



September 9, 2011

The Department of Finance's (DOF) last minute attempt to impose sweeping new "fees" on landowners living in the State Responsibility Areas (SRA) failed to even garner a motion in the Senate Budget and Fiscal Review Committee on September 6th. The last minute amendments to [AB X1 24](#) (Bob Blumenfield, D-Van Nuys) and [SB X1 7](#) (Senate Budget and Fiscal Review Committee) were drafted under the usual veil of secrecy that is so common during the last week of the legislative session. This time, however, the element of surprise was not enough to protect this blatant attempt to extract over \$100 million from rural Californians to backfill for budget cuts to the Department of Forestry and Fire Protection. The plan was to impose a \$1 per acre tax for the first 100 contiguous acres, and lesser amounts for additional acres, up to \$3,000 as well as levy a minimum of \$175 per "structure" and \$25 for each additional building, with no requirement that the buildings be habitable dwellings.

Under withering questioning from Senators La Malfa, Rubio and Wolk, the witnesses from the DOF fallen short in trying to explain how their "fee" proposal would actually be implemented. The undressing was so complete that the following day the Assembly Budget Committee mercifully refused to even hear the proposal, prompting Assembly Member Wes Chesbro (D-Eureka) to comment, "I'm disappointed that SB X1 7 isn't being heard so we could put a stake in it."

The Legislature's summary dismissal of these measures does not mean they will not reappear sometime in the future. The concept of taxing rural residents for fire protection services in the SRA has been proposed numerous times over the last 20 years and is proposed annually by the Legislative Analysts Office during the state budget process. The strong bipartisan rejection this week was nevertheless very gratifying. Farm Bureau members responded quickly and emphatically to the Farm Team Alert by sending nearly 700 advocacy messages to members of the Senate and Assembly.

[SB 618](#) (Lois Wolk, D-Davis) relative to large-scale solar photovoltaic (PV) facilities on marginally productive or physically impaired Williamson Act contracted land was unanimously approved by the Assembly 77 to 0 and passed the Senate 35 to 1. This Farm Bureau-supported bill moved through the Legislature unopposed until the last week when the Large-scale Solar Association (LSA) finally decided that they would prefer to take their chances with the cancellation process instead of encouraging utilization of less productive farmland. Senator Wolk, her staff, and Farm Bureau tried for several months to convince LSA that it was not in the public interest to cancel Williamson Act contracts on prime farmland or other farmland of statewide importance for hundreds of thousands of acres of solar PV projects. In good faith, the author even accepted nearly a dozen amendments at their request. In the end, it became abundantly clear that despite the lengthy negotiations and concessions, some big solar companies simply do not want any incentives to steer large projects away from our most productive farmland. It should be noted that in the very competitive world of solar PV development, companies

have various business models and SB 618 is supported by a number of solar companies and developers who would be very grateful for an incentive that amounts to half of the normal cancellation penalty fee as well as a significant reduction in litigation exposure.

Farm Bureau's policy, while supportive of solar projects that are accessory or incidental to an agricultural operation, is opposed to projects that impede or reduce the agricultural capacity of productive land. Farm Bureau is also opposed to the indiscriminate use of contract cancellations in order to protect the integrity of the program and its agricultural preserves. For the record, the lone no vote on SB 618 that was unanimously approved by the Senate Committees on 1) Governance and Finance Committee and 2) Appropriations, 3) the Senate Floor, the Assembly Committees on 4) Local Government, 5) Agriculture, 6) Natural Resources, and 7) Appropriations as well as the 8) Assembly Floor was Senator Joel Anderson. To his credit, Senator Anderson was consistently opposed to most measures on the last night of session.

Farm Bureau and the entire business community strongly opposed [AB 197](#) (Alan Monning, D-Santa Cruz) regarding changes to collection of employee liquidated damages. The bill 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. AB 197 was placed on the inactive file on September 6.

[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. The Assembly concurred in minor, non-substantive Senate amendments on September 6, and AB 243 was sent to the Governor. Farm Bureau opposes.

[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. On September 6, the Assembly concurred in non-substantive Senate amendments, and AB 469 was sent to the Governor.

In addition to restricting the use of arbitration agreements in California, [AB 1062](#) (Roger Dickinson, D-Sacramento) would force many employment disputes into state courts that could be arbitrated. 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. At the request of Senator Evans, AB 1062 was placed on the inactive file and may be revisited next session.

By prohibiting race or any other protected classification being considered in an apportionment decision, [AB 1155](#) (Luis Alejo, D-Salinas) will undermine the effectiveness of apportionment to determine degree of impairment caused by a workers compensation-compensable injury. 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. A Senate-amended version of AB 1155 was passed by the Assembly on September 9, and was sent to the Governor.

[SB 126](#) (Darrell Steinberg, D- Sacramento) would make significant revisions to the Agricultural Labor Relations Act to address concerns regarding employer misconduct during union elections. 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. Farm Bureau and other agricultural stakeholders expressed serious concerns about certain provisions of the bill including the lack of an avenue of appeal for an employer found to have engaged in misconduct. The Senate concurred in Assembly amendments on September 9<sup>th</sup>. SB 126 now awaits the Governor’s signature.

Without giving clear guidance or any objective test for an employer to make a determination, [SB 459](#) (Ellen Corbett, D-San Leandro) would hold employers responsible for “willful misclassification” of an employee as an independent contractor. 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. The Senate concurred in Assembly amendments that will allow the Labor Commissioner to assess penalties in instances of mis-classification. SB 459 was passed out of the Senate on a 22-13 vote and was sent to the Governor.

Assemblymember Michael Allen (D-Santa Rosa) also recently amended [AB 1313](#) to modify overtime rules for farm workers requiring the payment of overtime pay after eight hours worked in a day. However, the bill was sent to the inactive file, so is not moving forward at this time.

[SB 513](#) (Anthony Cannella, R-Ceres) extends California’s existing Certified Farmers’ Market program to January 1, 2014, which is currently set to expire in 2012. Increasing concern over fraud in certified farmers’ markets and other direct marketing channels has led CDFA to form an ad hoc committee to discuss potential solutions to ensure consumer confidence in foods purchased directly from farmers. The bill only extended the sunset for two years to push this committee to come up with implementable solutions quickly. The bill also creates a rendering advisory committee at CDFA. CFBF supports SB 513, which passed off the Assembly floor with a vote of 73-0 and off the Senate floor 38-0. The bill now goes to the Governor.

[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 was approved by the Assembly with a vote of 57-21 and now goes to the Governor.

[AB 581](#) (John A. Perez, D-Los Angeles) creates the California Healthy Food Financing Initiative and fund to expand access to healthy foods in underserved communities. The federal government created a Healthy Food Financing Initiative in 2010 as a partnership between the federal Departments of the

Treasury, Agriculture, and Health and Human Services to promote a range of interventions that expand access to nutritious foods in communities that currently lack access to healthy food. AB 581 creates a similar program in California if the state should receive federal funding for the program. CFBF supports AB 581 (Perez), which passed off the Senate floor with a vote of 30-7 and off the Assembly floor 73-4. The bill now goes to the Governor.

AB 634 (Alyson Huber, D-El Dorado Hills) would legalize the use of carbon monoxide to control burrowing rodent pests. CFBF sponsored this bill to provide an additional pest control tool for California's farmers and ranchers. The bill requires carbon monoxide delivery devices to include a warning label reminding users of the risks of carbon monoxide and of the prohibition on killing threatened and endangered species. The bill also allows CDFA's Vertebrate Pest Control Research Advisory Committee to create educational materials on the safe and effective use of carbon monoxide for rodent control. AB 634 got its first no vote when it was heard on the Senate floor, but still passed 39-1. It passed off the Assembly floor 79-0 and now goes to the Governor. Farm Team members should keep their eyes out for a Farm Team Alert on AB 634 urging the Governor to sign the bill.

SB 215 (Bob Huff, R-Diamond Bar) would extend the sunset date to January 1, 2017 that requires monitoring for invasive mussel species in publically owned water reservoirs. The owner or manager of a water storage reservoir is required 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 was sent to the Governor September 6, for his action.

AB 316 (Wilmer Amina Carter, D-Rialto) makes the theft of copper – Grand Theft. The measure also creates a fine for those who steal copper wire, copper cable, copper tubing, and copper piping, with a value exceeding \$950. The theft of copper will be punishable by a fine of \$2,500 to \$10,000 and possible imprisonment in a county jail or state prison or both a fine and imprisonment. AB 316 was sent to the Governor August 30, for his action. Farm Bureau supports.

AB 228 passed out of the Assembly after concurring in Senate amendments and now goes to the Governor for his action. Currently, California-based businesses that are insured with State Fund must obtain a separate workers' compensation policy to cover employees who work out of state. AB 228 (Felipe Fuentes, D-Los Angeles) clarifies the current Insurance Code by clearly stating that California-based employers may seek workers' comp coverage from State Fund for all of their employees whether they work in-state or out-of-state. Farm Bureau supports.

AB 1330 (Warren Furutani, D-Long Beach) provides students enrolled in California's high schools with additional educational and curricular options in selecting career technical education (CTE) coursework that applies towards meeting high school graduation requirements. AB 1330 adds CTE classes as an option for pupils to fulfill the existing high school graduation requirement to complete a course in visual or performing arts or foreign language, and requires school districts that elect this option to notify parents, teachers, pupils and the public. AB 1330 passed out of the Assembly and now goes to the Governor for his action. Farm Bureau supports

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 failed to pass out of the Senate. 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 have deleted 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 opposed.

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 sent to the Governor for his action. [AB 359](#) (Jared Huffman, D-San Rafael) was amended earlier in the year to address Farm Bureau's concerns regarding property owner notification. Farm Bureau removed its opposition.

A measure that would establish state policy that every human being has the right to clean, affordable, and accessible water for human consumption, cooking, and sanitary purposes, that is also adequate for the health and well-being of the individual and family failed to pass out of the Senate. Additionally, [AB 685](#) (Mike Eng, D-Monterey Park) would have required all relevant state agencies, including the Department of Water Resources, the State Water Resources Control Board, and the State Department of Public Health, to consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria. Farm Bureau opposed.

A measure that would provide a conditional water right registration process for small irrigation projects was sent to the Governor for his action. [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.

A measure that would make reports (well logs) available to geologists, hydrologists, civil engineers and other professionals conducting studies passed out of both houses and was sent to the Governor for his action. [SB 263](#) (Fran Pavley, D-Agoura Hills) was amended to make well log information relating to a water well constructed, altered, abandoned, or destroyed on or after January 1, 2012 to be available only to specified professionals. Current law requires these reports submitted to the Department of Water Resources to be kept confidential except under certain circumstances. The measure was amended to address concerns from law enforcement, Farm Bureau and other agricultural interests by limiting access to well logs and creating penalties for false statements or representation in any application, record, or report. Farm Bureau removed opposition.

A measure that would have expanded the pool of candidates eligible to serve on regional water quality control boards failed to pass out of the Assembly. [SB 900](#) (Darrell Steinberg, D-Sacramento) would have allowed a person to serve on a regional water quality control board even if they receive, or have received in the previous two years, a portion of their income from someone who is subject to waste discharge requirements governed in another regional board's jurisdiction. Farm Bureau supported.