal facility in the amount commensurate with the actual risk to groundwater from discharges of nitrate as determined by a working group convened by the secretary. The fee shall not exceed \$1,000 per facility per year. Beginning July 1, 2035, the fee will be reduced to no more than 70 percent of the previously established fee and commensurate with the actual risk to groundwater from discharges of nitrate.
4. **Safe and Affordable Drinking Water Fee** - Would impose a fee of:
 - a. \$0.95 per month on public water system customers with a water meter that is one inch or less in diameter and those without a meter;
 - b. \$4.00 per month on a public water system customer with a water meter that is between one and two inches in diameter;
 - c. \$6.00 per month on a public water system customer with a water meter that is between two and four inches in diameter;
 - d. \$10.00 per month on a public water system customer with a water meter that is greater than four inches in diameter.

The Safe and Affordable Drinking Water Fee would generate approximately **\$110 million** per year in total from all four meter sizes combined. Those who self-certify to a public community water system that their household income is less than 200 percent of the federal poverty level are exempt from the fee.

SB 623 would, from January 1, 2018 until January 1, 2033, limit certain enforcement actions that a regional water board or the state water board could otherwise initiate. An agricultural operation subject to a Waste Discharge Requirement or a Conditional Waiver under the Irrigated Lands Regulatory Program shall not be subject to enforcement undertaken or initiated by the state or a regional water board for causing or contributing to an exceedance of water quality objective for nitrate in groundwater if an agricultural operation is in compliance with state or regional board orders, including, but not limited to the following:

- A. Requirements to implement best practicable treatment or control;
- B. Requirements to implement best effort;
- C. Monitoring and reporting requirements;
- D. Applicable timelines.

The California Rice Commission, Western Growers Association, Western United Dairymen, California Citrus Mutual and the Agricultural Council of California are among the agricultural organizations supporting the measure. The California Cattlemen's Association and the California Farm Bureau are neutral on the measure and others are still positioning. The primary opponents of the legislation are the Association of California Water Agencies, the California Chamber of Commerce and many individual water districts.

The bill was presented in the Assembly Appropriations Committee and was moved to the Suspense File. The committee will decide if the bill will be moved forward next week. For clarifications or questions contact Danny Merkley at (916) 446-4647 or dmerkley@cfbf.com, or Rich Matteis at (916) 561-5520 or rmatteis@cfbf.com.