



February 24, 2017

The deadline for introducing bills has arrived giving us a flurry of good, bad and ugly legislative proposals. The tally for this year is a total of 2,495 bills introduced with the Senate producing 808 bills and the Assembly with 1,687 bills. There are hundreds of “spot bills” that stake out a territory but have no details. We have listed a number of bills below that have a clear intent and will impact the agricultural community. This list is not yet complete and many more bills will be included as they take form and are amended with more content. We have included Farm Bureau positions on some of the measures below, however, we will include Farm Bureau positions on the remainder of the bills in future editions of the Friday Review once we have had a chance to work with the various legislative representatives.

### **Climate Change:**

[AB 1301](#) (Vince Fong, R-Bakersfield) would expand the duties of the Joint Committee on Climate Change Policies to include more extensive evaluations including the impact of California’s climate policies on the price of gasoline, electricity and other commodities. It would also require the California Air Resources Board to present to the committee information on the cost effectiveness and technological feasibility of greenhouse gas measures identified in the state’s scoping plan.

### **Commodities:**

[AB 627](#) (Frank Bigelow, (R-Neals) would require California prisons to purchase at least 50 percent of the food they purchase to be California grown.

[AB 1163](#) (Jacqui Irwin, D-Thousand Oaks) would create a matching grant program for the “Buy California” Specialty Crop Block Grant Program to leverage federal and private investment by providing \$3,000,000 in state funds for that purpose.

[AB 1232](#) (Vince Fong, R- Bakersfield) would appropriate \$10,000,000 from the general fund to the Citrus Disease Management Account in the Department of Food and Agriculture Fund to combat citrus diseases.

[SB 730](#) (Richard Pan, D-Sacramento) would require the Department of Education to enforce the federal requirements that schools purchase American food products for school meals. In addition, the bill also requires schools to notify the public when they use the limited exemptions allowing purchases of foreign food. Farm Bureau supports SB 730.

[SB 475](#) (Cathleen Galgiani, D- Stockton) would continuously appropriate, instead of being available upon appropriation from the legislature, the Citrus Disease Management Account in the Department of Food and Agriculture that is used to combat citrus diseases.

**Environment:**

[AB 527](#) (Anna Caballero, D-Salinas) would require any person using a drone to apply pesticides to hold a valid pest control aircraft pilot's certificate issued by the California Department of Pesticide Regulation and approved by the Federal Aviation Administration.

[SB 602](#) (Ben Allen, D-Santa Monica and Scott Wiener, D- San Francisco) would require the labeling of commercially available seeds and plants sold at retail establishments that have been treated with a neonicotinoid pesticide. The label would have to clearly include the words "STATE OF CALIFORNIA SAFETY WARNING: MAY HARM BEES". Instead of normal oversight and enforcement by the Department of Pesticide Regulation, SB 602 will make it an unfair and unlawful business act if the seeds and plants sold at retail establishments treated with neonicotinoids are not labeled. Thus groups or individuals who oppose the use of pesticides could bring a private action against a retailer who had treated but unlabeled plants for sale. SB 602 would also prohibit consumer sale or use of neonicotinoids which would threaten the fight to stop the spread of the Asian Citrus Psyllid that transmits Huanglongbing for which there is no cure and has decimated the citrus industry in Florida, Texas, Mexico and Brazil. Farm Bureau opposes.

**Labor:**

[AB 281](#) (Rudy Salas, D-Bakersfield) would require civil monetary penalties awarded to an employee in a Labor Code Private Attorneys General (PAGA) action to be based on a violation of a Labor Code requirement actually suffered by that employee, limits the exclusion from PAGA's "right to cure" provision solely to health and safety violations, and extends the "right to cure" period from 33 to 65 calendar days.

[AB 442](#) (Jim Frazier, D-Oakley) prohibits Cal/OSHA from undertaking any enforcement action for a non-serious violation (permits, recordkeeping, posting, failure to report or other violations that do not fit the definition of "serious" violation) against any business with average annual receipts of less than \$15 million or fewer than 100 employees without giving that employer written notice of the violation and 30 days to correct the violation. Farm Bureau supports.

[AB 708](#) (Sharon Quirk-Silva, D-Fullerton) discontinues the requirement that notification to Cal/OSHA of a serious injury or death be made by telephone. Farm Bureau supports.

[AB 978](#) (Monique Limon, D-Goleta) requires employers, upon receipt of a written request, to provide a paper or electronic copy of the employer's Injury and Illness Prevention Plan (IIPP) to a current employee or his/her authorized representative (a person authorized by the employee in writing to receive the IIPP copy). An Injury and Illness Prevention Program is created and maintained by an employer, as required by Labor Code Section 6319.3, for the purpose of allowing an employer to create and follow a written plan to ensure the safety and health of its employees and to allow Cal/OSHA to verify that the employer is following the plan during inspections. As such, existing IIPPs have not been written for the consumptions of employees, frequently contain industrial hygiene and workplace safety jargon and

technical terminology, and will be of little use to the employee. Because violations of the Labor Code are subject to litigation under the Private Attorneys General Act (PAGA) AB 978 will likely contribute to excessive litigation already endemic in California. Farm Bureau opposes.

[AB 1008](#) (Kevin McCarty, D-Sacramento) will make it an unfair employment practice (effectively prohibit) an employer to include a question on an employment application that inquires as to the applicant's criminal or conviction history or to make any inquiry about it until the applicant has received a conditional offer of employment. If the employer denies the applicant employment solely or partly because of the applicant's criminal or conviction history, AB 1088 requires the employer to make an individualized assessment showing that the applicant's history has a direct and adverse relationship with the duties of the job. If the employer denies the applicant employment as a result of the applicant's history, the employer must notify the applicant, allow the applicant to provide information to refute the employer's denial, requires the employer to consider that information, and requires the employer to notify the applicant in writing if the employer makes a final decision to deny the applicant employment. It is likely this new fair employment requirement will result in litigation as other fair employment requirements have in the past. Farm Bureau opposes.

[SB 63](#) (Hanna-Beth Jackson, D-Santa Barbara) requires an employer with 20 or more employees within a 75-mile radius to provide 12 weeks of protected parental leave to bond with a new child after that child's birth, adoption or foster care placement. This mandated leave would be provided in addition to the current requirement for employers of 5 or more employees to allow up to 16 weeks of pregnancy-related leave. SB 63 imposes this parental leave requirement on employers who would not otherwise be covered by the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), both of which apply to employers of 50 or more employees. Governor Brown vetoed similar legislation by Jackson (SB 654) in 2016. Farm Bureau opposes.

[SB 295](#) (Bill Monning, D-Carmel) requires that individual worker sexual harassment training mandated to be provided by FLCs be provided in a language understood by the employee, requires farm labor contractors (FLCs) to provide to the Labor Commissioner a list of materials used in this training, and to provide the Labor Commissioner a tally of the number of workers trained by that FLC in the year prior to seeking renewal of his FLC license. SB 295 requires the Labor Commissioner to publish on the agency's website the total number of employees trained in a given year. SB 295 makes a violation of these requirements subject to enforcement action by the Labor Commissioner who may assess a civil penalty of \$100 per violation.

**Land Use:**

[AB 68](#) (Devon Mathis, R-Porterville) would require that before a rural school district commences the acquisition of property for a new or expanded school site on agriculturally designated and zoned land they must get approval from the planning commission of that jurisdiction. If the planning commission does not support the acquisition of the proposed school site on agriculturally zoned land the rural school district will not be able to purchase the land and further discussions must occur at a publically noticed time and location where consideration of many factors, including coordination of existing or planned infrastructure and demand for public school facilities is reviewed.

[AB 1564](#) (Joaquin Arambula, D- Fresno) makes changes to the California Land Conservation Act of 1965 (Williamson Act). This bill was introduced at the request of the Department of Conservation (DOC) who has oversight over the Act. As originally proposed the bill would have made some changes to some

contract cancellation provisions of the Act, however, some of those were deleted prior to the bill's introduction as a result of various meetings Farm Bureau had with the DOC regarding the legislation. There are also some changes being proposed relating to timberland that Farm Bureau is currently reviewing. It should be noted that in our discussions with DOC they indicated the bill as introduced is a starting point for further discussions with Williamson Act stakeholders, including Farm Bureau, and that stakeholder meetings to discuss refinements to the Act will begin soon. This bill is a work in progress and Farm Bureau will be participating in that process.

### **Natural Resources:**

[AB 425](#) (Anna Caballero, D-Salinas) continues the efforts started by now Congressman Doug La Malfa and expanded last year by Assembly Member Dahle exempting forest fuel reduction projects meeting specified requirements from the requirement to obtain a Timber Harvest Permit. This bill would allow road building under specified conditions when using the exemption for fuel reduction projects. Farm Bureau supports.

[AB 472](#) (Jim Frazier, D-Oakley) creates an incentive program at the Department of Water Resources for landowners to plant or retain non-irrigated cover crops to benefit waterfowl when lands are idled due to water transfers.

[AB 771](#) (Bill Quirk, D-Hayward) requires CalFire to develop a prescribed burn template for forest fuel treatment to provide standardized procedures for forest landowners interested in prescribed burns on their properties.

[AB 1133](#) (Brian Dahle, R-Bieber) allows the incidental take of species listed as experimental populations under the federal ESA and listed under CESA as long as federal regulations are in place that allow incidental take under federal law. This bill is being considered as a way to address concerns surrounding the planned introduction of salmon in the McCloud River.

[AB 1391](#) (Jim Patterson, R-Fresno) allows CalFire to provide assistance to landowners at or below 500 percent of the federal poverty level to meet the defensible space requirements around structures in forested areas.

[AB 1617](#) (Richard Bloom, D-Santa Monica) states the Legislature's intent to work with stakeholders to identify new funding sources for the Department of Fish and Wildlife. This is in response to the shortfall identified in DFW's Fish and Game Preservation Fund and the Governor's request to find funding sources to address the shortfall. Farm Bureau will be watching this proposal closely.

[AB 1630](#) (Richard Bloom, D-Santa Monica) requires the California Transportation Plan to incorporate and consider wildlife movement.

[SB 473](#) (Bob Hertzberg, D-Los Angeles) eliminates the ability of individuals to obtain consistency determinations under the California Endangered Species Act (CESA), which allows for incidental take of species listed under both the federal Endangered Species Act and CESA, if the federal ESA is amended. This means that if an individual obtains a permit to incidentally take a dually listed species from the federal Fish and Wildlife Service, the California Department of Fish and Wildlife (DFW) would no longer be able

to simply sign off on the federal permit. The individual would be required to get an entirely separate permit from DFW. Farm Bureau opposes.

[SB 532](#) (Bill Dodd, D-Napa) eliminates the sunset for the California Safe Harbor Agreement, which allows incidental take of species listed under the California Endangered Species Act when landowners agree to improve habitat for those species. The bill also exempts Safe Harbor Agreements adopted to benefit Tricolored blackbirds from CEQA review.

**Taxes:**

[AB 832](#) (Cecilia Aguiar-Curry, D-Winters) will provide a tax credit for qualified taxpayers against personal income and corporation taxes of an amount equal to \$30 per planted acre of winter-flooded rice for maintaining winter-flooded rice during the taxable year. “Winter-flooded rice” means the intentional flooding of a California rice field that has been farmed to rice at least two of the last three growing seasons and is maintained in a flooded state for at least 70 days between November 1 and February 1 of the following year. The bill would require the qualified taxpayer to submit the total acreage used for winter-flooded rice to the Department of Food and Agriculture for certification and for the Department to provide a copy of each credit certificate issued to the Franchise Tax Board.

**Water:**

[AB 1369](#) (Adam Gray, D-Merced) would require the Department of Water Resources to identify the current statewide water storage capacity and prepare an implementation plan on or before January 1, 2019 to achieve an expansion in statewide water storage capacity. It would also require the department to update the strategy and implementation plan the following year and every two years thereafter, until January 1, 2050. The bill would, beginning in the 2018–19 fiscal year, continuously appropriate 25 percent of the annual proceeds of the greenhouse gas reduction fund to the department to comply with these requirements.

[AB 1420](#) (Cecilia Aguiar-Curry, D-Winters) would give priority to permitting small irrigation ponds under certain conditions. It would require the State Water Resources Control Board to give priority to adopting general conditions that permit a registrant to store water for small irrigation use during times of high streamflow in exchange for the registrant reducing diversions during periods of low streamflow, as specified.

[AB 1442](#) (Travis Allen, R-Huntington Beach) would redirect the high-speed rail bond funds to unspecified water projects. It would state the intent of the Legislature to redirect \$9 billion in voter approved high-speed rail bond funds to water projects.

[AB 1605](#) (Anna Caballero, D-Salinas) is a Farm Bureau sponsored measure that would provide liability protection to farmers and landowners who provide alternative drinking water to those whose drinking water exceeds the nitrate standard. It would assist those who voluntarily provide alternative drinking water, participate in an alternative compliance project or program, or contribute to a fund to pay for alternative drinking water to those whose MCL exceeds the drinking water standard for nitrate.

[SB 623](#) (Bill Monning, D-Carmel) would establish the Safe and Affordable Drinking Water Fund. It would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board. The measure has yet to identify a funding source for the Safe and Affordable Drinking Water Fund.

**G**overnor Brown held a press conference today announcing a series of immediate and long-term actions to bolster dam safety, improve flood protection and fix the state's aging transportation and water infrastructure. The Governor laid out a four-point plan to improve dam safety and flood protection:

1. Invest \$437 million in near-term flood control and emergency response actions by redirecting \$50 million from the state general fund and requesting a \$387 million Proposition 1 appropriation from the Legislature as soon as possible. (Prop 1 has \$395 million earmarked in chapter 11 for flood management)
2. Require emergency action plans and flood inundation maps for all dams.
3. Enhance California's existing dam inspection program.
4. Seek prompt regulator action and increased funding from the federal government to improve dam safety.

The Governor said that even with these actions, California has nearly \$50 billion in unmet flood management infrastructure needs. To address these needs, the Administration will continue to work with the Legislature through the budget process on solutions, including potential changes to Proposition 218, which continues to prevent local government from raising funds for core infrastructure maintenance and improvements.

A measure was introduced earlier this month that would amend the California Constitution to ensure that affordable water is available to all Californians and to ensure that water conservation is given a permanent role in California's future. SCA 4 (Bob Hertzberg, D-Los Angeles) has minimal specificity about its intent, but it is anticipated it will make some changes to Proposition 218 for drinking water programs.