



September 2, 2011

The Department of Finance wants more money from rural California residents to fund the Department of Forestry and Fire Protection; a lot more money. Amendments have been added to two bills in the First Extraordinary Session that would impose sweeping new “fees” on landowners living in the State Responsibility Areas (SRA). [AB X1 24](#) (Bob Blumenfield, D-Van Nuys) and [SB X1 7](#) (Senate Budget and Fiscal Review Committee) were both amended on September 1st to drastically change the fire “prevention” fee of habitable dwellings that was just enacted on July 8th. The new proposals would impose a \$1 per acre tax for the first 100 contiguous acres, and lesser amounts for additional acres, up to \$3,000. The bills would also impose a minimum of \$175 per structure and \$25 for each additional building, with no requirement that the buildings be “habitable dwellings.” The bills would only allow a \$25 credit for property in a fire protection district.

Other crucial changes in these proposed “clean-up” bills would allow the imposition of the tax even when there are sufficient funds for fire protection. The current habitable dwelling fee is suspended when the Board of Forestry makes a determination that sufficient funding for fire prevention has already been collected in previous years. The bills also specify that the revenues from this new tax would be used for fire protection, not just fire prevention, and taxpayers would be denied an administrative appeal of the fee to the Board of Equalization. The bill appropriates \$4,373,000 to the State Board of Forestry and \$4,900,000 to the Board of Equalization to administer the new tax.

Farm Bureau is strongly opposed to these measures and they are the subject of a [Farm Team Alert](#) that we urge you to take a minute to respond to.

One final set of amendments to [SB 618](#) (Lois Wolk, D-Davis) relative to solar facilities on marginally productive or physically impaired Williamson Act contracted land was requested by the governor’s office and the bill was amended on the Assembly Floor on September 2nd. The floor amendments add a 12.5 rescission fee for Farmland Security Zone contracts (there is also a 6.25 rescission fee for a standard Williamson Act contract), and includes a new limited statutory exemption from the California Environmental Quality Act for appropriately sited solar projects. This CEQA exemption would only apply to projects being proposed on brownfields and other degraded lands if it can be demonstrated to have both limited value for agriculture and wildlife habitat. The amendments also allow solar projects that opt to be part of a Natural Communities Conservation Plan to take Fully Protected Species if those species are covered and conserved in the plan.

With SB 618, Senator Wolk is trying to find middle ground between both farmland and environmental protections and the need to encourage renewable energy development on non-productive land. She has

repeatedly emphasized the need to move projects forward in California on lands like abandoned sand and gravel mines or closed solid waste facilities and thereby reduce the demand for energy projects on our most productive farmland. Farm Bureau continues to support SB 618.

[AB 6](#) (Felipe Fuentes, D-Sylmar) improves access to CalFresh, California's "food stamp" program, by streamlining the reporting requirements, implementing cost saving measures to fraud prevention efforts, and implementing a "heat and eat" provision that increases access to additional federal funding. These process improvements will lead to approximately \$8.7 billion in additional economic activity. CFBF supports AB 6 (Fuentes), which passed of the Senate Floor with a bipartisan vote of 27-11. It went back to the Assembly for a vote on the amendments taken in the Senate, where it passed with 47 Aye votes. It now will go to the Governor.

CFBF staff was instrumental in obtaining changes to legislation that modified implementation of the state's Aboveground Petroleum Storage Act. Current state law designates that petroleum storage tanks less than 20,000 gallons or a cumulative fuel storage capacity of less than 100,000 gallons on a farm, nursery, logging site, or construction site are exempt from needing to prepare a Spill Prevention Control and Countermeasure Plans (SPPC). While the federal law has been recently changed to require SPCC plans for cumulative storage capacity over 1,320 gallons on agricultural operations, the plans are kept in the owner's files and must be available for inspection upon request by a federal official as of November 11, 2011. [AB 681](#) (Bob Wieckowski, D- Fremont) will be amended to remove any confusion about state versus federal oversight of petroleum storage tanks.

[AB 69](#) (Jim Beall, D-San Jose) improves access for California seniors to CalFresh, California's "food stamp" program, by allowing counties to utilize existing federal data to simplify enrollment for low-income seniors. USDA states that every dollar in CalFresh benefits generates \$1.79 in economic activity which translates into an increased demand for healthy food grown by California growers. CFBF supports AB 69, which passed off the Senate floor with a vote of 26-2. The bill now goes back to the assembly for final approval of the amendments.

[AB 634](#) (Alyson Huber, D-El Dorado Hills) would legalize the use of carbon monoxide to control burrowing rodent pests. In the late 90's California passed a law prohibiting the use of carbon monoxide to kill any animal in response to concerns raised over its use to euthanize dogs and cats in animal shelters. There was no consideration of carbon monoxide as a safe, humane, and effective control method for pests, such as gophers and ground squirrels, when the original law was enacted.

AB 634 passed out of the Senate Environmental Quality Committee with the commitment to develop amendments to ensure that there was some oversight for the use of carbon monoxide. After extensive discussion with legislative staff, a set of amendments were finalized that create a simple system of oversight that will allow Californians to use carbon monoxide for rodent control. The amendments required that the bill be heard by the Senate Appropriations Committee, and the bill passed out of the Appropriations Committee this week. It will be heard on the Senate Floor next week. CFBF is the sponsor of AB 634.

[SB 489](#) (Lois Wolk, D-Davis) which would allow all eligible forms of renewable energy to participate in utility net metering programs is out of the Legislature and on the way to the Governor. The bill passed out of the Assembly on a 59 to 18 vote. On a 29 to 8 vote, the Senate concurred in the limited amendments made to the bill in the Assembly. No concerns about the bill have been expressed by the administration and it is hoped it will be signed by the Governor. CFBF is in support of the bill.

A measure that would authorize a district attorney or a city attorney in a jurisdiction with a population that exceeds 750,000 to bring civil actions under the Porter-Cologne Water Quality Act will be up for a vote in the Senate next week. Currently the Porter-Cologne Water Quality Act authorizes each California regional water quality control board to delegate certain powers to its executive officer. That authorization excludes the executive officer from a delegation of power to ask the Attorney General for judicial enforcement. [AB 246](#) (Bob Wieckowski, D-Fremont) would delete that exclusion, and instead authorize a district attorney or a city attorney to pursue judicial enforcement only after approval by the Attorney General. Farm Bureau opposes.

A measure that would require local agencies to identify groundwater recharge areas, provide protections for those areas and require the maps be provided to local planning agencies was amended this week and is waiting approval in the Senate. [AB 359](#) (Jared Huffman, D-San Rafael) was also amended earlier in the year to address Farm Bureau's concerns regarding property owner notification. Farm Bureau removed its opposition.

A measure that would provide a conditional water right registration process for small irrigation projects passed out of the Assembly this week 79 -0. [AB 964](#) (Jared Huffman, D-San Rafael) would provide a means by which growers could obtain authorization to develop small offstream storage projects (no more than 20 acre feet annually) that could be used for irrigation while protecting fisheries. More than one registration may be in effect at any time if there is not more than one diversion and storage facility per 20 acres and if the total water use on all acreage covered by the registration does not exceed 100 acre feet annually. The bill is sponsored by the Wine Institute. Farm Bureau supports.

[SB 263](#) (Fran Pavley, D-Agoura Hills) would make reports (well logs) relating to a water well constructed, altered, abandoned, or destroyed on or after January 1, 2012 to be available to the public. 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. After failing to receive enough votes to pass out of the Assembly, SB 263 is expected to be amended this week to address concerns from law enforcement, Farm Bureau and other agricultural interests by limiting access to well logs to geologist, hydrologist, civil engineers and other professionals conducting studies. Penalties for false statements or representation in any application, record, or report are included in the proposed amendments. Farm Bureau will remove opposition with these amendments.

The bill to require the High Speed Rail Authority to appoint an agricultural advisory committee was placed on the inactive file in the Senate. Most other High Speed Rail bills were also made into two-year bills. [AB 292](#) (Cathleen Galgiani, D-Tracy) would have provided, through the agricultural advisory committee, a much needed official avenue for enhanced dialog between the HSR authority and the agricultural community. Farm Bureau was in support.

Quagga and zebra mussels reproduce prolifically and once established are nearly impossible to eradicate. They are extremely invasive aquatic species that cause substantial economic and environmental damage once they infest a waterway. They threaten municipal water supplies, agricultural irrigation, power plant operations, the steering and engines of boats and recreational equipment and completely alter the ecological balance of entire water bodies once established. [SB 215](#) (Bob Huff, R-Diamond Bar) is sponsored by the Association of California Water agencies and would extend until January 1, 2017 current law that requires the owner or manager of a water storage reservoir to develop and implement a monitoring and control program to prevent the introduction of invasive mussel species.

Privately owned reservoirs, not open to the public, are exempt. SB 215 is on its way to the Governor for his action. Farm Bureau is in support.

A plethora of Labor legislation saw activity this week. Below is a synopsis of what occurred:

AB 51, (Mariko Yamada, D-Vacaville) would impose significant Labor Code restrictions on the use of payroll cards and likely make their use unattractive for employers. It would deny employees the convenience of payroll cards as an alternative to paying excessive check cashing fees or carrying large amounts of cash. Farm Bureau and others opposed AB 51. It failed to move through the legislative process prior to rules deadlines and is dead for this session.

AB 197 (Alan Monning, D-Santa Cruz) would allow a court to award an employee owed unpaid wages liquidated damages twice the amount of the unpaid wages plus interest. Current law allows employees to recover liquidated damages equal to the amount of unpaid wages, plus interest. In spite of strong opposition from the entire business community, including CFBF, the bill is pending a final vote on the Assembly floor.

AB 243 (Luis Alejo, D-Salinas) requires Farm Labor Contractors to disclose information about the farmers and ranchers they work for on their workers' pay stubs. AB 243 is pending a final vote on the Senate floor. Farm Bureau opposes.

AB 276 (Luis Alejo, D-Salinas) was completely amended on August 18 to repeal several sections of mandatory mediation provisions that dictate when a collective bargaining negotiation can be referred to mandatory mediation. It repeals the provision establishing conditions necessary for making a renewed demand to bargain and provides that the declaration for mandatory mediation may be filed 180 days after any request to bargain. This will allow the UFW to simply wait out the shorter time period—180 days—before filing a petition for binding arbitration, rather than bargaining in good faith with an employer. Farm Bureau and other agricultural employer groups opposed AB 276 which has been moved to the inactive file at Senate Rules Committee.

AB 469 (Sandre Swanson, D-Oakland) would require an employer to issue an employee a notice at the time of hire that includes information such as: (1) the employee's rate of pay; (2) the employer's address; (3) the regular payday; and (4) any allowances claimed by the employer for meal and lodging. This information, however, is already required by law to be disclosed to employees in writing and be posted at the place of employment. Requiring private employers to issue this information in multiple forms is burdensome and exposes employers to the threat of additional litigation. Farm Bureau and a number of other employer organizations oppose. AB 469 is pending a final vote on the Assembly floor.

AB 1062 (Roger Dickinson, D-Sacramento) restricts the use of arbitration agreements in California and would force many employment disputes that could be arbitrated into state courts. AB 1062 was amended to narrow the applicability of the bill to arbitration of agreements pertaining to complainants over age 65; however, it would be a short step for future legislatures to apply similar restrictions more widely. Farm Bureau, along with many employers' organizations, still opposes. AB 1062 is awaiting a Senate floor.

AB 1155 (Luis Alejo, D-Salinas) will undermine the effectiveness of apportionment to determine degree of impairment caused by a workers compensation-compensable injury by prohibiting race or any other protected classification being considered in an apportionment decision. Since such discrimination has already been prohibited by the courts, AB 1155 will invite litigation on a settled matter of public policy

and drive up employers' costs of both workers compensation and permanent disability. Farm Bureau and many employers' organizations oppose, and minor amendments did not significantly improve the bill which will be voted on by the Senate next week.

SB 126 (Darrell Steinberg, D- Sacramento) was gutted and amended on September 1 to become a bill making significant revisions to the Agricultural Labor Relations Act. As amended, SB 126 would mandate that the Agricultural Labor Relations Board (ALRB) certify a union as a collective bargaining agent in the event the union lost the election due to employer misconduct at a level that would "render slight the chances" that a new election would be a fair representation of the employees' union preferences. SB 126 imposes time limits on the ALRB's processes for resolving election objections and challenged ballots and allows the Board to seek injunctive relief without any complaint from workers or the union. It also allows the Board to order the parties to mandatory mediation of their contract differences on much shorter timeframes than provided for under current law. SB 126 will be heard in the Assembly Labor and Employment Committee on September 6. Farm Bureau and other agricultural stakeholders are continuing to review the legislation which will be taken up in the legislature next week.

SB 459 (Ellen Corbett, D-San Leandro) would hold employers responsible for "willful misclassification" of an employee as an independent contractor without giving clear guidance or any objective test for an employer to make that determination. SB 459 was amended to add provisions to stiffen the penalties associated with misclassification and require the Department of Industrial Relations to inform the State Contractors Licensing Board of any violations if they involve a state-licensed contractor. It requires any business entity found to have engaged in misclassification to post a notice of this fact on its internet website of this finding, signed by the company's highest-ranking officer, and to include information specified in the bill about employee's rights against misclassification. Farm Bureau and other employer groups in California oppose SB 459 which is pending a final Senate floor vote.

SB 829 (Mark DeSaulnier, D-Concord) would substantially restrict an employer's ability to exercise the right to appeal Cal/OSHA citations. Farm Bureau opposed SB 829. It has failed deadlines for movement in legislative rules and is effectively dead for this legislative session.