



CALIFORNIA FARM BUREAU FEDERATION

FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

Tuesday, September 4, 2012

This is the final recap of legislation acted upon in the final hours of the legislative session on Friday evening and early Saturday morning. Other issues acted on during the final month of the legislative session were included in previous issues of the Friday Review.

The following bills did not receive enough votes for passage or were not voted on before the August 31st 2011-12 legislative session midnight deadline. Only bills that had both a 2/3 vote requirement and an urgency clause were allowed to be voted on past the midnight deadline:

In the final minutes of the legislative session a measure to modify the current agricultural overtime rules, AB 1313 (Michael Allen, D-Santa Rosa), was defeated on a 35-33 vote. Forty one votes were necessary for passage. AB 1313 would have changed 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. Current rules for agricultural workers require time and half be paid after 10 hours worked in a day, time and a half for the first 8 hours worked on a seventh day, and double time for hours worked beyond 8 on a seventh day. Farm Bureau adamantly opposed the bill along with other agricultural stakeholders.

Two measures that would have assisted rural economically disadvantaged communities with drinking water challenges from high nitrate levels did not make the midnight deadline. In June 2012, a stakeholder group consisting of Farm Bureau and other agricultural representatives, environmental justice interests, drinking water providers, local government agencies and others, was convened by the Governor's Office to develop recommendations addressing the impacts of high nitrates in drinking water supplies for communities dependent on groundwater for their drinking water. The Governor's Drinking Water Stakeholder Group developed recommendations to assist these communities and identified two immediate needs that required legislative action. These actions were in AB 403 (Luis Alejo-D, Salinas) and AB 2238 (Henry Perea-D, Fresno). Both bills required a two-thirds majority vote and each contained urgency clauses, but they failed to move through both houses for floor votes before the Legislature shut down early Saturday morning.

AB 403 (Luis Alejo-D, Salinas) would have assisted specific communities identified in the Salinas Valley by providing \$2 million from the State Water Resources Control Board's Waste Discharge Permit Fund to develop a plan to address their drinking water and waste water issues. Farm Bureau was in support.

AB 2238 (Henry Perea-D, Fresno) would have helped provide emergency funding for disadvantaged communities that suffer from the long-term lack of safe drinking water through the Emergency Clean Water Grant Fund (Proposition 84) in the Health & Safety Code. AB 2238 was amended on the Senate floor last week to include this language. Farm Bureau was in support.

SB 1455 (Christine Kehoe, D-San Diego) would have extended the funding for three air quality improvement funds. Unfortunately, the vote was two short of reaching a two-thirds majority which was necessary due to the extended funding. While SB 1455 was not successful, the funding for the Carl Moyer Memorial Air Quality Standards Attainment Program will continue until the end of 2014 and until 2016 for the other two programs, so there is still time in upcoming legislative sessions to gain approval. SB 1455 contained a compromise between the oil industry and the environmental community regarding how hydrogen fueling stations are financed. The air quality funding extensions were pursued in the last week of the legislative session at the request of the environmental community even though the funding still had several years before it would expire. With the agricultural industry facing an upcoming statewide agricultural equipment rule, the funding contained in SB 1455 is very important. We appreciate the County Farm Bureaus who supported this effort on a very short notice. Farm Bureau will work to gain approval for these important air quality programs when they are introduced in upcoming legislative sessions.

AB 1990 (Paul Fong, D-Mountain View) would have increased renewable generation projects in low income communities to create “green” (i.e. high tech, environmentally safe) jobs. It died 14-20 on the Senate floor without sufficient votes for approval. It previously contained a definition that would have conflicted with CalEPA’s efforts to develop a cumulative impacts screening tool to define the “most impacted and disadvantaged communities”. It would have been a regulatory nightmare to have more than one screening tool being used by the state. CFBF opposed.

A bill that would have facilitated thousands of acres of farmland conversion to solar photovoltaic facilities failed passage in the Assembly Utilities and Commerce Committee. SB 843 (Lois Wolk, D-Davis) was re-referred to committee after it was amended over 100 times on August 24th. This measure would have created a large and extremely complicated new program at the California Public Utilities Commission to allow local jurisdictions and private entities to build power facilities up to 2000 megawatts and sell electricity to subscribers. Due to the late extensive rewrite of the measure, the Utilities and Commerce Committee wanted to hear the bill again early last week but the author resisted. When it became clear that there were not sufficient votes on the Assembly Floor for passage, Senate Wolk offered additional amendments to address the original concerns of the committee identified back in July and adoption of these new amendments required another hearing. Apparently, the offer was too little, too late and the committee rejected the bill on a 4 to 4 vote with seven members not voting.

The amendments adopted on the Assembly floor just before the final week of session made very significant changes to the bill and several of the changes were directly contrary to commitments made to prevent cost shifting between groups of ratepayers. The amendments actually went completely opposite by removing language that protected non-beneficiaries of the new program. Non-subscribing residential ratepayers, as well as commercial, industrial and agricultural ratepayers would have been forced to subsidize the estimated \$4 billion costs of the program.

Farm Bureau opposed SB 843 due to the land use consequences of the bill, as well as the potential for cost shifts to agricultural ratepayers and the likelihood of abuse of the condemnation process. This bill would have created another land rush for solar development on thousands of acres of farmland. Also,

since the governmental entities would partner with private energy developers; the bill would have encouraged a backdoor to redevelopment-like takings of private property to the benefit of private solar companies. The productive farmland would not have been protected by any standard of blight like the old redevelopment law; the farm would just have to be near an electrical power substation or in proximity to the power grid.

The final set of proposed amendments would have reduced the size of the program to 500 MW, attempted to deal with the cost shift issue, and provided a June 30, 2016 sunset on the program. Unfortunately, the proposed “ratepayer indifference” language was squishy, at best, with wiggle words like “to the maximum extent feasible”. It still allowed for rate impacts for the undefined benefits that nonparticipants allegedly receive from the program. These amendments were never actually adopted as the committee simply preferred to kill the bill. It is likely, however, that this idea will be resurrected next year and reintroduced as a smaller pilot program.

[AB 2179](#) (Michael Allen, D-Santa Rosa) would have dramatically expanded the Department of Fish and Game’s (DFG) ability to issue civil penalties against individuals believed to be in violation of any provision of the Fish and Game Code. Currently DFG has the authority to issue civil penalties of up to \$10,000 to individuals believed to be in violation of certain crimes against plants and wildlife if the local District Attorney or Attorney General agrees; all other violations must be taken to court before penalties can be assessed. This bill would expand DFG’s authority to issue penalties against anyone they believe to be in violation of its code or regulations without approval by the District Attorney or Attorney General. Farm Bureau had significant concerns with giving DFG this authority because it eliminates due process for numerous violations. The bill also would have allowed DFG to keep all of the fine revenue it generates, giving it significant incentive to issue numerous fines. Despite being granted reconsideration after only gaining 11 Aye votes on the Senate Floor, AB 2179 was never taken up for a second vote.

[SB 455](#) (Fran Pavley, D-Agoura Hills), which placed significant mitigation requirements on timberland conversions above three acres, was never taken up for a floor vote. Senator Pavley has been working on this issue since 2009. The bill would have required timberland conversions to fully mitigate impacts to wildlife, habitat values, forest type, loss of carbon in above and below-ground biomass, and loss of future carbon sequestration. The bill required approval of the conversion by CalFire with review by the Department of Fish and Game (DFG). Additionally it required that fees be paid to fully cover the costs to CalFire and DFG. DFG alone estimates its review costs of between \$3,000 and \$8,000 per conversion permit application. Farm Bureau opposed SB 455 and worked with a number of other organizations to keep SB 455 from passing.

The following bills gained legislative approval and now go to the Governor’s desk for his signature or veto by September 30th:

An increased ability to sue for heat illness violations passed the Assembly on a 42-33 vote. [AB 2346](#) (Betsy Butler, D-Los Angeles) no longer includes the requirements for provision of shade every 200 feet or water within 10 feet of every worker. However, AB 2346 would still increase farm employers’ litigation exposure with “bounty-hunter” lawsuit provisions allowing workers to sue employers for heat illness violations of the Cal/OSHA Heat Illness Prevention Standard to make farmers and ranchers jointly liable for heat illness violations of their farm labor contractors. As such, Farm Bureau remains adamantly opposed to AB 2346 and will be asking for a veto.

The Governor's timber reform package which Farm Bureau supported, AB 1492 (Budget Committee), passed both houses of the legislature early Saturday morning. The package limits wildfire liability for landowners neighboring government owned lands; extends the length of a timber harvest plan (THP) from five years to seven years; requires accountability from agencies that review THPs; and pays for THP review through a 1% assessment placed on lumber sold in California at the retail level. Farm Bureau worked with timber and other landowner interests to achieve real forest policy reform and is grateful to the legislators who supported California jobs by voting for the bill. While every vote was important, Farm Bureau extends a special thanks to the Republican and Independent members of the legislature who supported California landowners through their vote. These members were, Senators Bill Emmerson (R-Riverside) and Tom Harman (R-Huntington Beach) and Assembly Members Nathan Fletcher (I-San Diego) and Cameron Smyth (R-Santa Clarita). The bill passed off the Senate Floor first, with a vote of 27-9. It then went back to the Assembly for concurrence where it initially failed passage. Upon its failure, Assembly Member Calderon started reading the adjournment motion, which led to great concern by the bill's supporters. Ultimately it was granted reconsideration and taken up for another vote, where it passed 54-20. It now goes to the Governor and will take effect immediately upon his signature.

SB 965 (Rod Wright, D-Los Angeles) will allow the public more flexible communications with the state and regional water boards. These ex parte communications will include 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. The bill was amended last week and in its final form addressed Farm Bureau's concerns with the previous language that caused significant burdens and workload on those communicating with state and regional board members. Farm Bureau is in support.

SB 594 (Lois Wolk, D-Davis) will 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 enable a customer to install one renewable energy system sized to serve their entire on-site load (up to one megawatt) instead of installing separate facilities at each meter. CFBF is in support. To address concerns about cost impacts to customers who are not net metering customers, the legislation requires that the CPUC perform a cost analysis to assure the aggregation will not increase costs relative to non-aggregated net metering. The CPUC's initial analysis is that it will not. The full determination is required before an aggregation program can proceed and must be completed by September 30, 2013. The bill was co-authored by Senator Blakeslee and Assembly Members Gordon, Hill, Valadao, Williams and Yamada.

Farm Bureau supported AB 1966 (Fiona Ma, D-San Francisco) would require mineral owners to provide surface owners of the overlying property with a 30-day notice prior to activity that would cause disturbance to the property and a 5-day notice for non-disturbing activity prior to entering the surface owner's property. The notice will be required to contain the extent and location of the prospecting, mining, or extraction operation and the approximate time or times of entry and exit upon the real property for disturbing activities. AB 1966 passed both houses of the legislature with only a handful of NO votes. Farm Bureau worked throughout the session with surface owners in the San Joaquin Valley and their advocates to gain passage of the bill and will ask Governor Brown to sign AB 1966.

SB 863 (Kevin DeLeon, D-Los Angeles) will revise California's workers compensation system to increase benefits for workers and decrease costs for employers. This will be accomplished by reducing bureaucratic costs in appeals and medical reviews of workers compensation injuries as well as more

carefully defining benefits available for various types and severities of injuries. The State Compensation Insurance Fund sent a letter last week to legislators indicating that if the measure passed they would recommend reducing their rates by 5-7%. The bill comfortably passed both houses of the legislature. Farm Bureau supports SB 863.

[SB 1148](#) (Fran Pavley, D-Agoura Hills) will implement recommendations from the recent Strategic Vision process to review the Department of Fish and Game and the Fish and Game Commission as well as making some changes to the Department's trout hatchery program. The bill had previously provided a private right of action for California citizens to protect wildlife and created strict liability for all violations of the Fish and Game Code. Additionally, the bill would have allowed the Department of Fish and Game to increase fees for streambed alteration agreements and transferred control over marine protected areas from the Fish and Game Commission to the Ocean Protection Council. Farm Bureau was opposed to these provisions and built a large coalition to join us in opposition. The author removed the private right of action, strict liability and streambed alteration agreement fees from the bill two weeks ago, but didn't take out the marine protected area issue until last week. With the final set of amendments, Farm Bureau removed its opposition. The bill passed the Assembly with a vote of 48-26 and the Senate with a vote of 22-17.

[AB 2402](#) (Jared Huffman, D-San Rafael) implements changes recommended by the recent Strategic Vision process to improve the Department of Fish and Game and the Fish and Game Commission. Earlier versions of the bill would have transferred 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). Due to opposition from a large coalition that Farm Bureau established, the author agreed to completely remove changes to CESA from the bill. With these changes Farm Bureau and many others removed their opposition to the bill. The bill failed passage earlier last week, but after being granted reconsideration, it passed with a vote of 21-18 off the Senate Floor and with a vote of 47-27 off of the Assembly Floor.