



August 31, 2012

[AB 2346](#) (Bonnie Butler, D-Los Angeles) passed the Assembly on a 42-33 vote; it now goes to the Governor for his signature or veto. It no longer includes impossible requirements for provision of shade every 200 feet or water within 10 feet of every worker. 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. Assembly Member Bill Berryhill spoke eloquently about the unfairness of the measure and identified enormous new liability exposure farmers would have under its provisions. Farm Bureau remains adamantly opposed to AB 2346.

An effort to expand heat stress penalties was approved by the Senate on a 45-28 vote. [AB 2676](#) (Charles Calderon, D-Whittier) requires farm employers or farm supervisors supervising outdoor work of agricultural employees to provide those employees with both continuous and ready access to an area of shade sufficient to allow the body to cool. It also requires 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. Farm Bureau and other agricultural employers asked legislators to oppose AB 2676. Farm Bureau remains opposed.

As this Review goes to print a final vote on the agricultural overtime bill, [AB 1313](#) (Michael Allen, D-Santa Rosa), is still pending. AB 1313 would 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 and double-time for hours worked after 12 hours in a day. On August 30<sup>th</sup> several votes were taken on the bill but all fell short of the 41 votes required for passage. Reconsideration was granted and it is expected the bill will be voted on again later today. Farm Bureau adamantly opposes AB 1313.

[SB 1148](#) (Fran Pavley, D-Agoura Hills) which had provided for a private right of action for California citizens to protect wildlife and created strict liability for all violations of the Fish and Game Code was amended this week. 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 last week, but didn't take out the marine protected area issue until yesterday. With the final set of amendments, Farm Bureau is able to remove its opposition. The bill now implements some of the 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 will be taken up on the Assembly and Senate Floors sometime before midnight tonight which is the final adjournment deadline for the 2011-12 legislative session.

The Senate approved [SB 1221](#) (Ted Lieu, D-Torrance) that prohibits the use of dogs when hunting bear and bobcat. 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 bill was amended when it passed out of the Assembly Appropriations Committee to allow certain exemptions when dogs may pursue bears, but the exemptions were not enough to address any of the opposition's concerns. The final vote was 22-13. The bill now goes to the Governor for his signature or veto.

[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 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 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 author amended the bill to include a sunset and to eliminate the requirement that hearings to review penalties that have been issued be heard by an administrative law judge. Instead, hearings would be conducted by agency staff. Additional amendments were taken last week to try to limit the violations that would fall under this process; however the bill refers to regulations that are made obsolete by other changes in the bill, giving little comfort to the opposition. Farm Bureau and a large coalition of organizations oppose the bill. AB 2179 failed passage in the Senate with a final vote of 11-23. The bill was granted reconsideration and could be voted on again today; however it will be difficult for supporters to find the necessary 10 votes for it to gain passage.

[AB 2402](#) (Jared Huffman, D-San Rafael) 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 the strong opposition from Farm Bureau and a large coalition we 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 now is limited to implementing changes recommended by

the recent Strategic Vision process to improve the DFG and the Fish and Game Commission. Despite the changes there are still some opposed to the bill, which failed passage on the Senate Floor this week on a vote of 15-20. The bill was granted reconsideration and needs to be taken up today on both the Senate and Assembly Floors, if it is to pass.

The Senate approved [SB 1480](#) (Ellen Corbett, D-San Leandro) which expands the regulation of licensed trappers and limits the use of certain traps in California. The bill is co-sponsored by Born Free USA and the San Francisco Wildlife Center. Farm Bureau is opposed due to 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, but still restricts the use of larger conibear traps on land. The bill passed 21-16 and now goes to the Governor's desk.

[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. Farm Bureau supports SB 863.

[AB 1877](#) (Fiona Ma, D-San Francisco) would exempt the requirement for authorized dealers of agricultural, forestry, construction and lawn care equipment to register as a repossession agency in order to repossess equipment. Repossessions represent a very small portion of a dealer's business and they happen on a relatively infrequent basis. Requiring a dealer to become a full-time repossession agent, pay a \$825 licensing fee, submit to fingerprinting and renew their license every two years for this purpose makes no sense. The exemption provided by AB 1877 will enable equipment dealers to better maintain good customer relations, cut costs to both parties and remove the requirement to notify law enforcement when equipment has been repossessed. AB 1877 was approved by the Assembly and now goes to the Governor for his signature. Farm Bureau supports.

[AB 1888](#) (Mike Gatto, D-Burbank) will amend the law to allow a person who holds a commercial vehicle license and receives a citation while driving a vehicle that only requires a class C or M license to attend Traffic Violator School (TVS) for minor infractions. Under existing law, commercial motor vehicle drivers are prohibited from attending TVS for the purpose of removing routine traffic violations from their records, making it more difficult for them to maintain their commercial licenses in good standing. AB 1888 was passed by the Assembly and now goes to the Governor for his signature. Farm Bureau is in support.

[AB 1966](#) (Fiona Ma, D-San Francisco) was recently amended and now requires 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 is now in the Assembly for concurrence in Senate amendments and will be voted on later today. Farm Bureau is in support.

SB 1513 (Gloria Negrete McLeod, D-Chino) will expand the State Compensation Insurance Fund's authority to make investments. The bill will enable diversification of investments by allowing State Fund to invest in the same manner as private insurance carriers further improving its efficiency, productivity and service. SB 1513 passed the Senate and now goes to the Governor for his signature. Farm Bureau is in support.

SB 1455 (Christine Kehoe, D-San Diego) will extend the funding for three air quality improvement funds. Existing law creates a number of important and effective incentive programs in California including the Carl Moyer Memorial Air Quality Standards Attainment Program, established in 1998. AB 923 (Firebaugh, 2004) expanded the scope of the Carl Moyer program to include additional pollutants and sources and provided local air districts with additional funding to address local quality needs. The current version of the program is funded by fees paid in lieu of smog-check obligations on newer vehicles, and tire fees; local air pollution control boards may also collect \$2 surcharge on vehicle registrations for specified projects. The funding from tire fees and surcharge on vehicle registration expires in 2014. As the agricultural industry faces an upcoming statewide agricultural equipment rule, the funding that SB 1455 insures is very important. The bill needs to pass both houses of the legislature by the time of adjournment later tonight. Farm Bureau supports.

The State Water Resources Control Board held a hearing this week to take public comment regarding agriculture's request to stay provisions of the Ag Order adopted by the Central Coast Regional Water Quality Control Board. The State Water Board granted agriculture's request to stay some provisions of the Order and extended the timeline for other provisions rather than stay them. The stay and extended timelines put some provision of the Ag Order on hold while the State Water Board takes up the Ag Order Petitions (appeals). The State Water Board will provide detailed information regarding their decision on which elements are stayed and others that have extended timelines in a written justification on September 10<sup>th</sup>. Comments on the draft decision are due by noon on September 14<sup>th</sup>. A final order related to the stay for deadline compliance will be scheduled for adoption at the state board's September 19<sup>th</sup> public meeting.

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 adequate for the health and well-being of the individual and family was approved by the Assembly and sent to the Governor for his signature. AB 685 (Mike Eng, D-Monterey Park) would require 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 is opposed.

Two measures that would assist rural economically disadvantaged communities with drinking water challenges from high nitrate levels are making their way through the Senate and Assembly in the final hours of this two-year legislative session. 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 are in AB 403 (Luis Alejo-D, Salinas) and AB 2238 (Henry Perea-D, Fresno). Both bills require a two-thirds majority vote and because they each contain urgency clauses they are expected up for floor votes late today.

[AB 403](#) (Luis Alejo-D, Salinas) would assist 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 is in support.

[AB 2238](#) (Henry Perea-D, Fresno) would help 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 this week to include this language. Farm Bureau is in support.

A measure that would address ex parte communications with the State and regional water boards was approved by the Assembly with amendments. 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 sent to the Senate Environmental Quality Committee as amended before going to the Senate for a floor vote. This week's amendments address 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 now in support as amended and action is pending in the Senate.