



CALIFORNIA FARM BUREAU FEDERATION

# FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

August 10, 2012

An effort to expand heat stress penalties was approved on a 5-2 vote by the Senate Appropriations Committee. [AB 2676](#) (Charles Calderon, D-Whittier) requires farm employers or farm supervisors supervising outdoor work of agricultural employees to provide those employees with both continuous and ready access to an area of shade sufficient to allow the body to cool. It also requires potable water that is suitably cool and available in quantities sufficient to allow employees to drink one quart of water per hour throughout their work shift. A violation of this law would be a crime punishable by potential jail time and monetary fines. If an injury results from the failure to provide shade and water, the fines would be increased. Farm Bureau and other agricultural employers urged committee members not to pass AB 2676. Farm Bureau continues to oppose.

[AB 1313](#) (Michael Allen, D-Santa Rosa) will change agricultural employers' overtime obligations to require payment of one-and-one-half times the employee's regular rate of pay for hours worked after eight hours in any day or 40 hours in a week and double-time for hours worked after 12 hours in a day. It was moved forward to the Senate Floor without a presentation from the author as set forth in Senate Rule 28.8. Rule 28.8 allows the Appropriations Committee to move a bill through the committee that does not result in significant additional costs or significant reduction in revenue. Farm Bureau continues to oppose AB 1313.

A measure that would address ex parte communication with the State and regional water boards passed out of the Assembly Appropriations Committee this week. An ex parte communication is an oral or written communication between an interested person and a member of the State Board or a regional board about a quasi-judicial matter requiring board action. [SB 965](#) (Rod Wright, D-Los Angeles) would allow the public more flexible communications with the State and regional water boards on matters concerning waste discharge requirements, conditions of water quality certification, or conditional waivers provided all parties are given at least three days notice and an opportunity to participate. Notification would require any person submitting written ex parte communication to provide copies to "All" interested persons, creating a significant burden and workload on those communicating with state and regional board members. Farm Bureau is in support **only** if amended to require less burdensome notification.

The State Water Resources Control Board held their annual Water Right Fee Stakeholder meeting this week. The State Water Board called the meeting to inform fee payers about the condition of the Water Rights Fund. Staff is proposing no fee increases this year. Additionally, staff informed Farm Bureau that they are drawing down the water right fee account reserve to a smaller "more reasonable" size. Farm Bureau remains actively engaged to keep the water right fees reasonable.

A Farm Bureau sponsored bill was signed by the Governor on July 24 and will be enacted into law January 1, 2013 that allows Utility-Terrain Vehicle (UTV) and the shade trailer to be implements of husbandry. In order to qualify as an implement of husbandry the vehicles must be used exclusively in an agricultural operation and driven by either the farmer or an employee of the farmer. The UTV, more widely known as a 'mule' or 'gator', is a four wheeled vehicle equipped with a steering wheel, side-by-side seating for two people and a small, enclosed bed. The shade trailer is a portable shade structure deployed in the field to provide a shaded rest area to comply with the Cal/OSHA Heat Illness Prevention Standard. Currently, trailers used to haul portable sanitation facilities between fields are already designated as implements of husbandry. [AB 2111](#) (Nora Campos, D-San Jose) moved easily through the legislature having received no opposition.

[SB 594](#) (Lois Wolk, D-Davis) would allow all Net Energy Metering customers with multiple electrical accounts to aggregate the electrical load of all the meters located on the property where their renewable energy system is located or on property contiguous to the renewable system. This will allow a customer to install one renewable energy unit sized to serve their entire on-site load (up to one megawatt) instead of installing separate units at each meter.

The first hearing on the bill was held in the Assembly Utilities and Commerce Committee prior to the summer recess. Amendments were taken in that Committee to address concerns of committee members that permitting customers to aggregate their loads would not result in increased revenue obligations of customers who are not customer generators. In order to address these concerns, the CPUC which supports the legislation, will be required to analyze costs before allowing the aggregation to go forward. This cost determination is required before March 31, 2013. With these changes the bill was approved by that Committee on a vote of 13-0. This week the bill was approved by the Assembly Appropriations Committee on a vote of 12-0. It next goes to the full Assembly for consideration. The bill is co-authored by Senator Blakeslee and Assembly Members Gordon, Hill, Valadao, Williams and Yamada. CFBF is in support.

[AB 907](#) (Fiona Ma, D-San Francisco), which would strengthen California's processors law to ensure that farmers delivering products to California food processors and wineries are financially protected, passed out of the Senate Appropriations Committee this week. The bill makes two specific changes to the processors law. First, it would allow a surety bond, or other guarantee, to cover payments owed to farmers for products they have already delivered and processed. Currently, when CDFA requires these guarantees, they are only for products delivered in the future. The bill also authorizes CDFA to levy up to three times the amount of unpaid license fees as a condition for a processor to get licensed by the Market Enforcement Branch. Farm Bureau supports this bill and it passed out of committee on a 7-0 vote.

**The following bills were put on the suspense calendar in the Senate Appropriations Committee this week due to their fiscal impact to the state. The committee looks at the total cost of these bills and then will hold another hearing on August 16<sup>th</sup> to announce their decision about which bills will move forward in the legislative process and which will be held.**

[AB 2346](#) would codify in the Labor Code drastic revisions of the provisions in Cal/OSHA's Heat Illness Prevention standard and deny the agency the ability to revisit the standard as they have done in the past (in 2010). Before being referred to suspense, AB 2346 was amended to allow placement of shade and water within 10 feet of the end of a row 400 feet or longer, in lieu of the prior requirement for placement of water within 10 feet of workers and shade within 200 feet of workers. Still included are provisions

giving employees the right to sue their employers for non-compliance; making farmers explicitly responsible for the conduct of Farm Labor Contractors they employ; allowing an employer to be charged with manslaughter if an employee dies without being provided with shade and water; providing for restitution of up to \$1 million in the event of a heat-related fatality, and undermining the exclusivity of workers' compensation system. Farm Bureau opposes.

Current law prohibits a person who holds a commercial A, B, or C vehicle license and receives a citation while driving a vehicle that only requires a class C or M license from attending Traffic Violator School (TVS). [AB 1888](#) (Mike Gatto, D-Burbank), sponsored by the California Trucking Association, would amend the law to allow these drivers to attend TVS for minor infractions. Under existing law, commercial motor vehicle drivers are prohibited from attending Traffic Violator School (TVS) for the purpose of removing routine traffic violations from their records, making it more difficult for them to maintain their commercial licenses in good standing. Farm Bureau is in support.

Farm Bureau's sponsored bill to address metal theft, [AB 2298](#) (Fiona Ma, D-San Francisco, creates a framework for regional metal theft task forces. The ultimate goal is to follow the examples of the Rural Crime Prevention Programs and High Technology Crimes Task Force where the state provides grant funding for local law enforcement to target metal theft. By creating the framework, there is an opportunity to capture funds from federal or other sources to help begin the program. Farm Bureau and the author are working with the Appropriations Committee to address cost concerns before the Suspense File is taken up next Thursday.

[AB 2402](#) (Jared Huffman, D-San Rafael) would transfer the authority to list threatened and endangered species under the California Endangered Species Act (CESA) from the Fish and Game Commission to the Department of Fish and Game (DFG). Farm Bureau is opposed to the bill because DFG has not proven itself successful in managing public processes and giving it the authority to list species under CESA would be problematic for California agriculture.

[AB 1990](#) (Paul Fong, D-Mountain View) attempts to increase renewable generation projects in low income communities to create "green" (i.e. high tech, environmentally safe) jobs. It includes a cumulative impacts screening method to determine which are the "most impacted and disadvantaged communities" that would deserve these new energy projects. CalEPA is currently developing a cumulative impact screening method that is different from the one included in AB 1990. It is important that there only be one screening tool being used by the state. CFBF testified in opposition.

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[SB 1480](#) (Ellen Corbett, D-San Leandro) would expand the regulation of licensed trappers and limit the use of certain traps in California. The bill is co-sponsored by Born Free USA and the San Francisco Wildlife Center. Farm Bureau is opposed unless the bill is amended to eliminate the restrictions the bill places on certain traps that are necessary for farmers and ranchers to protect their livelihoods. The bill has been amended to eliminate the restrictions on traps for beavers and muskrats. Farm Bureau will continue to work with the author and sponsors to address our concerns.

[SB 1148](#) (Fran Pavley, D-Agoura Hills) provides a private right of action for California citizens to protect wildlife and creates strict liability for all violations of the Fish and Game Code. Additionally, the bill would allow the Department of Fish and Game to increase fees for streambed alteration agreements. Farm Bureau is opposed to these provisions and has built a large coalition to join us in opposition. Giving private citizens the ability to sue individuals they suspect of harming wildlife is extremely problematic. Creating strict liability removes an accused individual's ability to argue extenuating circumstances in a case.

[SB 1221](#) (Ted Lieu, D-Torrance) would prohibit the use of dogs when hunting bear and bobcat. Farm Bureau joined a number of hunting and agricultural organizations in opposition to the bill due to the negative impact bears have on California's beekeepers, forest landowners, and livestock owners. Friday Review readers will remember that Assembly Water, Parks, and Wildlife Committee Chair, Jared Huffman, proposed amendments that would allow the Fish and Game Commission to overturn the ban with a 4/5 vote and allow the use of dogs in limited circumstances for depredation permits. However, these amendments have still not been incorporated into any legislation.

[SB 843](#) (Lois Wolk, D-Davis) would facilitate off-site renewable energy projects for cities, counties, school districts, state colleges, the University of California, as well as federal agencies, such as the military. SB 843 is a very significant policy shift that could lead to the conversion of over a hundred thousand acres of prime farmland to industrial land uses such as solar photovoltaic (PV) facilities. To implement and monitor this new program, the Public Utilities Commission would incur ongoing costs of around \$250,000 for two regulatory analysts plus an annual cost of \$150,000 per year for administrative law judge for the first two years. Farm Bureau remains opposed to SB 843.