



June 29, 2012

As the Legislature was busy passing the 27 budget trailer bills necessary to implement the 2012-13 State Budget adopted as [AB 1464](#) on June 15, Governor Brown signed it with no fanfare other than a [press release](#). The constitution required that the bill be acted upon in 12-days and the governor used that time to negotiate several additional changes in spending priorities with the Democratic leaders of the Senate and Assembly. Those amendments were subsequently adopted in [AB 1497](#) and various trailer bills. (See below.)

The governor was also busy negotiating a 12-day furlough program resulting in a five percent pay cut with the Service Employee International Union (SEIU) Local 1000, the largest state employee union with 93,000 members. Ratification of the agreement is pending but language was included in AB 1497 that would retroactively include the addendum to the labor agreement. The savings from all of the state employee compensation reductions contained in the budget would be \$401,716,000 from General Fund (GF) items and \$437,413,000 from items relating to other funds. Even though the GF savings are less than half of one percent of the \$91.5 billion GF budget, the reductions are symbolically important as the governor pushes his tax initiatives in the fall. It is worth noting, again, that the budget assumes the governor's tax initiative will pass in November or further so-called trigger cuts will be necessary.

The Legislature adopted the governor's original proposal to cut the California Department of Food and Agriculture (CDFA) by a total of \$2.5M in the next fiscal year beginning on July 1<sup>st</sup>. Cuts made to the department will impact border stations, plant and the animal health divisions and the division of measurement standards while keeping intact the core functions of the department to protect against invasive pests and diseases.

The Legislature also rejected the governor's proposal to change the definition of "fire prevention" to include "the prevention of the expansion of wildland fires during emergency situations." This change would have allowed the California Department of Forestry and Fires Protection (CDFFP) to spend the fire prevention money collected from homeowners in the State Responsibility Areas on wildland fire suppression. The Budget Act did include the exorbitant \$15.3 million to fund the collection of the per-dwelling charge by the Board of Equalization and CDFFP. Finally, the governor's proposed timber regulatory reform package to extend the length of timber harvest plans, streamline the THP review process and limit liability for wildfire damages is still pending as discussions continue. The inclusion of a one percent assessment on milled lumber to pay for THP review makes it a two-thirds vote proposal.

Several of the provisions in the public resources trailer bill, SB 1018, will impact the California regional water quality control boards. The bill reduces the number of regional board members from nine to seven. It also eliminates the specific categories for each board member, drops the conflict of interest language

in the Porter-Cologne Water Quality Act and addresses some issues related to National Pollutant Discharge Elimination System (NPDES) conflicts for board members. Farm Bureau supported these changes.

The list of all of the budget related bills that were signed into law on June 28<sup>th</sup> is provided below:

- [AB 1464](#) by Assemblymember Bob Blumenfield (D-Van Nuys) – 2012-13 Budget. Line item vetoes can be found [here](#).
- [AB 1465](#) by Committee on Budget – Transportation.
- [AB 1467](#) by Committee on Budget – Health.
- [AB 1470](#) by Committee on Budget – Mental health: State Department of State Hospitals.
- [AB 1472](#) by Committee on Budget – Developmental services.
- [AB 1484](#) by Committee on Budget – Community redevelopment.
- [AB 1485](#) by Committee on Budget – Budget Act of 2011: augmentation.
- [AB 1494](#) by Committee on Budget – Healthy Families Program: Medi-Cal: program transition: expansion.
- [AB 1497](#) by Committee on Budget – Budget Act of 2012. Line item vetoes can be found [here](#).
- [AB 1499](#) by Committee on Budget – Elections: ballot order for statewide measures.
- [AB 1502](#) by Committee on Budget – Budget Act of 2012: augmentation.
- [SB 1006](#) by Committee on Budget and Fiscal Review – State government.
- [SB 1008](#) by Committee on Budget and Fiscal Review – Public social services: Medi-Cal.
- [SB 1009](#) by Committee on Budget and Fiscal Review – Health and human services.
- [SB 1013](#) by Committee on Budget and Fiscal Review – Child welfare services: realignment.
- [SB 1014](#) by Committee on Budget and Fiscal Review – Public social services: alcohol and drug programs.
- [SB 1015](#) by Committee on Budget and Fiscal Review – Taxation: administration.
- [SB 1016](#) by Committee on Budget and Fiscal Review – Education finance.
- [SB 1018](#) by Committee on Budget and Fiscal Review – Public resources. A signing message can be found [here](#).
- [SB 1020](#) by Committee on Budget and Fiscal Review – Public Safety Realignment.
- [SB 1021](#) by Committee on Budget and Fiscal Review – Public safety.
- [SB 1022](#) by Committee on Budget and Fiscal Review – Correctional facilities.
- [SB 1023](#) by Committee on Budget and Fiscal Review – Public safety: realignment.
- [SB 1033](#) by Committee on Budget and Fiscal Review – State and local government.
- [SB 1036](#) by Committee on Budget and Fiscal Review – Public social services: in-home supportive services.
- [SB 1038](#) by Committee on Budget and Fiscal Review – State government.
- [SB 1041](#) by Committee on Budget and Fiscal Review – Human services.

A bill that 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 was approved by the Assembly Utilities and Commerce Committee. [SB 843](#) (Lois Wolk, D-Davis) 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. By recasting and expanding the Renewable Energy Self-Generation Bill Credit Transfer, SB 843 would allow solar developers to sign agreements directly with “subscribers” to sell them renewable energy. Subscribing customers would receive a credit on their utility bills for their share of the energy delivered over the grid. The new

program would allow up to 2000 megawatts (MW) of new renewable projects with a limit of 20 MW per facility. It generally requires 160 to 200 acres for a 20 MW power plant. Since these governmental entities would partner with private energy developers; we believe this bill will provide a backdoor to redevelopment-like takings of private farmland to the benefit of private solar companies who could not compete for power purchase agreements. The resulting leap-frog industrial developments in the heart of agricultural preserves on prime farmland would not be protected by any standard of blight; the land would just have to be near an electrical power substation or in proximity to the power grid.

According to the author's office, private entities as well as the state's 1,037 school districts, 482 municipalities, 58 counties, 23 state colleges, the university and federal agencies want to acquire projects that may be in queue for interconnection but have been denied a power purchase agreement with the public and private utilities. Solar developers and governmental entities would then utilize previously completed environmental impact assessments for the failed projects on private farmland. The public entities would essentially be exempt from any mitigation requirements because they would be the project proponent as well as the lead agency.

Farm Bureau takes no pleasure in opposing Senator Wolk's bill as she has previously been a strong advocate for farmland protection and improving farmers' ability to utilize renewable energy with net energy metering. Surprisingly, we requested numerous amendments to SB 843 to protect our state's agricultural resources and all suggested amendments were rejected. We urged reducing the size of the projects to 5MW, limiting or restricting the use of eminent domain to acquire land for these projects, capping the number of acres of prime farmland that could be converted under the program, or limiting the siting of such projects to marginally productive or physically impaired land. There is no doubt that without some farmland protection considerations, SB 843 would open a floodgate for new solar PV projects on productive farmland in the Central Valley. [Note: there are over 500 proposed solar PV projects in the Central Valley competing for 30 power purchase agreements, including, 7,000 acres of productive farmland in Fresno County and 17,000 acres of farmland in Kern that are currently seeking permits for conversion.]

Other opponents of the bill fear it would undermine existing regulatory safeguards by permitting unregulated entities to export power over the utilities distribution and transmission facilities as well as lead to a cost shift from program participants to non-participating utility customers. The bill will be heard next in the Assembly Appropriations Committee in August.

A measure that would delay a vote on the Safe, Clean and Reliable Water Supply Act until 2014, was amended this week. [AB 1422](#) (Henry Perea, D-Fresno) would simply delay the vote on the Safe, Clean and Reliable Water Supply Act from the November 2012 ballot until November 2014. The measure was amended this week with an urgency clause and is expected come up for a vote in the Senate and Assembly next week before the legislature breaks for their Summer Recess. Farm Bureau is in support.

The Senate Environmental Quality Committee will hear a measure addressing ex parte communications with the State and regional water boards next week. [AB 2063](#) (Luis Alejo, D-Salinas) would reform the rulemaking process at the State Water Resources Control Board and regional water quality control boards by making ex parte communication permissible if the state or regional board member fully discloses the communication. An ex parte communication as an oral or written communication between an interested person and a member of a Regional Board or the State Board about a quasi-judicial matter requiring board action. This would apply to communications regarding waste discharge requirements,

water quality certification, or conditional waivers of waste discharge requirements. Farm Bureau is in support.

Another measure that would address ex parte communications with the State and regional water boards passed out of the Assembly Governmental Organization Committee this week. [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. The bill was amended last week to 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. The measure will be heard next in the Assembly Appropriations Committee. As a result of the recent amendments, Farm Bureau will support **only** if this notification requirement is removed.

A measure that would direct fertilizer assessment funds to UC Ag Extension and other appropriate programs to advise farmers on methods to reduce the impacts of fertilizer use will be heard in the Senate Environmental Quality Committee next week. [AB 2174](#) (Luis Alejo, D-Salinas) would add clarifying language that broadens the focus of the Fertilizer Research and Education Program at the Department of Food and Agriculture on agronomically sound fertilizer use. Farm Bureau, along with our agricultural colleagues, has worked actively with the author and the bill sponsors from the environmental justice community on the measures to clarify the language. Farm Bureau is in support.

[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. It would allow a customer to install one renewable energy facility sized to serve their entire on-site load (up to one megawatt) instead of installing separate facilities at each meter. CFBF is in support. The first hearing on the bill was held on June 25 in the Assembly Utilities and Commerce Committee. There were a number of changes recommended in the Committee analysis, which Senator Wolk accepted, and cleared the way for the Committee approval on a 10-0 vote. SB 594 will be heard next in the Assembly Appropriations Committee. The bill is co-authored by Senator Blakeslee and Assembly Members Gordon, Hill, Valadao, Williams and Yamada.

[AB 2179](#) (Michael Allen, D-Santa Rosa) would dramatically expand 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 agrees; all other violations must be taken to court before penalties can be assessed. This bill would increase the penalties to \$20,000 and allow DFG to issue them against anyone they believe to be in violation of its code or regulations without approval by the district attorney. Farm Bureau has significant concerns with giving DFG this authority because it eliminates due process for numerous violations. The bill also allows DFG to keep all of the fine revenue it generates giving it significant incentive to issue numerous fines. The bill was amended in the Senate Natural Resources and Water Committee to limit the fines to what is currently stated in regulations, although not all violations are spelled out in regulation.

Farm Bureau organized a large coalition of groups opposed to this bill. Despite the opposition the bill passed out of the Senate Natural Resources and Water Committee on a party line vote of 6-2. The bill now moves to the Senate Appropriations Committee.

[SB 1148](#) (Fran Pavley, D-Agoura Hills) was amended late last week to provide a private right of action for California citizens to protect wildlife and to create strict liability for all violations of the Fish and Game Code. Farm Bureau is opposed to both of these provisions. 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. The bill was heard by the Assembly Water, Parks, and Wildlife Committee and it passed on a party line vote of 8-2. It now goes to the Assembly Appropriations Committee.

[SB 1221](#) (Ted Lieu, D-Torrance), which would prohibit the use of dogs when hunting bear and bobcat, failed in the Assembly Water, Parks, and Wildlife Committee this week. 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. The Committee Chair, Jared Huffman, proposed amendments that would have allowed 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. The vote was 6-4, so the bill failed because it didn't get the necessary 7 votes. Assembly Member's Gatto and Hernandez were the two Democrats who abstained from the bill, in addition to Assembly Member Lara who was absent the day of the vote. It was granted reconsideration and is supposed to be voted on again next week.

[SB 1480](#) (Ellen Corbett, D-San Leandro), which would expand the regulation of licensed trappers and limit the use of certain traps in California, passed out of the Assembly Water, Parks, and Wildlife Committee this week. 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. The bill passed with a vote of 8-2. Farm Bureau will continue to work with the author and sponsors to address our concerns. The bill now moves to the Assembly Appropriations Committee.

[AB 2402](#) (Jared Huffman, San Rafael) was amended late last week to include a provision that 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). The bill was heard by the Senate Natural Resources Committee this week and passed 5-3, with Senator Padilla abstaining. Farm Bureau is opposed to the bill because DFG has not proven itself successful in managing public processes and giving DFG the authority to list species under CESA would be difficult for California agriculture. The bill now moves to the Senate Appropriations Committee.

The Senate Energy, Utilities and Communications Committee will hear a measure next week that attempts to increase renewable generation projects in low income communities to create "green" (i.e. high tech, environmentally safe) jobs. [AB 1990](#) (Paul Fong, D-Mountain View) includes a cumulative impacts screening method to determine which are the "most impacted and disadvantaged communities" that would deserve these new energy projects. This screening method has been previously rejected by state regulators as flawed and could lead to misleading siting and permitting decisions.

In 2001, [SB 89](#) (Martha Escutia, D-Whittier) mandated that the California Environmental Protection Agency develop an overarching environmental justice (EJ) strategy that would guide all regulations to give special consideration to insure the fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies. Farm Bureau has monitored and been closely involved as Cal-EPA has created their EJ strategy which is a multi-phased effort. While the state is only in Phase 2 of a five phase strategy, AB 1990 would pre-empt the work done thus far by inserting a definition that could be easily misused to deter business development and expansion instead of encouraging it as the sponsor's state. While we have serious concerns about Cal-EPA's EJ strategy and are working diligently to correct its many shortcomings, AB 1990's screening tool is far worse and is being actively opposed by Farm Bureau and other business and energy interests.

This week there has been activity on several bills of interest to agricultural employers. On June 27, the Senate Labor & Industrial Relations Committee heard and approved [AB 2346](#) (Betsy Butler, D-Los Angeles), heat illness legislation strongly opposed by Farm Bureau and other agricultural and business groups. The bill makes substantial unworkable changes to Cal-OSHA's heat illness prevention regulation, allows farm workers to sue their employers for violations of the standard, and makes farmers and ranchers responsible for non-compliance by farm labor contractors. Among other changes the bill would make to the current heat illness rule, the bill would require that cool water be available within ten feet of all employees at all times and shade within 200 feet of all employees at all times regardless of the ambient air temperature. All of the changes incorporated in AB 2346 would be codified into the Labor Code, taking away Cal/OSHA's ability to revise the standard to meet future needs as it did on 2010.

Committee Chairman Ted Lieu (D-Torrance) and committee member Senator Leland Yee (D-San Mateo) questioned Assembly Member Butler in great specificity about the impracticality of the shade and water requirements of the bill. Though Chairman Lieu strongly encouraged Butler to engage opponents to address their concerns, the Committee passed AB 2346 and referred it to the Senate Rules Committee. Yolo County Farm Bureau members Nancy Lea and Paul Underhill testified against the bill and we thank them for taking the time to share with the committee members how the bill would impact them in the day to day operation of their farms.

A second heat illness bill has also materialized in the last couple of days in the form of [AB 2676](#) by Assembly Member Charles Calderon (D-Whittier). Until this week AB 2676 had been a measure relating to the Agricultural Labor Relations Board, but that bill was gutted and amended to make it a second bill on heat illness. This measure requires farm employers or farm supervisors supervising outdoor work of agricultural employees to provide those employees with both continuous, ready access to an area of shade sufficient to allow the body to cool, and 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. This bill still ignores the effectiveness of the current law (as does AB 2346), codifies safety regulations which should remain a responsibility of Cal-OSHA and does not include a temperature trigger for requiring shade. The bill will be heard in the Senate Public Safety Committee on Tuesday, July 3<sup>rd</sup>. Farm Bureau is opposed to the measure.

The Senate Labor & Industrial Relations Committee also passed AB 1313 this week, agricultural employee overtime legislation by Assembly Member Michael Allen (D-Santa Rosa). [AB 1313](#) 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, a

change from the current 10 hour per day requirement. Farm Bureau and many other agricultural organizations have strongly opposed AB 1313 and testified in opposition at the hearing. Yolo County Farm Bureau member Paul Underhill who testified on the AB 2346 also testified in opposition to this measure, telling committee members that farm employees would be hurt by the bill as it would result in workers hours being reduced and less overall compensation for farm workers if the bill passes. Committee Chairman Lieu indicated that he agreed that this change in policy will actually reduce the pay of agricultural workers as employers try to control their production costs by minimizing overtime as much as possible. The Committee passed the bill in spite of that concern and referred it to the Senate Appropriations Committee.

The Senate Labor & Industrial Relations Committee also dealt with several other bills Farm Bureau and other agricultural industry and employer groups have been working on:

- [AB 1450](#) (Allen, D-Santa Rosa) would expand California's already extensive discrimination protections to unemployed workers by making the practice of advertising jobs as open only to presently employed workers a discriminatory practice under state law. The bill passed and was referred to Senate Judiciary (Farm Bureau opposes);
- [AB 1675](#) (Bonilla, D-Concord) would institute a new misdemeanor violation of the Labor Code for unregistered Farm Labor Contractors. Farm Bureau and other agricultural employer groups have supported this legislation in an effort to discourage irresponsible FLCs from offering services. AB 1675 was passed by the Committee and referred to the Senate Appropriations Committee.
- [AB 2039](#) (Swanson, D-Oakland) would expand the state's family and medical leave law to extend employment-protected leave to caregivers of non-dependent adult children, parents-in-law, grandparents, siblings, grandchildren, or domestic partners. Farm Bureau and many other employer organizations have opposed this expansion. The Committee passed the bill and referred it to the Senate Appropriations Committee.

Also on June 27, the Assembly Public Employees, Retirement & Social Security Committee amended [SB 1234](#) (Kevin DeLeon, D-Los Angeles), legislation that would create a state-operated pension system for workers whose employers do not offer pension programs. The Committee then scheduled SB 1234 for an additional hearing on July 31. A broad employers' coalition, including Farm Bureau, opposes SB 1234 because of concerns about the impact both on the retirement systems already operated by the state and the impact on the financial services industry that already provides retirement management services to workers.