



April 19, 2013

[SB 591](#) (Anthony Cannella-R, Ceres) will be heard in the Senate Appropriations Committee on April 22. It would acknowledge hydroelectric generated electricity as renewable energy, but limits the applicability to Merced Irrigation District's New Exchequer Dam, a 94 MW project. (Under state law any hydroelectric generation over 30 MW is not counted as renewable.) It will allow Merced to calculate the renewable energy it needs to purchase based on its energy need above what New Exchequer produces, rather than its total retail sales. AB 793 (Adam Gray – D, Merced) is the companion legislation on the Assembly side and would accomplish the same result as 591. It passed out of the Assembly Utilities and Commerce Committee on April 15 without any “no” votes and will be heard next in the Natural Resources Committee. The unique circumstance of Merced Irrigation District's limited customer load combined with its ability to meet nearly all the load with the generation from the Dam has so far seemed to minimize the concerns with the existing constraints to count hydroelectric generation as renewable. Farm Bureau is in support.

A bill was amended last week in the Assembly to end the partial sales and use tax (sales tax) exemption for farm equipment and diesel fuel used in agriculture and in food processing for transportation from the field to the first point of processing. [AB 769](#) (Nancy Skinner, D-Berkeley) would repeal this 12-year old exemption on the state portion of the sales tax, currently at 5.5 percent effective June 20, 2017. It would also sunset the full sales tax exemption for feed, seed and fertilizer used to produce food for human consumption on same date. Surprisingly, the bill also targets sales tax exemption on food for human consumption that is purchased for home preparation. Farm Bureau and a broad coalition of agricultural and food processor organizations are opposed to this very regressive tax measure.

The partial sales tax exemption on farm equipment and diesel fuel was adopted in 2001, in part, because California was one of only four states that assessed the full state sales tax on agricultural machinery while farmers in 38 other states pay no sales tax on new agricultural machinery purchases. Ironically, just this week the Small Business and Entrepreneurship Council released its Business Tax Index (BTI) for 2013. This report compares 21 different tax measures and combines them into one score that ranks states from best to worst in terms of the costs of their tax systems. It should be no surprise that California was far and away the worst state in the nation with a BTI of 83. The next closest states for this dubious honor were Hawaii, New Jersey, Iowa, and Vermont and all were at least ten points lower.

When the sales tax was originally adopted in 1933 the rate was 2.5 percent and the only exemptions were for gas, electricity, and water delivered to customers, motor vehicle fuel, and gold bullion. Within two years the Legislature exempted food and in 1945 feed, seed and fertilizer were exempted if they were used to produce food. Today, the total state and local sales tax ranges from 7.25 percent to 10

percent, so “sun setting” these exemptions on food and farm inputs will result in a dramatic tax increase for all Californians.

Since the bill would impose new taxes the measure requires at least a two thirds vote for approval. It will be heard for the first time in the Assembly Revenue and Taxation Committee on May 6th.

[AB 976](#) (Toni Atkins, D-San Diego) that would grant the California Coastal Commission administrative fine authority was approved by the Assembly Judiciary Commission. Despite the long agenda, the bill was heard for over an hour with a long line of opposition witnesses and questions and criticisms by members of the committee. In the end, Majority Leader Atkins’ bill was approved to the Appropriations Committee on a vote of 6 to 2. Assembly Member Alejo was particularly concerned about the fairness of the bill. Ms. Atkins promised the committee that she would continue to work with the opponents to try to “tighten it up” so that only the most egregious violations would be subject to administrative penalties.

The roll call on AB 976 was as follows: “AYES:” Wieckowski, Chau, Dickinson, Garcia, Muratsuchi, and Stone; “NOES:” Wagner, and Maienschein; “ABSENT, ABSTAINING, OR NOT VOTING:” Alejo and Gorell.

[AB 203](#) (Mark Stone, D-Santa Cruz) that would allow Coastal Commission staff to stop processing a permit application if there is an alleged violation was pulled from the agenda of the Assembly Appropriations Committee and will be reset on May 1st. This is a very positive sign that our coalition’s lobbying efforts are striking a cord with members. The key members of the fiscal committee that our coalition is reaching out to include Chairman Gatto, Bocanegra, Gomez, Hall, Holden, Quirk, Eggman, Ian Calderon, and Pan.

[AB 841](#) (Norma Torres, D-Pomona), which would require junk dealers and recyclers to pay for all nonferrous metal purchases by check, passed out of the Assembly Business, Professions, and Consumer Protection Committee this week. This bill is intended to eliminate cash purchases to prevent the theft of metal as a way of obtaining quick cash. Farm Bureau attempted to require all payments be made by check in Farm Bureau’s sponsored metal theft bill, [AB 844](#) (Tom Berryhill, R-Modesto) in 2008. However, there was, and remains, significant opposition on this point from the recyclers. The bill passed 9-3 with Farm Bureau’s support. The bill now goes to the Assembly Floor.

The Fish and Game Commission took testimony on Wednesday on whether or not to advance the Northern Spotted Owl (NSO) to candidacy under California’s Endangered Species Act (CESA). The NSO has been listed under the federal ESA since 1990 and timber harvest operations in California have been conducted following the federal ESA since then. Timber companies have gathered significant data on the species since it was listed and according to this data, California’s population is stable. Farm Bureau and the California Forestry Association both testified to this fact before the Commission.

Under CESA, the Department of Fish and Wildlife is supposed to analyze petitions to list species. The Department’s analysis was lacking a thorough and complete review of the current data available for NSO and for this reason the Commission voted 4-0 to delay a final decision on candidacy until its August meeting to give additional time to review all of the information available on the species. CESA prohibits take of species when they are deemed a candidate, so this decision delays protections for the NSO under CESA. However, it changes nothing for the species since take is already prohibited federally.

Requiring state institutions to purchase California grown agricultural products so long as the price is within five percent of out-of-state products was approved on a 7-0 vote by the Assembly Agriculture Committee. AB 199 (Chris Holden, D-Pasadena) also requires California schools to purchase California grown agricultural products so long as the price is no higher than out-of-state products. The bill now goes to the Assembly Appropriations Committee. Farm Bureau supports.

AB 343 (Jim Patterson, R-Fresno), which originally would have required any person with photographic or videotaped evidence of animal cruelty to provide a copy to law enforcement within 48 hours was made a two-year bill. The bill was amended after its introduction, to require that the evidence be turned over within 120 hours. Due to significant opposition to the bill the author decided not to present the bill before the Assembly Agriculture Committee. Farm Bureau supports.

AB 909 (Adam Gray, D-Merced) creates a Metal Theft Task Force Program at the Board of State and Community Corrections, which if funded would provide grants to local law enforcement and district attorneys to focus on metal theft and recycling crimes. Farm Bureau is sponsoring this bill, which was placed on the Assembly Appropriations Committee suspense file this week, meaning that the bill has costs and will be voted on in May.

SB 168 (Bill Monning, D-Carmel), seeks to hold successor farm labor contractors (FLCs) responsible for employment and labor law violations committed by predecessor FLCs. Monning's bill seeks to address situations where an FLCs have allegedly terminated business operations and re-started a closely related entity to escape responsibility for such violations. Farm Bureau and other agricultural groups have been concerned that innocent third parties could be subject to liability imposed by SB 168, such as on a farmer who may have employed an errant FLC. Worse, because of SB 168's wording, it appears any farmer or FLC who later hires employees of an errant FLC could be liable for that FLCs unpaid wages. The author has accepted changes specifying it applies only to FLCs, and agricultural groups are seeking further clarification of the bill's language. SB 168 passed the Senate on April 18, with its sponsor expressing willingness to make further changes.

SB 404 (Hannah-Beth Jackson, D-Santa Barbara) includes "familial status" as a protected classification under the California Fair Housing and Employment Act. This week the Senate Appropriations Committee placed it on the suspense file due to its potential fiscal impact. "Familial status" is a very broad term that will sweep in a massive number of employees and their relationships, such that virtually any employee could be covered by it. As a result, nearly any adverse employment decision by an employer could be construed as discriminatory if the bill becomes law. Farm Bureau and other major organizations representing employers opposed SB 404.