



CALIFORNIA FARM BUREAU FEDERATION

# FRIDAY REVIEW

LEGISLATIVE AND GOVERNMENTAL UPDATE

March 22, 2019

## Air Quality

Both the legislature and Air Resources Board (ARB) held hearings this week on the implementation of [AB 617](#), the Community Air Protection Program. This program was created to reduce the impacts of air pollution on heavily burdened communities. Of interest to Farm Bureau members the communities of Calexico, El Centro, Heber; Shafter; and South-Central Fresno have all been selected as communities by ARB and advisory committees have been selected to implement monitoring and emission reductions within the communities. Farm Bureau commented at ARB's hearing and requested close coordination with the Department of Pesticide Regulations on any inclusion of pesticides in the program and a formal process for affected farms and businesses to participate in the process when boundaries are changed, or monitoring is proposed for outside of community boundaries.

ARB is also attempting to use its authority under AB 617 to required reporting of emissions from farms and food processors throughout the state, regardless of their proximity to communities included in the program. Farm Bureau requested that any additional reporting be focused on those facilities within designated communities. *Staff contact: Noelle Cremers at [ncremers@cfbf.com](mailto:ncremers@cfbf.com) or (916) 446-4647*

[SB 210](#), (Leyva) would create an inspection and maintenance program for heavy-duty diesel vehicles. This bill would essentially create a smog-check program for heavy-duty vehicles and prevent their use if a vehicles malfunction indicator light is illuminated. The Air Resources Board is in the process of developing a similar program as part of the State Implementation Plan for San Joaquin Valley PM 2.5. The Senate Environmental Quality Committee heard SB 210 this week. Farm Bureau testified in opposition unless amendments are taken to reduce the impacts the proposed program would have on trucks agricultural operations depend upon. SB 210 passed out of committee with a vote of 5-2; and it now goes to the Senate Transportation Committee. *Staff contact: Noelle Cremers at [ncremers@cfbf.com](mailto:ncremers@cfbf.com) or (916) 446-4647*

Farmers, agricultural operators, and agricultural processors are being asked to complete the 2019 agricultural equipment survey. This survey will help gather an accurate count of agricultural equipment in California, which will be used to allocate incentive funding to replace agricultural equipment. The previous survey distributed in 2008 helped distribute hundreds of millions of dollars in incentive program funds. The survey is open until March 30, 2019. The survey data will be kept completely anonymous and is being gathered by Cal Poly to ensure that the Air Resources Board doesn't have access to the data submitted by individual farmers. To complete the survey click [here](#). Paper surveys are also available to download [here](#) or they can be obtained from your County Farm Bureau. Paper surveys are being collected by County Farm Bureaus. Farm Bureau urges participation to help improve distribution of incentive programs to help replace older agricultural trucks and equipment. *Staff contact: Noelle Cremers at [ncremers@cfbf.com](mailto:ncremers@cfbf.com) or (916) 446-4647*

## **Animal Welfare**

[SB 313](#), (Hueso) The Circus Cruelty Prevention Act, is not what it seems. SB 313 would make it illegal to use wild and exotic animals, as defined, in traveling acts within California. This would include the transportation of any wild and/or exotic animals to such performances not only limited to a circus, but also displays, exhibitions, expositions, fairs, parades, petting zoos, photo opportunities, presentations, public showings, races, rides, trade shows, or any other activity designed to benefit a live audience. As drafted, this ban would also extend to camels, llamas, alpacas and other domesticated animals utilized in agriculture. While cattle and horses are specifically exempted by the bill, it would still have deleterious impacts on agricultural education programs like 4-H and FFA and other agricultural businesses. Farm Bureau is in opposition to SB 313 and is currently awaiting amendments on the legislation. *Staff contact: Robert Spiegel at [rspiegel@cfbf.com](mailto:rspiegel@cfbf.com) or (916) 446-4647*

## **Environmental Regulations**

[SB 1](#), (Atkins) would require state environmental and labor agencies to review changes to federal law and regulation and consider adopting state regulations that would ensure no labor or environmental protections are lost due to federal modifications. The law gives specific authority to the California Air Resources Board, State Water Resources Control Board, Fish and Game Commission, Occupational Safety and Health Standards Board, and Department of Industrial Relations. The bill also gives individuals the authority to sue to enforce the federal standards as they were in place in January 2017. SB 1 was heard by the Senate Environmental Quality Committee this week. Farm Bureau testified against the bill and pointed out the impacts the bill would have on operation of California's water system. The bill passed with a vote of 5-2; it now moves on to the Senate Natural Resources and Water Committee. *Staff contact: Noelle Cremers at [ncremers@cfbf.com](mailto:ncremers@cfbf.com) or (916) 446-4647*

## **Food Safety**

The Department of Food and Agriculture has issued a recall of raw milk produced by Valley Milk Simply Bottled in Stanislaus County following the find of the bacteria *Campylobacter jejuni*. Symptoms of campylobacteriosis include diarrhea, abdominal cramps, and fever. Most people with campylobacteriosis recover completely, though impacts can be more severe among those with compromised immune systems. *Staff contact: Taylor Roschen, [troschen@cfbf.com](mailto:troschen@cfbf.com) or 916-446-4647*

## **Labor Issues**

[AB 9](#), (Eloise Reyes, D-San Bernardino) extends the filing deadline for harassment and retaliation claims from one year to three years. Farm Bureau opposes because the extended time for filing will result in information being lost and memories of parties become less reliable with passage of time. Governor Brown vetoed a previous version of this bill. AB 9 was approved by the Assembly Labor and Employment Committee on March 6 and was referred to the Assembly Appropriations Committee.

[AB 51](#), (Lorena Gonzalez, D-San Diego) bans settlement agreements paying a party a financial settlement in exchange for waiving a discrimination or harassment claim and prohibits arbitration of employment claims. Gov. Brown vetoed similar legislation in 2018 because the arbitration ban is clearly preempted by federal law. Farm Bureau opposes because it will discourage settlement of claims and encourage litigation. The Assembly Labor and Employment Committee approved AB 51 with minor amendments on March 6, the Assembly Judiciary Committee approved on March 19 and was referred it to the Assembly Appropriations Committee.

[AB 170](#), (Gonzalez) extends harassment liability for contractors' employees to the client employer. Governor Brown vetoed legislation for the same purpose in 2018. Farm Bureau opposes due to additional

unnecessary litigation AB 170 will create. AB 170 was approved by Assembly Labor and Employment Committee in March 6 and was referred to the Assembly Appropriations Committee.

[AB 171](#), (Gonzalez) creates a rebuttable presumption of retaliation due to a person's status as a victim of domestic violence, harassment or stalking should an employer take an adverse personnel action against such employee within 90 days of the employee providing notice of that victim status. Similar legislation was vetoed by Gov. Brown in 2018. Farm Bureau opposes because it will hamper employers' ability to terminate poor performing employees, or employees harassing fellow employees. AB 171 passed the Assembly Labor and Employment Committee on March 6 and was referred to the Assembly Judiciary Committee.

[AB 589](#), (Gonzalez) prohibits employers from retaining or destroying an employee's immigration documents (which is already prohibited by federal law) and from "designating" where an employee may live even if living in a particular location is required to perform the job. Farm Bureau opposes because it creates a duplicative prohibition in state law that already exists in federal law and because some jobs require an employee to live in a particular location, including some agricultural jobs. AB 589 passed the Assembly Labor and Employment Committee on March 20 and was referred to the Assembly Judiciary Committee.

[AB 418](#), (Kalra) creates an excessively broad evidentiary privilege for union organizers even broader than that for attorney-client or doctor-patient privilege. Farm Bureau opposes because it will result in excessive litigation related to union representation issues. AB 418 passed the Assembly Judiciary Committee on March 12 and is pending third reading in the Assembly.

The Cal/OSHA Standards Board on March 21 directed the Division of Occupational Safety and Health to undertake an emergency rulemaking (an abbreviated rulemaking process with little opportunity for stakeholder input) to protect outdoor employees from poor air quality caused by wildfire smoke by July 2019, to be followed by a permanent OSHA rulemaking on the same topic. Farm Bureau is concerned about implementation difficulties posed by such a standard, such as engineering controls for outdoor air hazards, implementation of "administrative controls" that would require employees to refrain from working under poor air conditions, and implementation of respirator protection requirements like fit-testing and medical evaluation for hundreds of thousands of agricultural employees whose workplaces may never be impacted by wildfire smoke but would not be permitted to use respirators in the absence of fit-testing and medical evaluation should a wildfire occur near their workplace. *Staff contact: Bryan Little at [blittle@cfbf.com](mailto:blittle@cfbf.com) or (916) 561-5500*

### **Pest Management**

Due to a recent detection of Asian Citrus Psyllid (ACP) within the City of Sacramento, Sacramento County has been added to the current ACP Nursery Stock and Bulk Citrus Regional Quarantine Zones. The [quarantine](#) prohibits the movement of citrus and curry leaf tree nursery stock and all plant parts except fruit out of the quarantine area and requires that all citrus fruit be cleaned of leaves and stems prior to moving out of the quarantine area. The ACP is an invasive species which can be a vector for a deadly citrus disease, Huanglongbing (HLB). *Staff contact: Taylor Roschen, [troschen@cfbf.com](mailto:troschen@cfbf.com) or 916-446-4647*

### **Pesticides**

The University of California, Los Angeles, has released a [study](#) *Governance on the Ground: Evaluating the Role of County Agricultural Commissioners in Reducing Toxic Pesticide Exposures*. The study cites the supposed deficiencies of assessments by County Agricultural Commissioners in identifying alternatives to the proposed use of restricted materials, specifically chlorpyrifos. Deficiency was identified as deference to pest control advisors and that there is limited consideration of cumulative exposure. Farm Bureau is

reviewing the data and methodology in the study and joins with California Agricultural Commissioners and Sealers Association and the Department of Pesticide Regulation in defense of the State's stringent governance of pesticide use. *Staff contact: Taylor Roschen, [troschen@cfbf.com](mailto:troschen@cfbf.com) or 916-446-4647*

## **Water**

A measure that would declare the intent of the Legislature to adopt policies ensuring that every Californian has the right to safe, clean, affordable, and accessible drinking water is scheduled to be heard in the Assembly Environmental Safety and Toxic Materials Committee next week. [AB 134](#), (Richard Bloom, D-Santa Monica) has not yet been amended and remains a spot bill without substantial language, therefore Farm Bureau has not taken a position on the measure. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647*

A measure that would enact the Safe Drinking Water for All Act and establish the Safe and Affordable Drinking Water Fund was amended this week and is scheduled to be heard in the Assembly Environmental Safety and Toxic Materials Committee next week. [AB 217](#), (Eduardo Garcia, D-Coachella) would state that the Legislature is to transfer \$200,000,000 to the Safe and Affordable Drinking Water **Trust** Fund each year for five years, establishing a \$1,000,000,000 trust account. Interest from the trust fund would be transferred into the Safe and Affordable Drinking Water Fund each year for the State Water Resources Control Board to make available to disadvantage communities and low-income households needing assistance in securing access to safe drinking water. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647*

Additionally, as in previous years attempts to raise fees from agriculture, AB 217 would require bulk fertilizer licensees to pay a fertilizer fee of \$0.006 per dollar of sales (6 mills) generating approximately \$18 to \$19 million per year, deduct \$0.01355 per cwt. from milk producers payments, and a fee on Confined Animal Facilities (excluding dairies, but including bovine, poultry, swine and other livestock operations) of \$1,000 for a single facility and \$750 for each additional facility not to exceed \$12,000 per year. Unlike the previous years' versions, AB 217 is a work in progress and does not, as currently written, offer compliance protections for farmers and ranchers paying into the fund and participating in water boards' water quality programs. Farm Bureau neutral and is discussing the measure with the author and others. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647.*

A measure that intends to establish groundwater recharge as a beneficial use was amended this week and is scheduled to be heard next week in the Assembly Water, Parks and Wildlife Committee. [AB 441](#), (Susan Eggman, D-Stockton) would establish groundwater recharge as a beneficial use in the California Water Code. The measure remains a work in progress to address concerns raised by junior water right holders and downstream water users. Farm Bureau is working with the author to address those concerns and is in support of the measure in concept. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647*

Another measure that intends to facilitate groundwater recharge is also scheduled to be heard next week in the Assembly Water, Parks and Wildlife Committee. [AB 658](#), (Eduardo Garcia, D-Coachella) would establish a framework for temporary five year permits to divert surface water for groundwater recharge. AB 658 was previously authored by Joaquin Arambula who is on temporary leave from the Assembly. Farm Bureau is in support. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647*

A measure to assist with small livestock stockpond registrations is scheduled to be heard next week in the Assembly Water, Parks and Wildlife Committee. [AB 448](#), (Eduardo Garcia, D-Coachella) would streamline the water rights process for small livestock stockponds of 10-acre feet or less. The certificate program for these small stockponds established by the state in 1974 expired in 1997, requiring all

uncertified small stockponds to file for an expensive registration and renewal process, discouraging ranchers and landowners from filing. AB 448 offers a compliance program that encourages ranchers and landowners to obtain a valid water right and a policy solution while assisting the State Water Board in managing administrative costs and the ongoing deficit accompanying the current registration program. Farm Bureau is in Support. *Contact: Danny Merkley, [dmerkley@cfbf.com](mailto:dmerkley@cfbf.com) or (916) 446-4647*