



April 29, 2011

A bill intended to discourage utility scale solar developments on prime farmland was approved unanimously by the Senate Governance and Finance Committee. [SB 618](#) (Lois Wolk, D-Davis) was amended significantly last week to provide a definition of marginally productive or physically impaired land and to allow Williamson Act contracts on such lands to be rescinded if placed into a newly proposed solar easement. Although the measure is still somewhat of a “work in progress,” Farm Bureau supports the concept of the bill and worked with the author on drafting the most recent amendments.

“Marginally productive or physically impaired” is currently defined in the bill as parcels consisting predominately of soil with significantly reduced agricultural productivity due to chemical or physical limitations. A parcel of land may only be designated as marginally productive or physically impaired pursuant to this paragraph if the parcel was not used for agricultural purposes during the prior 6 years and is unusable for agricultural practices due to its topography, drainage, flooding, adverse soil conditions, or other physical reasons. Land will not qualify as marginally productive if it can support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. The bill also prohibits solar projects on land previously designated by the Farmland Mapping and Monitoring Program as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland where the water rights have been voluntarily transferred or retired, unless the transfer or retirement of the water rights was due to significant chemical or physical soil limitations on the parcel or parcels that severely limit agricultural productivity. Finally, as an added safeguard, the designation as marginally productive or physically impaired must be based on substantial evidence in the public record, and the designation must be reviewed and approved by the Secretary of Food and Agriculture.

SB 618 will provide an important alternative mechanism for marginally productive Williamson Act lands that cannot meet the principles of compatibility or the required findings for contract cancellation. It will also provide incentives to renewable energy developers to focus on marginally productive or physically impaired lands, even if the land is not protected by a Williamson Act contract. The bill is a very positive step forward toward siting these industrial developments away from our most productive farm and ranch lands.

[SB 653](#) (Darrell Steinberg, D-Sacramento) would provide the most significant change to California’s tax policy in the state’s history by dramatically expanding the taxing authority for cities, counties and school districts. This bill would authorize the governing board of any county, city and county, and any school district, subject to voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverages tax, a cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax.

SB 653 is keyed as a majority-vote bill, yet Proposition 26, passed last November, requires that "any change in state statute which results in any taxpayer paying a higher tax" requires a two-thirds vote of the Legislature. Some have argued that making it easier to raise taxes requires SB 653 to get a two-thirds vote of the Legislature. SB 653 may be subject to a court challenge or a referendum should it pass by a majority vote.

SB 653 is opposed by Farm Bureau and the following companies and organizations: Air Logistics, American Council of Engineering Companies, Association of California Life and Health Insurance Companies, California Aerospace Technology Association, California Apartment Association, California Association of Bed and Breakfast Inns, California Bankers Association, California Beer and Beverage Distributors, California Business Properties Association, California Cable and Telecommunications Association, California Chamber of Commerce, California Grocers Association, California Hotel and Lodging Association, California Independent Grocers Association, California Manufacturers and Technology Association, California/Nevada Soft Drink Association, California Restaurant Association, California Retailers Association, California Spa & Pool Industry Education Council, California Taxpayers Association, Council on State Taxation (COST), Direct Selling Association, Granite Construction, Incorporated, Insurance Brokers & Agents of the West, Los Angeles County Business Federation, National Association of Theatre Owners of California/Nevada, National Federation of Independent Business, Personal Insurance Federation of California, TechAmerica, Western Growers, Western States Petroleum Association and Wine Institute. We assume the list of opponents will continue to grow as press coverage of the bill continues.

In a surprising turn of events the bill that would change the law to recognize all engineering disciplines equally, passed out of the Senate Business, Professions and Economic Development Committee on a 5-0 vote, thanks to the bi-partisan votes of the committee members. [SB 692](#) (Mimi Walters, R-Laguna Niguel) is the third reiteration of this legislation since 2005. The bill would change the Professional Engineers Code to allow all twelve recognized engineering disciplines to practice in their specialized fields if they have the education, experience and competence to practice. Current law mandates a two-tiered system that places civil, mechanical and electrical engineers at the top of the hierarchy called "Practice Act" engineers and relegates agricultural, chemical, control system, fire protection, industrial, metallurgical, nuclear, petroleum and traffic engineers to "Title Act" status giving them the title, but not the authority to be responsible for a project. A project designed or completed by an agricultural engineer for instance, must receive final approval from a civil engineer. No other state has this type of tiered system for the engineering profession. SB 692 has met with vehement opposition by the American Council of Engineering Companies and the Professional Engineers in California Government because it would end the civil engineers monopolization of the engineering profession and appropriately level the playing field within the ranks of the field of engineering. Although the bill has no fiscal cost it has been referred to the Senate Appropriations committee. Farm Bureau is the sponsor.

Extreme restrictions on how the Department of Pesticide Regulation (DPR) reviews pesticides were approved in the Assembly Environmental Safety and Toxic Materials Committee this week on a 5-3 party line vote. [AB 1176](#) (Das Williams, D-Santa Barbara) proposes four new 180-day deadlines to complete different steps in the risk assessment and management process. These complex scientific reviews take years to complete as additional data collection and water and air monitoring are usually needed. Placing arbitrary 180-day deadlines on these activities would make the process impossible and open to litigation by the environmental community when they do not complete their work in time.

AB 1176 elevates the role of the Office of Environmental Health and Hazard Assessment (OEHHA) by requiring DPR to accept their scientific decisions as conclusive instead of allowing DPR to make

alternative findings based on their field application expertise. It also takes away DPR's sole authority to develop control measures by giving OEHHA a consultative role that they have never had before. This is easily one of the most onerous pesticide bills that have been introduced in recent years.

Despite not originally being assigned for a hearing in the Assembly Agriculture Committee, a strong case was successfully made by CFBF and other agricultural organizations to have that decision changed. AB 1176 will be heard in Assembly Agriculture Committee on May 4. CFBF is opposed.

The Delta Stewardship Council released the third draft of the Delta Plan last week. Farm Bureau, working with a diverse coalition of agricultural and water organizations had expressed grave concern to the Delta Stewardship Council regarding their second draft Delta Plan released last month. The second draft far exceeded the authority provided to the Council by the Delta Reform Act and sought to regulate statewide water management activities. The Delta Plan was intended to coordinate efforts across state agencies, not usurp existing authorities, nor was it intended to regulate actions outside the legal Delta. Although this third draft reflects many of our prior comments, it continues to attempt to extend Delta Stewardship Council's regulatory control over local actions. Farm Bureau continues to actively comment and work to influence the Council's actions.

The Central Coast Regional Water Quality Control Board will continue their March 17 Hearing related to the renewal of the Conditional Waiver of Waste Discharge Requirements for irrigated agriculture in the region. The board will hear comments only from those people who turned in testimony cards at the March 17 meeting, but who were unable to speak due to time constraints. Farm Bureau, the seven county Farm Bureaus in the region and other agricultural interests have provided extensive comments outlining concerns with the staff proposal. Additionally, a detailed proposal developed by Farm Bureau and the other agricultural interests in the region has been submitted as an alternative to the staff proposal. The board is not expected to have a quorum in order to take action, but will conduct a panel hearing on this item. Farm Bureau will attend the May 4 meeting.

The North Coast Regional Water Quality Control Board will receive a report from staff at their May 5 meeting in Eureka on efforts to develop an Irrigated Lands Water Quality Program in the region. Farm Bureau has been actively working with board staff in recent months, pointing to challenges in other regions that have adopted similar programs for irrigated agriculture. The board is expected to work with all county Farm Bureaus in the region and interested parties using a facilitated process to develop a program to protect water quality while balancing stakeholders concerns. Farm Bureau will attend the May 5 board meeting.

AB 246 (Bob Wieckowski, D-Fremont) was heard in the Assembly Environmental Safety and Toxic Materials Committee Tuesday, April 26. This bill, with specified exceptions, would authorize a district attorney or a city attorney of a city with a population that exceeds 750,000 to bring civil actions under the Porter-Cologne Water Quality Act. The bill passed out of the Assembly Environmental Safety and Toxic Materials Committee on a vote of 5-3 with Assemblymember Campos not voting. The measure is headed to the Assembly Appropriations Committee. Farm Bureau is opposed.

A measure that would require local agencies to identify groundwater recharge areas, provide protections for those areas and require the maps to be provided to local planning agencies was heard in the Assembly Local Government Committee April 27. AB 359 (Jared Huffman, D-San Rafael) passed out of the Assembly Local Government Committee and is on its way to the Assembly Appropriations Committee with no date yet set. Farm Bureau continues to work with the sponsor and the author to require direct property owner notification, but the current draft still does not meet that test. Working with farm and

business organizations, Farm Bureau has offered specific language to amend the bill and address notification concerns. A similar bill authored by Assemblyman Huffman was vetoed by the Governor last year. Farm Bureau remains opposed unless amended.

A measure that would require the State Water Resources Control Board to adopt a statewide water quality objective and plan of implementation for chloride and other measures of salinity that may affect the suitability of water used for agricultural purposes is now a two-year bill. [AB 1058](#) (Cameron Smyth, R-Santa Clarita) was scheduled to be heard in the Assembly Environmental Safety and Toxic Materials Committee April 26, but after Farm Bureau raised concerns the author pulled the bill from hearing. The author has expressed interest in addressing Farm Bureau concerns before reintroducing the bill next year.

A measure that would develop a fee-based system to pay for costs associated with public benefit water infrastructure projects, including the public share of surface and subsurface water projects and habitat is scheduled to be heard in the Senate Governance and Finance Committee May 4. [SB 34](#) (Joe Simitian, D-Palo Alto) sets up an annual public good charge of \$110/acre foot on nonagricultural retail water suppliers, \$20/acre of irrigated land on agricultural retail water suppliers, or \$10/acre of irrigated land when the Department of Water Resources determines best management practices are utilized for a particular crop and soil type. Fifty percent of the fees would finance regional projects consistent with regional water management plans and 50 percent would fund California Water Commission programs and the operation of the Delta Stewardship Council and the Delta Plan. A two thirds majority vote of each house of the Legislature is needed for approval. SB 34 passed out of the Senate Natural Resources and Water Committee April 12 with a vote of 5 to 3 along party lines. The author suggests that this bill is a “work in progress” with stakeholder meetings to follow. Farm Bureau will be actively involved throughout the process. The measure is scheduled to be heard May 4 in the Senate Governance and Finance Committee. Farm Bureau is opposed to SB 34.

A measure that would make well log reports relating to a water well constructed, altered, abandoned, or destroyed on or after January 1, 2012 to be available to the public is scheduled to be heard in the Senate Environmental Quality Committee on May 2. Current law requires these reports submitted to the Department of Water Resources to be kept confidential except under certain circumstances. The bill, commencing July 1, 2013, would also make well log information received prior to January 1, 2012 available to the public, unless the department receives notification by the well owner that the well owner desires to keep the report confidential. SB 263 (Fran Pavley, D-Agoura Hills) passed out of Senate Natural Resources and Water Committee April 12 with a vote of 5 to 3 along party lines. Farm Bureau continues to work with the author to address concerns.

[SB 489](#) (Lois Wolk, D-Davis) which would expand the reach of net metering to any renewable energy resource to open up opportunities for net metering to a variety of projects had its first hearing on April 28<sup>th</sup> in the Senate Energy, Utilities and Communications Committee. It was voted out of the Committee on a 9-2 vote, Senators Padilla, Berryhill, Pavley, Fuller, Corbett, de Leon, DeSaulnier, Rubio and Simitian all voting yes. Senators Wright and Strickland were the only no votes. It will provide more options for agriculture and other customers to pursue on-site generation in a streamlined matter. The current processes to compensate customers for electricity produced from other than wind and solar for on-site generation through feed-in-tariffs have proven to be complex, time-consuming and cost-prohibitive. The only amendment taken to date is to keep the maximize size of any facility at 1 MW instead of increasing it to 1.5 MW. CFBF and many other agricultural organizations support the bill. It will be heard next in Senate Appropriations Committee.



[SB 370](#) (Sam Blakeslee, R-San Luis Obispo) which would authorize aggregation of meters for agricultural customer-generators was heard for the first time on April 28<sup>th</sup> in the Senate Energy, Utilities and Communications Committee. It was approved by the Committee with only one no vote. This bill would authorize an agricultural customer-generator with multiple meters to elect to aggregate the electrical load of the meters located on the property where the generation facility is located and on all property adjacent or contiguous to the property on which the generation facility is located, if those properties are solely owned by the agricultural customer-generator. CFBF is in support of the bill. It will be heard next in Senate Appropriations Committee.

The U.S. Department of Agriculture's Agricultural Marketing Service (AMS) released a draft national leafy greens marketing agreement this week. CFBF, along with 12 other agricultural organizations, proposed a national agreement to AMS in 2009. Upon receiving the proposed agreement, AMS held hearings throughout the U.S. to gather comments on the proposal. CFBF is pleased and encouraged by AMS's publication of the proposed national leafy greens marketing agreement. Creating a national marketing agreement for leafy greens will help ensure the safety of our nation's leafy greens by following the approach California adopted in 2007. CFBF will be reviewing the [draft](#) and providing comments to AMS within the next 90 days.

The Assembly Health Committee heard [AB 88](#) (Jared Huffman, D-San Rafael), a bill that would require the labeling of genetically modified salmon sold in California. Much of the author's argument rested on concerns that farming genetically modified salmon would harm California's native salmon population, despite the fact that these salmon would be farmed in tanks on land in Panama. In testimony before the committee, the proponents also stated that they were concerned that the sale of genetically modified salmon would drive down the price of salmon. Apparently the supporters of this bill want to keep salmon priced at a level above what many Californians can afford. However, the author and supporters were not able to convince a majority of the committee that labeling genetically modified salmon was necessary and the bill failed. The bill needed 10 votes to pass and the final vote was 9-7. CFBF opposes AB 88 and appreciated Democrats Toni Atkins and Roger Hernandez's No votes and Susan Bonilla, Richard Pan, and V. Manuel Perez's abstentions. All Republicans voted No, except for Brian Nestande who voted Aye. The bill was granted reconsideration and will be brought up for a vote at next week's Health Committee hearing.

This week the Assembly Committee on Agriculture took up two bills CFBF is supporting. [AB 581](#) (John A. Perez, D-Los Angeles) creates the California Healthy Food Financing Initiative to fund and expand access to healthy foods in underserved communities. The federal government created a Healthy Food Financing Initiative in 2010 as a partnership between the federal Departments of the Treasury, Agriculture, and Health and Human Services to promote a range of interventions that expand access to nutritious foods in communities that currently lack access to healthy food. AB 581 creates a similar program in California if the state should receive federal funding for the program. AB 581 passed out of the committee on consent.

[AB 691](#) ( Henry Perea, D-Fresno) would designate the Secretary of Food and Agriculture as ombudsman responsible for providing assistance to farmers and ranchers in obtaining permits from the state and provide input into the development of regulations impacting agriculture. Committee members were supportive of the bill, but did raise questions about its cost, given the ongoing budget cuts facing the Department of Food and Agriculture. The bill passed 9-0.