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AGENDA

Tuesday, March 19, 2024
1:30 p.m. -- State Capitol, Room 437

BILLS HEARD IN SIGN-IN ORDER

**** = Bills Proposed for Consent**

- | | | | |
|-----|------------------|---------------|---------------------------------------------------------------------------------------------------------|
| 1. | AB 1857 | Jackson | State Air Resources Board: air quality regulation: valleys. |
| 2. | AB 1866 | Hart | Oil and gas: idle wells. |
| 3. | **AB 1881 | Davies | California Coastal Commission: scientific panel expertise: coastal erosion. |
| 4. | AB 1922 | Davies | California Conservation Corps: Green Collar Certification Program. |
| 5. | AB 1923 | Davies | Green Assistance Program. |
| 6. | **AB 1969 | Hart | State Air Resources Board: Clean Off-Road Equipment Voucher Incentive Project: unmanned aerial systems. |
| 7. | AB 1992 | Boerner | Coastal resources: coastal development permits: blue carbon demonstration projects. |
| 8. | AB 2091 | Grayson | California Environmental Quality Act: exemption: public access: nonmotorized recreation. |
| 9. | AB 2190 | Mathis | California Environmental Quality Act: expedited judicial review: infrastructure projects: hydrogen. |
| 10. | AB 2236 | Bauer-Kahan | Solid waste: reusable grocery bags: standards: plastic film prohibition. |
| 11. | AB 2285 | Rendon | Environmental protection: 30x30 goal: urban nature-based investments: parity. |
| 12. | **AB 2311 | Bennett | Greenhouse Gas Reduction Fund: grant program: edible food. |
| 13. | **AB 2344 | Petrie-Norris | Fire prevention: grant programs: reporting. |
| 14. | **AB 2393 | Dixon | Tidelands and submerged lands: County of Orange and Newport Bay: franchises or leases. |
| 15. | AB 2440 | Reyes | 30x30 goal: partnering state agencies: Department of Parks and Recreation. |
| 16. | **AB 2511 | Berman | Beverage container recycling: market development payments. |
| 17. | AB 2577 | Irwin | Organic waste: reduction regulations. |
| 18. | AB 2648 | Bennett | Environmentally preferable purchasing: single-use plastic bottles. |
| 19. | SB 551 | Portantino | Beverage containers: recycling. (Urgency) |

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1857 (Jackson) – As Introduced January 18, 2024

SUBJECT: State Air Resources Board: air quality regulation: valleys

SUMMARY: Requires, until 2029, the Air Resources Board (ARB) to adopt, and air districts to implement, regulations to improve air quality in population centers located in valleys.

EXISTING LAW:

- 1) The federal Clean Air Act (CAA) and its implementing regulations set National Ambient Air Quality Standard (NAAQS) for six criteria pollutants, designate air basins that do not achieve NAAQS as nonattainment, and require states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. (42 U.S.C. 7401 *et seq.*)
- 2) Establishes ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the CAA. (Health and Safety Code (HSC) 39000 *et seq.*)
- 3) Requires ARB to (1) divide the state into air basins based upon similar meteorological and geographic conditions, and consideration for political boundary lines whenever practicable, and (2) adopt air quality standards for each air basin in consideration of the public health, safety, and welfare. (HSC 39606)
- 4) Requires, subject to the powers and duties of the ARB, air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. (HSC 40001)
- 5) Requires air districts to develop attainment plans detailing how they will attain and maintain state air quality standards, and submit those plans to ARB. (HSC 40910 *et seq.*)
- 6) Requires ARB to:
 - a) Review the district attainment plans to determine whether the plans will achieve and maintain state air quality standards by the earliest practicable date.
 - b) Review district rules, regulations and programs to determine whether they are sufficiently effective to achieve and maintain state air quality standards.
 - c) Review district and other local enforcement practices to determine whether reasonable action is being taken to enforce their programs, rules, and regulations.

(HSC 41500)

- 7) Authorizes ARB, if it finds that the program or the rules and regulations of a district will not likely achieve and maintain state air quality standards, to establish a program, or rules and regulations it deems necessary to enable the district to achieve and maintain such standards, which shall have the same force and effect as a district program, rule, or regulation and shall be enforced by the district. (HSC 41504)
- 8) Authorizes ARB, if it finds that a district is not taking reasonable action to enforce the statutory provisions, rules, and regulations relating to air quality in such a manner that will likely achieve and maintain state air quality standards, to exercise any of the powers of that district to achieve and maintain such standards. (HSC 41505)

THIS BILL:

- 1) Requires ARB to adopt regulations to improve air quality in population centers located in valleys.
- 2) Requires each district to implement ARB's regulations with regard to stationary sources located within its jurisdiction.
- 3) Provides these requirements become inoperative on January 1, 2029.
- 4) Requires ARB to submit a report to the Legislature on or before January 1, 2030, summarizing the regulations adopted and describing any air quality improvements resulting from those regulations.
- 5) Defines "valley" as an elongate depression of the earth's surface usually between ranges of hills or mountains.
- 6) Sunsets these requirements January 1, 2034.

FISCAL EFFECT: Unknown

COMMENTS:**1) Author's statement:**

California prides itself on its stringent air quality standards, yet paradoxically, regions like the Inland Empire and San Joaquin Valley contend every year for hosting some of the nation's most polluted air. This intolerable situation underscores the critical importance of AB 1857. For too long, California's valley regions have been neglected, placing an unjust burden on our most disadvantaged communities who are suffering the most. It's time to address this pressing issue and prioritize the health and well-being of our communities.

- 2) **Valleys and population centers are already a focus of efforts to improve air quality.** Meteorology, topography, concentration of emissions sources, and exposure are well-known factors in the effects of air pollution. As a result, air pollution laws, governance, and decades of federal, state and district regulations recognize and focus on valleys and population centers.

While these existing efforts have resulted in significant progress, many air basins in California remain in nonattainment for one or more NAAQS, and many communities suffer from additional burdens of criteria pollutants and toxic air contaminants.

This bill provokes the question – What more should be done to regulate sources of air pollution in valley population centers suffering from poor air quality? However, it's not clear how this bill will improve the situation. As noted above, ARB already has broad authority to regulate mobile sources of air pollution, as well as authority to oversee air districts' regulation of stationary sources. To achieve a predictable, positive result, the bill may need to focus on a more specific objective, such as specific emissions sources, specific air districts or regions, or specific regulations, enforcement and/or incentives.

The bill also provokes concerns and opposition from cities and air districts due to the suggestion that it steps on the established division of duties between ARB and the local air districts. While existing law does permit ARB to adopt and enforce regulations within the jurisdiction of a district where ARB finds the district has fallen short, regulating local stationary sources is not a challenge ARB likely wants to take on.

Finally, it's not clear why the bill makes ARB regulations adopted under the bill, which may take considerable time and effort to adopt, inoperative in 2029.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

California Air Pollution Control Officers Association
League of California Cities

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1866 (Hart) – As Amended March 11, 2024

SUBJECT: Oil and gas: idle wells.

SUMMARY: Eliminates the option for a well operator to pay idle well fees and requires a well operator to submit an idle well management plan that meets specified requirements.

EXISTING LAW:

- 1) Establishes the Division of Geologic Energy Management (CalGEM) in the Department of Conservation, under the direction of the State Oil and Gas Supervisor (supervisor), who is required to supervise the drilling, operation, maintenance, and abandonment of oil and gas wells, as provided. (Public Resources Code (PRC) 3000, *et seq.*)
- 2) Establishes the Oil, Gas, and Geothermal Administrative Fund (Administrative Fund) in the State Treasury for specified purposes, subject to appropriation by the Legislature, except as provided. (PRC 3110)
- 3) Defines “idle well” as any well that for a period of 24 consecutive months has not either produced oil or natural gas, produced water to be used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. (PRC 3008(d))
- 4) Defines “long-term idle well” (LTIW) as any well that has been an idle well for eight or more years. (PRC 3008(e))
- 5) Requires an operator of any idle well to either pay an annual fee for each idle well based on the length of time the well was idle or file a plan with the supervisor to provide for the management and elimination of all long-term idle wells. (PRC 3206)
- 6) Requires CalGEM to require each operator of an oil or gas well to submit a report to the supervisor that demonstrates the operator’s total liability to plug and abandon all wells and to decommission all attendant production facilities, including any needed site remediation. Requires CalGEM to develop criteria to be used by operators for estimating costs to plug and abandon wells and decommission attendant production facilities, including site remediation. (PRC 3205.7)
- 7) Requires the supervisor to annually report to the Legislature with a list of all idle and LTIWs in the state; a list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals; and, a list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans. (PRC 3206.3)
- 8) Authorizes the supervisor or district deputy to order the plugging and abandonment of a well or the decommissioning of a production facility that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well or production facility.

- 9) Requires the supervisor or district deputy to determine from credible evidence whether a well or production facility is deserted. (PRC 3237)
- 10) Defines a “health protection zone” as the area within 3,200 feet of a sensitive receptor. Defines “sensitive receptor” as a residence, an education resource, a community resource center, including a youth center, a health care facility, including a hospital, retirement home, and nursing home, live-in housing, and any building housing a business that is open to the public. (PRC 3280)

THIS BILL:

- 1) Strikes the option for a well operator to pay an idle well fee in lieu of filing an idle well management plan.
- 2) Requires, on or before July 1, 2025, the operator of any idle well to file a plan with the supervisor to provide for the management and elimination of all idle wells. Requires the plan to:
 - a) Specify the time period that it covers. The plan and any renewal of the plan shall cover a time period of no more than five years.
 - b) Require the operator to consider all of the following when prioritizing idle wells for testing or plugging and abandonment, in addition to priorities identified by the supervisor in regulations:
 - i) The age of the idle well.
 - ii) Any indication that the idle well potentially poses a threat to life, health, property, or natural resources.
 - iii) Wells that are located within 3,200 feet of a sensitive receptor, as defined in Section 3280.
 - c) Include notes indicating the basis for prioritizing wells.
 - d) Be subject to approval by the supervisor, who may prioritize the order in which idle wells are addressed.
- 3) Requires the plan to be updated when there is a change in ownership or holdings of the company.
- 4) Increases the amount of idle wells that operators with 250 or fewer idle wells are required to eliminate annually from 4% to 10%; increase the amount of idle wells that operators with 251 to 1,250 idle wells are required to eliminate annually from 5% to 15%; and, increase the amount of idle wells that operators with more than 1,250 idle wells are required to eliminate annually from 6% to 20%.
- 5) Repeals the requirement that all idle well fees received be deposited in the Hazardous and Idle-Deserted Well Abatement Fund.

- 6) Updates the noncompliance provision to provide that failure to file a plan for any idle well is conclusive evidence of desertion of the well, permitting the supervisor to order the well abandoned, and provides that an operator who fails to comply with the plan is subject to an additional civil penalty equivalent to the average cost to plug a well, multiplied by the number of wells that the operator failed to plug in accordance with the minimum requirements.
- 7) Provides that this bill does not prohibit a local agency from collecting a fee for regulation of wells.
- 8) Provides that this bill does not apply to an idle well that is the subject of a court-approved settlement agreement entered into on or before December 31, 2024, between a local governmental entity and the operator of the idle well, if that settlement agreement imposes more stringent requirements relating to the management and elimination of idle wells than the requirements imposed by the amendments to this bill.
- 9) Makes technical and conforming changes.
- 10) Provides that no reimbursement is required by this act pursuant to the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

Assembly Bill 1866 addresses the urgent climate and public health crisis of idle oil wells. The bill requires oil operators to develop a comprehensive plan to expeditiously plug the estimated 40,000 idle oil wells in California within the next decade.

The bill also requires operators to prioritize plugging wells within 3,200 feet of where communities live, play and work.

AB 1866 is necessary to solve the idle well crisis in California. This proactive solution will protect taxpayers, create thousands of jobs, and safeguard communities.

- 2) **Oil and gas in California.** Commercial oil production started in the middle of the 19th century. In 1929, at the peak of oil development in the Los Angeles Basin, California accounted for more than 22% of total world oil production. California's oil production reached an all-time high of almost 400 million barrels in 1985 and has generally declined since then. Despite that decline, California remains the third largest oil and gas producing state, and as of 2022, produced 3% of the crude oil of the nation. That same year, California supplied about 26% of all oil going into the state's 17 oil refineries.
- 3) **Idle wells.** An idle well is a well that has not been used for two years or more and has not yet been properly plugged and abandoned (sealed and closed). Plugging and abandonment involves permanently sealing the well with a cement plug to isolate the hydrocarbon-bearing

formation from water sources and prevent leakage to the surface. If a well is not properly sealed and closed, it may provide a pathway for hydrocarbons or other contaminants to migrate into drinking water or to the surface, and can leak pollutants into nearby communities.

According to CalGEM, there are more than 37,000 known idle wells in California, all of which will eventually come to their end of life, and their owner/operator will be required to plug the wells with cement and decommission the production facilities, restoring the well site to its prior condition. Idle wells can become orphan wells if they are deserted by insolvent operators. When this happens, there is the risk of shifting responsibilities and costs for decommissioning the wells to the state. As of December 31, 2021, CalGEM had identified more than 5,300 wells as orphan or potentially orphan.

- 4) **Financial impact of orphaned wells.** The cost to plug a well is highly variable depending on well and facility condition, size, location, and other factors, but a recent CalGEM analysis found the average cost to be about \$95,000 per well.

Similarly, a 2021 study published by Resources for the Future analyzed 19,500 wells and expounded on the variability of well abandonment costs. The researchers found that the costs of plugging wells goes up with the age of the well itself. Compared with wells that were more than 60 years old when decommissioned, wells aged 40 to 60 years old were 9% less expensive, and wells aged from 0 to 40 were roughly 20% less expensive to plug. The study also noted that each additional 1,000 feet of well depth increases costs by 20%.

These costs, however, don't represent the full costs to remediate the supporting area of the well. According to CalGEM's cost estimate report required by, SB 551 (Jackson), Chapter 774, Statutes of 2019, from the 100 operators evaluated, the average cost per well was calculated to be \$93,427 for plugging and abandonment; \$26,994 for production facility decommissioning; \$29,506 for well site remediation; and, \$15,684 for production facility site remediation, resulting in a total liability per well of \$165,611.

In the last five years, CalGEM has spent, on average, \$2 million annually from the Administrative Fund and the Hazardous and Idle-Deserted Well Abatement Fund to remediate roughly 11 deserted wells per year.

In fiscal years 2022/2023 and 2023/2024, \$50 million in General Fund dollars – taxpayer dollars – are appropriated to CalGEM to plug and abandon orphan wells – for a total of \$100 million dollars over the two years.

In August 2022, California was awarded \$25 million in initial grant funding from the federal government's orphan well program authorized in the bipartisan Infrastructure Investment and Jobs Act. California is potentially eligible for an additional \$140 million in future grants. Again, these are taxpayer dollars that would be used to plug and abandon a well financially deserted by its owner.

Operators are required to file indemnity bonds when drilling, reworking, or acquiring a well, to support the cost of plugging a well should it be deserted; however, the minimum bond amounts required by statute are generally insufficient to fully cover the costs of plugging and abandonment of the well and decommissioning the associated facilities. Recognizing this

may increase the potential state liability associated with orphan and potentially orphan wells and associated facilities, AB 1057 (Limon), Chapter 771, Statutes of 2019, authorizes CalGEM to evaluate the risk of the operator deserting its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources, and based on that evaluation, undertake a process to require additional financial security if deemed necessary. The additional security required by CalGEM must be based on CalGEM's estimation of the reasonable costs of properly plugging and abandoning all the operator's wells and decommissioning any attendant production facilities, not to exceed \$30 million. CalGEM has begun to develop its process for evaluating risks and its method for estimating costs.

Accounting for rising costs and prevailing wage, the potential liability to the state for plugging and abandoning the known orphan 5,300 wells is estimated at approximately \$974 million.

Using state and industry data from April 2022, Carbon Tracker estimates the total cost for plugging *all* current unplugged wells and related infrastructure such as separation vessels, storage tanks, pipelines, pumps, and compressors at \$13.2 billion in direct plugging and remediation costs, and \$21.5 billion once "known but unquantified costs and inflation" are factored in.

- 5) **Idle Well Management Plans.** Because of the risk and potential liability posed by idle wells, AB 2729 (Williams), Chapter 272, Statutes of 2016, was enacted to discourage operators from leaving their wells in an idle state by increasing bonding requirements, requiring operators to maintain bonds for the life of the well, increasing idle well fees, revising the parameters for the use of Idle Well Management Plans (IWMP). Under the program, well owners can pay an annual fee or submit an IWMP.

According to CalGEM's August 2023 annual IWMP report for the 2021 calendar year, there were 38,759 idle wells, of which 17,888 met the definition of LTIW.

Of those idle wells, 57 operators submitted IWMPs and CalGEM approved 51 of those plans. Forty-nine of the 51 operators were found to be in compliance with the terms of their approved IWMPs at the conclusion of CalGEM's annual review.

Based upon the terms of the approved IWMPs, operators were expected to eliminate a minimum of 485 long-term idle wells. Operators eliminated 464 long-term idle wells, and including credits for eliminating more long-term idle wells than were required by an operator's IWMP, CalGEM considers the total long-term idle wells that were effectively eliminated in 2021 to be 613.

There are 1,200 unique operators for the state's 17,888 LTIWs. A total of 1,149 operators failed to file IWMPs (96%). The report also identifies 1,066 (93%) LTIWs that have not paid their fees. This included a total of 1,066 operators managing 3,262 wells, which constituted more than 88% of the operators who have LTIW obligations.

Aside from the eliminated wells, a total of 3,271 wells no longer met the definition of an idle well and 2,703 wells changed status from idle to plugged, as they were plugged and sealed. The other 568 wells changed status from idle to active by maintaining production of oil or

natural gas, maintaining production of water used in production stimulation, or being used for enhanced oil recovery, reservoir pressure management, or injection for six continuous months.

- 6) **Who's paying the fees instead of doing the plans?** CalGEM's IWMP report cites that in 2021, 162 operators paid \$4.9 million in idle well fees, which were deposited into the Hazardous Idle Deserted Well Abatement Fund for CalGEM to use to cover the cost of orphan wells. The balance of that fund, as of December 2021, was just more than \$8 million.

Of all the covered operators required to comply with the IWMP program, 1,031 operators failed to either file an IWMP or pay the fees, leaving \$3,656,250 in unpaid fees.

Under current law, well owners can pay fees ranging from \$150 to \$1,500. A review of CalGEM's programmatic data shows an overwhelming number of cases where operators are assessed only the lowest fees. As implemented, the statute enables operators for the most part to opt to pay either the small \$150 annual fee per well for non-long-term idle wells on the books for three to eight years or no annual fee for those on the books for less than three years. The highest rate of \$1,500 per year is only imposed for long-term idle wells that sit idle for eight years or more. On a per-well basis, these annual rates fail to provide any incentive for operators to plug the wells, because the fees are so much lower than the average cost to fully remediate a single well site and associated infrastructure.

Under current law, failure to file the fee for any well is considered conclusive evidence of desertion of the well, permitting the supervisor to order the well abandoned.

Under this bill, an operator who fails to file an IWMP will be subject to an additional civil penalty equivalent to the average cost to plug a well multiplied by the number of wells that the operator failed to plug in accordance with the minimum requirements.

- 7) **Increasing the rate to eliminate idle wells.** The bill would increase the amount of wells owners would be required to plug in their IWMPs based on the number of wells an owner owns.

In 2021, there were roughly 17,888 LTIWs, which suggests that at the current rate, and with no changes to regulations or to the rate at which operators submit IWMPs in lieu of idle well fees, the timeframe for operators to plug and abandon their long-term idle wells in California could take decades or even more than a century for some operators with more than 250 wells.

AB 1866 would require the amount of idle wells that operators with 250 or fewer idle wells are required to eliminate annually from 4% to 10%; increase the amount of idle wells that operators with 251 to 1,250 idle wells are required to eliminate annually from 5% to 15%; and, increase the amount of idle wells that operators with more than 1,250 idle wells are required to eliminate annually from 6% to 20%.

According to Sierra Club, "Since the [IWMP] began, the total number of idle wells in California has grown from 29,292 in 2018 to 38,759 in 2021, outpacing the number of wells being plugged and abandoned." This is likely due to the decline in the oil industry and the reduced oil and gas capacity, yet underscores the need to have more aggressive elimination requirements.

Requiring IWMPs and increasing the rate at which wells are sealed is intended to expedite the goal to reduce idle wells.

- 8) **Prioritizing wells impacting communities.** The California Oil and Gas Public Health Rulemaking Scientific Advisory Panel (Panel), an advisory body to CalGEM, has noted that close proximity to oil and gas development causes significant adverse health effects, including poor birth outcomes, asthma, and reduced lung function. Hazardous air pollutants that are known to be emitted from oil and gas development sites include benzene, toluene, ethylbenzene, xylenes, hexane and formaldehyde – many of which are known, probable, or possible carcinogens and/or teratogens and which have other adverse health effects.

FracTrackerAlliance, a non-profit organization that provides data and analyses to help better understand the harms posed by hydrocarbon extraction, reports approximately 2.7 million Californians live within 3,200 feet of an oil well. These individuals experience higher concentrations of “health-damaging air pollutants” and “measurably higher” exposure to noise and vibration.

Of CalGEM’s list of 5,300 orphan wells, 95% of the wells on that list were “potentially deserted wells” where the owner/operator did not pay idle well fees over a period of time. Many of these wells are located in urban areas throughout the state, and some are labeled as “critical wells,” which means a well within 300 feet of a building and an airport runway and 100 feet of a street or highway, body of water, and public recreational facility, and a wildlife preserve.

SB 1137 (Gonzales), Chapter 365, Statutes of 2022, was enacted to prohibit permits for most new oil and gas wells being drilled in setback zones (“health protection zones”) – areas within 3,200 feet of a sensitive receptor, which includes schools, health care centers, businesses open to the public, and more.

AB 1866 bill requires an operator to prioritize wells for testing and plugging and abandonment that are located within 3,200 feet of a sensitive receptor, as defined by SB 1137.

- 9) **Who can afford to plug and abandon idle wells?** Exxon posted full-year net income of \$36 billion, down from \$55.7 billion the previous year, but otherwise its biggest profit since 2012. Chevron’s net income of \$21.4 billion was down from \$35.5 billion the previous year, but otherwise its strongest since 2013.

The three of the biggest profit-earning oil companies in California, Chevron, Aera Energy and California Resources Corporation, hold 68% of idle wells in California. To do a full remediation of their idle wells, it would cost them 3.4% of their combined profits for 2022. Sierra Club opines that, “Total profits for the companies directly responsible for the majority of the state’s idle wells in 2022 were greater than 14 times higher than the cost to plug orphan and idle wells in the state (\$10 billion), and more than six times higher than the amount needed to plug and remediate the state’s entire inventory of unplugged wells at \$22.9 billion.”

The oil majors, however, have the necessary resources to fulfill their financial and environmental remediation obligations. It is the financially smaller and less diversified oil well owner that runs the greatest risk to abandoning a well.

- 10) **Culver City settlement.** On December 7, 2023, Culver City and Sentinel Peak Resources California LLC executed a Settlement Agreement to resolve Sentinel's potential legal claims relating to the City's Oil Termination Ordinance. Under the agreement, Sentinel must plug and abandon a minimum of 15 wells by December 31, 2027, at a rate of a minimum of three wells per calendar year from 2023 to 2027.

The bill contains language to assure the requirements of this bill do not interfere with that agreement if the terms of that agreement are more stringent than the requirements of this bill.

11) **Relevant legislation:**

AB 1167 (Carillo), Chapter 359, Statutes of 2023, requires a person who acquires the right to operate a well or production facility to file with CalGEM a bond for the well or production facility in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment and site restoration.

SB 1137 (Gonzalez), Chapter 365, Statutes of 2022, establishes health protection zones that are 3,200 feet in all directions from a sensitive receptor; prohibits CalGEM from approving the drilling of new oil or gas wells or the reworking of existing oil or gas wells within a health protection zone with certain exceptions, such as to plug-and-abandon a well; and, establishes additional monitoring and other requirements for existing oil and gas operations in a health protection zone, among other things.

SB 84 (Hurtado), Chapter 758, Statutes of 2021, requires CalGEM to identify wells by the American Petroleum Institute identification number that are registered to an operator and have met the definition of an idle well for three years where neither the annual fee has been paid nor is the well part of a valid idle well management plan.

SB 47 (Limón), Chapter 238, Statutes of 2021, increased the annual expenditure limit from the Oil, Gas and Geothermal Administration Fund, the principal source of funding for the Geologic Energy Management Division from a production fee assessed on oil and gas production in the state, for the plugging and abandonment of hazardous or idle-deserted wells to \$5 million.

SB 551 (Jackson), Chapter 774, Statutes of 2019, requires oil and gas well operators to provide estimates of the cost to plug and abandon wells and decommission attendant oil and gas production facilities, and requires [CalGEM] to establish criteria for these estimates and perform certain related inspections, among other things

SB 724 (Lara), Chapter 652, Statutes of 2017, authorized the Division of Oil, Gas, and Geothermal Resources (now CalGEM) to make expenditures up to \$3 million for four years to plug and abandon hazardous or deserted wells or hazardous or deserted production facilities.

AB 2729 (Williams), Chapter 272, Statutes of 2016, substantially revised and reformed the state's idle well requirements with certain other accompanying revisions to the current law governing oil and gas operations.

REGISTERED SUPPORT / OPPOSITION:

Support

Center for Biological Diversity
Climate Reality Project, Los Angeles Chapter
Climate Reality San Fernando Valley, CA Chapter
Los Angeles County Sanitation Districts
Natural Resources Defense Council
Sustainable Rossmore

Opposition

California Independent Petroleum Association
Western States Petroleum Association

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1881 (Davies) – As Amended March 11, 2024

SUBJECT: California Coastal Commission: scientific panel expertise: coastal erosion.

SUMMARY: Authorizes a person with expertise and training in coastal erosion to participate on a scientific panel that advises the California Coastal Commission (Commission).

EXISTING LAW:

Pursuant to the California Coastal Act (Public Resources Code 30000, *et seq.*):

- 1) Establishes the Commission to protect regional, state, and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state, avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, and coordinate and integrate the activities of the many agencies whose activities impact the coastal zone.
- 2) Requires the Commission to establish one or more scientific panels to review technical documents and reports and to give advice and make recommendations to the Commission prior to making decisions requiring scientific expertise and analysis not available to the Commission through its staff resources.
- 3) Establishes the intent of the Legislature that the Commission base any such technical decisions on scientific expertise and advice.
- 4) Authorizes the scientific panel(s) to be composed of, but not limited to, persons with expertise and training in marine biology, fisheries, geology, coastal geomorphology, geographic information systems, water quality, hydrology, ocean and coastal engineering, economics, and social sciences.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Need for the bill.** According to the author:

Coastal erosion is an issue that plagues California's beautiful beaches and natural resources. Many people choose to build homes right on top of these wonders or near them. Unfortunately, this issue means in the years to come many of these homes will be destroyed or deemed unfit for living due to the danger of eroding bluffs and coastal erosion. AB 1881 is a simple measure to ensure that the California Coastal Commission include professionals with experience dealing with this issue whenever they convene expert panels. As we look towards the future of environmental mitigation efforts, having people with experience combatting this issue on panels will give the Commission and the public a chance to hear how we can save our irreplaceable coastline.

- 2) **California Coastal Commission.** The Commission is an independent, quasi-judicial state agency that oversees implementation of the Coastal Act, which governs the coastal zone.

The coastal zone, which was specifically mapped by the Legislature, covers an area larger than the State of Rhode Island. On land the coastal zone varies in width from several hundred feet in highly urbanized areas up to five miles in certain rural areas, and offshore the coastal zone includes a three-mile-wide band of ocean.

California's coastal management program is carried out through a partnership between state and local governments. Implementation of Coastal Act policies is accomplished primarily through the preparation of Local Coastal Programs (LCPs) that are required to be completed by each of the 15 counties and 61 cities located in whole or in part in the coastal zone. Completed LCPs must be submitted to the Commission for review and approval. Development within the coastal zone may not occur until a coastal development permit has been issued by either the Commission or a local government that has a Commission-certified LCP.

- 3) **Scientific panels.** The Commission has convened scientific panels to advise on technical feasibility of industrial water desalination in Huntington Beach, San Onofre Nuclear Power Generation Station, the U.S. NAVY, Surface Warfare Engineering Facility at Port Hueneme, and more. Further, the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) is a California Joint Powers Agency that addresses coastal erosion, beach nourishment, and clean oceans within the Central California Coast from Point Conception to Point Mugu and often intersects/works with the Commission.

To-date, the Commission has not had an internal science panel with a specific individual with coastal erosion expertise.

- 4) **Coastal erosion.** In January 2002, the Department of Boating and Waterways submitted the *California Beach Restoration Study* to the Legislature, which acknowledged that the great majority of the coast of California consists of actively eroding sea cliffs. Results from this study showed that the great majority -- 72% -- of the coast of California consists of actively eroding sea cliffs. Earlier studies (US Army Corps of Engineers, 1971) indicated that about 950 miles, or 86%, of California's coast are eroding based on a large-scale regional analysis, which goes to show how long there has been concern around coastal erosion.

More recent science has included the impacts of climate change, and we know sea level rise, higher storm surges, and other impacts of climate change are exacerbating coastal erosion. A 2017 study from the US Geological Survey published in the *Journal of Geophysical Research—Earth Surface* predicts that with limited human intervention, 31% to 67% of Southern California erosion caused by sea-level rise will shrink nearly all the beaches, which are a crucial feature of the economy and the first line of defense against coastal-storm impacts for coastal residents and businesses. Further projections suggest that up to two-thirds of Southern California beaches may become completely eroded by 2100.

Eroding cliffs threaten extensive cliff top development throughout the state, including homes, businesses, highways, railways, wastewater, oil, natural gas, and nuclear facilities, universities, several critical military bases, and numerous state beaches and parks.

A 2018 report by the Scripps Institution of Oceanography identified locations in California at highest risk of cliff failure by 2050. The highest risk sites were spread across the state, but included several California locations: San Onofre State Beach, Daly City, Point Reyes National Seashore, and Palos Verdes. In these areas, ocean waves, rainstorms and other factors eroded coastal bluffs by up to 12 feet per year during the study period.

While research suggests that coastal erosion rates will increase as the sea level rises, variation in cliff geology, beach protection, exposure to weather, and other factors complicate the prediction of future erosion rates. The 2018 Scripps Institute study also determined that historical cliff erosion rates do not always provide a good prediction of future rates, and cliffs with high erosion rates in recent times were often preceded by time periods with very little erosion. These are key findings because models predicting future cliff retreat are often based on projecting the historical rates. Existing cliff erosion studies are often small scale, use a variety of techniques, and often rely on lower quality data sources, providing a patchwork across the state. According to Scripps Institute researcher Dr. Adam Young, understanding the processes that drive cliff failures, triggering mechanisms, magnitude of erosion, and timing of collapse is essential for coastal management and building resilient and safe communities.

- 5) **This bill.** In recognition of the variability of coastal erosion across the coastline and the need for current scientific understanding to inform decision-makers, AB 1881 would authorize the Commission to include a person with expertise and training in coastal erosion to participate on a scientific panel that advises the Commission.

REGISTERED SUPPORT / OPPOSITION:

Support

Livable California

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1922 (Davies and Luz Rivas) – As Introduced January 25, 2024

SUBJECT: California Conservation Corps: Green Collar Certification Program.

SUMMARY: Requires the director of the California Conservation Corps (CCC) to establish a Green Collar Certification Program.

EXISTING LAW:

- 1) Establishes the CCC in the Natural Resources Agency (NRA) and requires the CCC to implement and administer the conservation corps program. (Public Resources Code (PRC) 14000, *et seq.*)
- 2) Directs CCC program activities, including the management of environmentally important lands and water, public works projects, facilitating public use of resources, assistance in emergency operations, assistance in fire prevention and suppression, energy conservation, and environmental restoration. (PRC 14300)
- 3) States the intent to evaluate how effectively the CCC transitions corpsmembers into educational and employment opportunities upon completion of their service and requires the CCC to annually provide a report regarding specified corpsmember accomplishments and outcomes. (PRC 14424)
- 4) Establishes the California Green Collar Jobs Act of 2008 and requires the California Workforce Investment Board to establish a special committee known as the Green Collar Jobs Council to, among other things, assist in identifying and linking green collar job opportunities with workforce development training opportunities in local workforce investment areas. (Unemployment Insurance Code 15000 to 15003)
- 5) Requires the State Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006, to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 85% below 1990 levels by 2045. (Health & Safety Code 38500)

THIS BILL:

- 1) Amends current law requiring young adults participating in the CCC to contribute to and promote the conservation of clean energy, enhance climate resilience, and develop sustainable climate infrastructure.
- 2) Requires the director of the CCC to establish a Green Collar Certification Program that provides young persons participating in the CCC with skills and education relating to reducing carbon emissions in residential and nonresidential buildings, preparing communities for environmental disasters, and developing conservation infrastructure projects that stabilize shorelines and restore ecological habitats.

- 3) Requires the director to issue a Green Collar Certificate to a corpsmember who successfully completes the Green Collar Certification Program.
- 4) Requires the Green Collar Certification Program to prepare corpsmembers to enter the workforce, apply for an apprentice program, or pursue higher education.
- 5) Authorizes the director, in developing and administering the Green Collar Certification Program, to partner with local builders, the Interagency Advisory Committee on Apprenticeship, environmental organizations, and community colleges to provide relevant training and experience to corpsmembers.
- 6) Authorizes the director to apply for and accept grants or donations of funds from any public or private source that are provided for the specific purpose of purchasing, renting, or otherwise acquiring or obtaining necessary property, supplies, instruments, tools, equipment, and conveniences for the Green Collar Certification Program.
- 7) Requires any moneys received to be deposited into the Green Collar Certification Program Fund (Fund) and be continuously appropriated. Prohibits General Fund moneys from being deposited into the Fund.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author' statement:**

California's climate challenges affect every community and every person in our state. With the ever-growing threat of sea-level rise and coastal erosion coupled with our now year-round wildfire threats, we need the next generation of leaders who want to be employed in fields to help mitigate these disasters. AB 1922 is a common-sense measure to prepare the next workforce for jobs in "Green-Collar" industries via training in the California Conservation Corps. Our climate can't wait and neither should we preparing workers for the jobs of tomorrow.

- 2) **California Conservation Corps.** The CCC, established in 1976, is the oldest and largest state conservation corps program in the country. It's modeled after the 1930s Civilian Conservation Corps. The CCC's motto is "Hard work, low pay, miserable conditions ... and more!" The CCC has provided more than 74 million hours of natural resource work, such as trail restoration, tree planting, habitat restoration, and more than 11.3 million hours of work on emergency response for nearly every major California natural disaster including floods, fires, and earthquakes.

Although the CCC was originally conceived as a labor source for trail maintenance and restoration, it has evolved to a workforce development program. Corpsmembers learn skills such as forestry management, energy auditing and installation, emergency services management, and firefighting. Many corpsmembers also receive their high school diplomas and industry certifications at the conclusion of their service. The CCC provides health care (including mental health) to all of its members. More than 120,000 young adults have participated in the CCC. Approximately 3,000 corpsmembers apply each round for the 1,529 available corpsmember slots. Across California, the CCC operates 24 centers; nine are

residential where corpsmembers live on-site. CCC's residential centers house more than 600 corpsmembers in total. Corps members must be California residents between the ages of 18 and 25.

- 3) **California's climate goals impacts.** California has enacted some of the most ambitious policies in the world to cut GHGs from essentially every sector across the state.

In 2006, the Legislature enacted the Global Warming Solutions Act (AB 32) to reduce GHGs by specified amounts by specified deadlines, and it has since been updated to ultimately achieve carbon neutrality by 2045. The 100 Percent Clean Energy Act of 2018 requires 100% of California's electrical energy supply to come from renewable energy and zero-carbon sources by 2045. Governor Newsom has directed the state to phase out oil extraction and the state's reliance on fossil fuels by 2045.

As the ARB's 2022 Scoping Plan for achieving carbon neutrality notes:

The state's efforts to tackle the climate crisis will create economic and workforce development opportunities in the clean energy economy in communities across the state. Transitioning existing skills and expanding workforce training opportunities in climate-related fields are critical for reducing harmful emissions and supporting workers in transitioning to new, high-quality jobs.

An ARB analysis anticipated at least 100,000 new jobs as a result of AB 32, including traditional jobs in manufacturing, installation, and fabrication, among others in research and development. In reality, hundreds of thousands of green jobs have been created as a result of the state's current policies and regulations. According to Governor Newsom, California hosts more than a half-million green jobs and has six times more clean jobs than fossil fuel jobs.

The shifts in the state's economy can be seen from almost every angle. The auto-market that used to exclusively sell combustion-engine cars now accounts for more than 20% zero-emission vehicle sales. Wind, solar, and other renewable energy sources now make up a third of the energy supporting the electrical grid. In Los Angeles County, 75% of green jobs do not require a bachelor's degree, suggesting greater access to workers to transition to the green economy.

California is accelerating the state's push to achieve net-zero carbon pollution by 2045 with billions of dollars going to support communities, create green jobs, and pave the way for our clean fuel future. Last May, Governor Newsom announced including \$1 billion in regional partnerships and economic diversification to create new jobs and support a local tax base and workforce transition and development once opportunities are identified.

The "green jobs" workforce continues to grow. The California Workforce Development Board's Economic and Workforce Analysis 2024-2027 notes that,

Although impossible to quantify under the existing industry job classification systems, California's ambitious environmental goals and initiatives, as well as those contained in the federal Inflation Reduction Act of 2022, should continue to spur the development and application of carbon-neutral and environmentally sensitive technologies. "Green" jobs ... should be an important source of employment growth in California over the years to come.

- 4) **Green Collar Certification Program.** The Green Collar Jobs Act of 2008 states, “As the green economy grows, it will be accompanied by an increased demand for a highly skilled and well-trained ‘green collar’ workforce,” and its findings encouraged California state government to “act promptly to build the partnerships, expand the programs, and secure the resources necessary to meet our green workforce needs. This effort must involve both our K–12 and higher education systems, labor unions, the environmental community, workforce development programs, nongovernmental organizations, philanthropy, and private sector industries.”

Transforming opportunities at the CCC will prepare young people to enter an ever-changing workforce. The CCC currently offers Energy Corps, which provides trained labor for public agency and non-profit energy-efficiency and renewable energy projects. Corpsmembers receive energy industry level training while working on lighting retrofits, energy surveys, and solar panel installations.

Investments in the CCC make a difference. According to the CCC’s 2022 report to the Legislature on corpsmember outcome indicators, the Employment Development Department (EDD) reported that 56% of corpsmembers were employed in both the 2nd and 4th quarters after leaving the program. More than 50% of the residential corpsmembers who stayed in the CCC for one year or more launched careers directly related to the training and skills learned in the CCC.

ARB’s Funding Guidelines currently include requirements for administering agencies to, wherever possible, foster job creation within California, provide employment opportunities or job training tied to employment, and target these opportunities to priority populations. The Funding Guidelines also recommend administering agencies prioritize investments in projects that directly support jobs or a job training and placement program. These new requirements apply to agencies administering certain California Climate Investments programs that receive continuous appropriations from the Greenhouse Gas Reduction Fund (GGRF). The CCC’s Energy Corps program is GGRF-funded.

This bill requires the director of the CCC to establish a Green Collar Certification Program that would provide corpsmembers with skills and education relating to reducing carbon emissions in residential and nonresidential buildings, preparing communities for environmental disasters, and developing conservation infrastructure projects that stabilize shorelines and restore ecological habitats.

The certification proposed by this bill presents opportunity to train more workers for high road jobs, which are considered quality jobs that provide family-sustaining wages, health benefits, a pension, worker advancement opportunities, and collective worker input and are stable, predictable, safe and free of discrimination, per the California Labor and Workforce Development Agency.

- 5) **Related legislation:**

AB 1922 (McCarty, 2022) stated the intent of the Legislature to provide flexibility and opportunities for state agencies to hire current and former members of the CCC, and would have required a corpsmember to receive hiring priority at a state agency if the corpsmember met specified criteria. This bill was held in the Assembly Appropriations Committee.

SB 1036 (Newman, 2021) would have required the director of the CCC to establish and administer the California Ocean Corps Program to provide competitive grants to certified local conservation corps located in coastal counties in order to provide opportunities for young people to complete workforce preparation, training, and education programs, and, ultimately, to obtain employment, or continue education, in ocean and coastal conservation or related fields. This bill was vetoed by the Governor.

SB 936 (Glazer, 2021) would have required, upon an appropriation, the director of the CCC to establish a forestry training center in northern California in partnership with CAL FIRE and the California Department of Corrections and Rehabilitation to provide enhanced training, education, work experience, and job readiness for entry-level forestry and vegetation management jobs. This bill was vetoed by the Governor.

AB 2725 (Acosta, 2018) would have directed the CCC to create a Housing Corps program within the CCC. This bill failed in the Assembly Natural Resources Committee.

AB 2126 (Eggman), Chapter 362, Statutes of 2018, requires the CCC to establish a forestry corps program to accomplish certain objectives including developing and implementing forest health projects, as provided, and establishing forestry corps crews.

AB 2792 (Blakeslee, 2007) would have required the director of the CCC to establish a Green Collar Apprenticeship Program. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Voters
League of California Cities

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1923 (Davies) – As Introduced January 25, 2024

SUBJECT: Green Assistance Program

SUMMARY: Creates the Green Assistance Program (Program) within the California Environmental Protection Agency (CalEPA) to provide assistance to small businesses and non-profits.

EXISTING LAW:

- 1) Pursuant to the California Global Warming Solutions Act of 2006 (Health and Safety Code (HSC) 38500 *et seq.*):
 - a) Requires the Air Resources Board (ARB) to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions.
 - b) Establishes the Greenhouse Gas Reduction Fund (GGRF); requires that all funds, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund; and requires the Department of Finance, in consultation with ARB and any other relevant state agency, to develop a three-year investment plan for the GGRF.
 - c) Requires that the GGRF be used to facilitate the achievement of GHG emissions reductions in the state consistent with AB 32 and the investment plan.
 - d) Requires the investment plan to allocate a minimum of 25% of the funds to projects that benefit disadvantaged communities and to allocate 10% of the funds to projects located within disadvantaged communities.
 - e) Requires ARB, in consultation with CalEPA, to develop funding guidelines for administering agencies receiving allocations of the GGRF that include a component for how agencies should maximize benefits to disadvantaged communities. (HSC 38560-38568)
- 2) Pursuant to the Small Business Procurement and Contract Act, defines “small business” as an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of \$10 million or less over the previous three years, or is a manufacturer, as specified, with 100 or fewer employees. Increases the average gross receipts amount to \$15 million on January 1, 2029. (Government Code (GC) 14837)

THIS BILL:

- 1) Establishes the Program within CalEPA to be administered by the Secretary.
- 2) Requires the Program to:

- a) Provide technical assistance, including assistance with the development of competitive project proposals, to small businesses and small nonprofit organizations applying for an allocation of moneys from the GGRF;
 - b) Assist small businesses in applying or funding or energy upgrades to meet and exceed the GHG emissions reductions established by AB 32;
 - c) Advise small businesses in complying with all applicable federal, state, and local air quality laws;
 - d) Identify state agencies with appropriate grant programs; and,
 - e) Coordinate existing local programs to reduce GHG emissions with new programs receiving moneys from the GGRF.
- 3) Authorizes the Secretary for apply for and accept grants or contributions of funds from any public or private source for the Program.
 - 4) Defines terms used in the bill, including:
 - a) “Fund” to mean the GGRF;
 - b) “Secretary” to mean the Secretary of CalEPA; and,
 - c) “Small business” to have the same meaning as GC 14837.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **AB 32.** The Global Warming Solutions Act (AB 32) requires ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations, including market-based compliance mechanisms, to achieve maximum technologically feasible and cost-effective GHG emission reductions. ARB’s 2022 Scoping Plan requires the state to reduce GHG emissions by 85% and achieve carbon neutrality by 2045.

As part of the implementation of AB 32 market-based compliance measures, ARB adopted a cap-and-trade program that caps the allowable statewide emissions and provides for the auctioning of emission credits, the proceeds of which are deposited into the GGRF to be available for appropriation by the Legislature.

The Budget continuously appropriates 35% of cap-and-trade funds for investments in transit, affordable housing, and sustainable communities. Twenty-five percent of the revenues are continuously appropriated to continue the construction of high-speed rail. The remaining 40% is to be appropriated annually by the Legislature for investments in programs that include low-carbon transportation, energy efficiency and renewable energy, and natural resources and waste diversion.

- 2) **California Climate Investments.** The GGRF is funded by proceeds from the state’s cap-and-trade program. The Legislature has appropriated over \$26.3 billion to administering agencies to fund climate investments. The law requires that 25% of climate investments

must benefit priority populations, including disadvantaged and low-income communities. According to the ARB, 74% of implemented GGRF projects benefit priority populations.

- 3) **This bill.** ARB’s website, “California Climate Investments Funded Programs” includes a list of all programs funded by the GGRF, with information about each program and links to the programs themselves. Additionally, CalEPA does provide information on its website intended to help the public, including small businesses and nonprofits, identify funding sources. The Grants and Loans page includes descriptions of, and links to, grant and loan programs funded by the agency and its boards, departments, and offices. While this information is useful, it is somewhat difficult to navigate and an entity has to click through to each program to find out if funds are available, the applications and grant award timelines, eligibility, etc.

This bill is intended to require CalEPA to develop the Program to help small businesses and small nonprofits comply with air quality laws at the federal, state, and local level, as well as identify and apply for GGRF funding opportunities. The bill references an existing small business program to define small businesses, but does not define small nonprofit, which would need to be determined by CalEPA.

4) **Author’s statement:**

California leads the nation when it comes to our environment goals and policies we have in place to meet those goals. However, a key group we have left out when it comes to achieving these goals is our small business community. GGRF are vital funds used to help clean our air and get our state on an environmentally sound track. Unfortunately, many small businesses don’t know how to access these funds or know how to comply with the many laws and regulations we have in place. AB 1923 is a common-sense measure to create a one-stop shop program inside CalEPA to assist small businesses on how to access funds and ensure they meet our environmental guidelines.

- 5) **Previous legislation.** The green assistance program provisions of this bill were previously included in AB 2293 (Cristina Garcia) from 2016. That bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

National Federation of Independent Business

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1969 (Hart) – As Introduced January 30, 2024

SUBJECT: State Air Resources Board: Clean Off-Road Equipment Voucher Incentive Project: unmanned aerial systems

SUMMARY: Requires the Air Resources Board (ARB) to include unmanned aerial systems, commonly known as drones, in the meaning of agricultural equipment for purposes of the Clean Off-Road Equipment (CORE) Voucher Incentive Project established by ARB as part of the Air Quality Improvement Program (AQIP).

EXISTING LAW establishes the AQIP, administered by ARB in consultation with local air districts, to fund projects to reduce criteria air pollutants and provide funding for research to determine and improve the air quality impacts of alternative transportation fuels and vehicles, vessels, and equipment technologies. The primary purpose of AQIP is to fund projects to reduce criteria air pollutants in the logistics, goods movement, off-road, warehouse, and port sectors, improve air quality in nonattainment basins, with a priority for projects located in the areas of extreme nonattainment, and improve the air quality impacts of zero-emission transportation fuels and vehicles, vessels, and equipment technologies. Off-road equipment projects must be cost effective. (Health and Safety Code 44274)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** According to ARB, CORE is a program that incentivizes California fleets to purchase or lease cleaner off-road equipment. CORE provides a streamlined voucher process by which potential purchasers can receive funding to help offset the higher cost of cleaner off-road equipment. CORE is similar to the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP), which provides incentives for clean trucks and buses. CORE targets commercial-ready projects that have not yet achieved a significant market foothold. Currently, equipment types eligible for CORE include:
 - a) On- and off-road terminal tractors
 - b) Transport refrigeration units
 - c) Large forklifts
 - d) Cargo handling equipment
 - e) Airport cargo loaders and wide-body aircraft tugs
 - f) Aircraft ground power units
 - g) Railcar movers and freight locomotives
 - h) Construction equipment

- i) Agricultural equipment
- j) Commercial harbor craft
- k) Landscaping equipment

All equipment must be ≥ 19 kW to be eligible to participate in the CORE project.

According to the CORE implementation manual, “(a)gricultural equipment includes agricultural harvesting equipment, tractors, and other equipment used in agricultural operations. Agricultural equipment does not include All Terrain Vehicles (ATV) or Utility Terrain Vehicles (UTV).” Though drones are not explicitly excluded, CORE currently offers incentives only for three electric tractors manufactured by Monarch.

This bill requires ARB to include drones in the meaning of agricultural equipment without changing basic CORE requirements, such cost-effectiveness, commercial availability and minimum power.

2) Author’s statement:

AB 1969 aims to ease the transition away from gas-powered agricultural equipment by expanding the Clean Off-Road Equipment Voucher Incentive Project to include unmanned aerial systems. By incorporating unmanned aerial systems into the program, farmers can access innovative tools that contribute to cleaner air and align with the state’s climate objectives to reduce emissions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Farm Bureau (sponsor)

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 1992 (Boerner) – As Introduced January 30, 2024

SUBJECT: Coastal resources: coastal development permits: blue carbon demonstration projects.

SUMMARY: Authorizes the California Coastal Commission (Commission) to authorize blue carbon demonstration projects, as defined, in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state’s natural and working lands and climate resilience strategies.

EXISTING LAW:

Pursuant to the California Global Warming Solutions Act of 2006 (Health and Safety Code 38500 *et seq.*):

- 1) Establishes the Air Resources Board (ARB) as the state agency responsible for monitoring and regulating sources emitting greenhouse gas (GHG) emissions.
- 2) Requires ARB to approve a statewide GHG emissions limit equivalent to the statewide GHG emissions level in 1990 to be achieved by 2020 and to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 3) States that it is the policy of the state that the protection and management of natural and working lands is an important strategy in meeting the state’s GHG emissions reduction goals, and that the protection and management of those lands can result in the removal of carbon from the atmosphere and the sequestration of carbon in, above, and below the ground.

Pursuant to the California Coastal Act of 1976 (Public Resources Code 30000, *et seq.*)

- 1) Establishes the Commission to protect regional, state, and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state, avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, and coordinate and integrate the activities of the many agencies whose activities impact the coastal zone.
- 2) Requires anyone planning to perform or undertake any development in the coastal zone to obtain a coastal development permit from the Commission.

THIS BILL:

- 1) Finds and declares that given the potential of blue carbon sequestration, blue carbon demonstration projects in California may help the state better understand how blue carbon could potentially contribute to the state achieving its carbon neutrality and climate resilience goals.

- 2) Defines “blue carbon demonstration project” as the restoration of coastal wetland, subtidal, intertidal, or marine habitats or ecosystems, including, but not limited to, wetlands and seagrasses, that can take up and sequester carbon. Limits a blue carbon demonstration project to ecologically appropriate locations where the habitat or ecosystem had historically existed and subsequently became degraded or removed; the restoration of the habitat or ecosystem to its historical state to provide ecosystem services and habitat values, to the extent feasible; and, the use of diverse native species.
- 3) Authorizes the Commission to authorize blue carbon demonstration projects in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state’s natural and working lands and climate resilience strategies.
- 4) Authorizes the Commission to require an applicant with a project that impacts coastal wetland, subtidal, intertidal, or marine habitats or ecosystems to build or contribute to a blue carbon demonstration project.
- 5) Requires the Commission to consult with ARB, the Department of Fish and Wildlife, the State Coastal Conservancy, the State Lands Commission, and other public entities, and seek consultation with the United States Army Corps of Engineers and the National Oceanic and Atmospheric Administration (NOAA), in developing the blue carbon demonstration project program.
- 6) Requires each blue carbon demonstration project to be designed, monitored, and have sufficient data collected in order to demonstrate the carbon uptake and sequestration achieved. Requires this to include an evaluation of relevant factors affecting the permanence of the sequestration. Requires the results to be presented to the Commission in a public hearing.

FISCAL EFFECT: Unknown

COMMENTS:

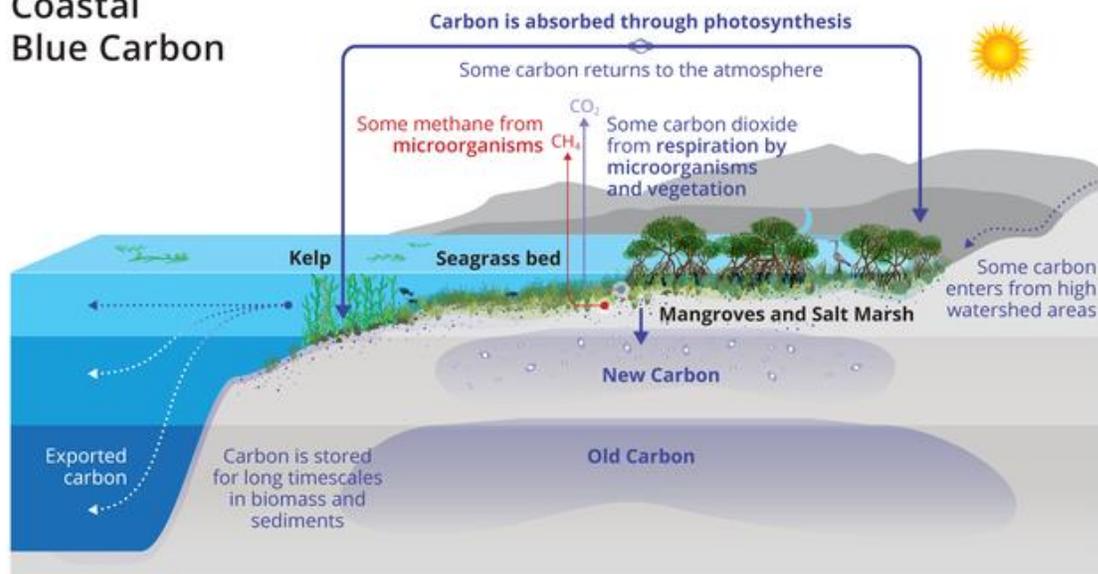
1) **Author’s statement:**

Several recent studies focusing on the importance of conserving coastal ecosystems have concluded coastal wetlands can store far greater amounts of carbon than they naturally release, which makes them one of the world’s most important natural carbon sinks. Unfortunately, coastal habitats around the world are being lost at a rapid rate, largely due to coastal development for housing, ports, and commercial facilities. AB 1992 requires that coastal development permit applicants include in their planning and design how they plan to build or will contribute in promoting blue carbon projects where feasible. This requirement is consistent with the California Coastal Commission’s task of working with local governments to protect the shoreline when approving developments in the coastal zone consistent with the California Ocean Protection Act.

- 2) **Blue carbon.** Blue carbon refers to carbon dioxide that is absorbed from the atmosphere and stored in the ocean. “Blue” refers to the watery nature of this storage. The vast majority of

blue carbon is carbon dioxide that has dissolved directly into the ocean. Blue carbon refers is stored by seagrass, mangroves, tidal marshes, and other plants in coastal wetlands through photosynthesis. As these aquatic plants grow, they accumulate and bury organic matter in the soil. Water-logged sediments are very low in oxygen, allowing the carbon drawn from plants to stay trapped in the sediment for as long as it remains undisturbed.

Coastal Blue Carbon



[Graphic from the National Oceanic and Atmospheric Administration¹]

Seagrass, tidal marshes, and mangroves are sometimes referred to as “blue forests” in contrast to land-based forests. Blue forests equal just 0.05% of the plant biomass on land, but they can efficiently store high levels of carbon. Research indicates that coastal blue carbon habitats annually sequester carbon 10 times faster than mature tropical forests, and store 3-5 times more carbon per equivalent area.

Marshes sequester carbon in underground biomass due to high rates of organic sedimentation and anaerobic-dominated decomposition, a process where microorganisms break down biodegradable material in the absence of oxygen. Marshes are susceptible to eutrophication (a nutrient-induced increase in phytoplankton productivity) and pollution from oil and industrial chemicals. Introduced invasive species, sea-level rise, river damming, and decreased sedimentation are other long-term changes that affect marsh habitat, and in turn, may affect carbon sequestration potential.

Although seagrass makes up only 0.1% of area on the ocean floor, it accounts for approximately 10-18% of the total oceanic carbon capture. Researchers have studied how large-scale seaweed cultivation in the open ocean can act as a form of carbon sequestration and found that nearshore seaweed forests constitute a source of blue carbon, as seaweed debris is carried by wave currents into the middle and Deep Ocean, thereby sequestering carbon.

Because oceans cover 70% of the planet, and because more than 80% of the global carbon cycle is circulated through the ocean, ocean ecosystem restoration has great blue carbon

development potential. Research is ongoing, but in some cases it has been found that these types of ecosystems remove far more carbon than terrestrial forests, and can store it for millennia.

As habitats that sequester carbon are altered and decreased, the natural carbon stored in these environments is being released into the atmosphere, accelerating the rate of climate change. Researchers indicate that if blue carbon ecosystems continue to decline at the current rate, 30% to 40% of tidal marshes and seagrasses could be gone in the next century.

International agreements aimed at curbing climate change have focused growing attention on coastal blue carbon. Not enough was known about the carbon storage in blue-carbon ecosystems for them to be included in the earliest National Greenhouse Gas Inventories. As the science advanced, the Intergovernmental Panel on Climate Change (IPCC) released guidance in 2013 for how countries participating in the Paris Climate Agreement should account for coastal blue carbon in their national inventories and their Nationally Determined Contributions, which are voluntary actions a country pledges to take to reduce its carbon emissions. Several years later, however, only a few countries aside from the United States had been able to incorporate blue carbon according to IPCC guidance.

Sadly, in coastal California, human activity has led to a reduction in the coastal wetlands and the distribution and amount of seagrass beds. California has lost on the order of 90% of its coastal wetlands. Despite that, recent estimates indicate that on the order of 13.4 million tons of carbon are stored in California's coastal wetlands. Restoring coastal wetlands can further harness carbon sequestration potential and further California's goals for reaching carbon neutrality.

- 3) **Blue carbon in California.** In California, coastal blue carbon habitats include tidal salt marsh and seagrass (eelgrass). Currently, the state has about 296,500 acres of tidal salt marsh habitat and 14,800 acres of eelgrass.

Separate from their ability to sequester carbon, the state has long recognized the ecological value of these habitats. Current law (Fish and Game Code 2856) recognizes that kelp forests and seagrass beds, among other types of habitat should be represented in the types of areas reserved under the Marine Life Protection Act. Further, eelgrass beds are protected as "special aquatic sites" under the federal Clean Water Act guidelines and are designated as Essential Fish Habitat under the federal Magnuson-Stevens Fishery Conservation Management Act. The Ocean Protection Council's (OPC) 2020 – 2025 Strategic Plan proposes developing new approaches to accelerate wetland and seagrass habitat creation and restoration "including developing and/or enhancing wetland and seagrass mitigation banking, blue carbon mitigation banking, cutting the green tape to accelerate habitat restoration and creation projects, green infrastructure projects, creative finance instruments, and other possible solutions." Included in the Strategic Plan are goals to protect and/or restore an additional 10,000 acres of coastal wetlands and create an additional 1,000 acres of seagrass by 2025 and implementation of a statewide Kelp Restoration and Management Plan.

Nearly all the tidal marshes around San Francisco Bay have been lost since the 1850s due to commercial development and other anthropogenic pressures. California has undertaken an

ambitious project to turn 15,000 acres of industrial salt ponds in the southern part of the bay back into tidal marshes to provide ecological and carbon-storage benefits.

These coastal ecosystems, already significantly disturbed directly by human activity, are also being profoundly and simultaneously impacted by climate change and warming coastal waters.

- 4) **Federal Efforts.** NOAA has supported efforts to include coastal wetlands into the U.S. inventory of GHG emissions and sinks. They work collaboratively with the National Marine Fisheries Service, National Ocean Service, and Oceanic and Atmospheric Research offices, and sponsor the National Academies of Sciences, Engineering, and Medicine’s project, *Developing a Research Agenda for Carbon Dioxide Removal and Reliable Sequestration*. NOAA is working to make wetlands conservation and restoration profitable while reducing GHG emissions through blue carbon financial markets. This approach creates a financial incentive for restoration and conservation projects by helping to alleviate federal and state carbon taxes aimed at discouraging the use of fossil fuels.

In November 2021, U.S. Senate Oceans Caucus Co-Chairs Lisa Murkowski (R-AK) and Sheldon Whitehouse (D-RI) reintroduced the Blue Carbon for Our Planet Act, focused on conserving, restoring, and understanding coastal blue carbon ecosystems. While that legislation was not enacted, it illustrates the bipartisan acknowledgement and support for blue carbon investments at a federal level.

- 5) **Natural and working lands.** Current law defines natural lands as lands consisting of forests, grasslands, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands, or wildlife habitat, or lands used for recreational purposes such as parks, urban and community forests, trails, greenbelts, and other similar open-space land. Natural and working lands cover approximately 90% of the state’s 105 million acres, including California Native American tribes’ ancestral and cultural lands and waters.

Healthy natural and working lands can sequester and store carbon and limit future carbon emissions into the atmosphere. International leaders recognize this timely opportunity. According to the United Nations Environment Program, “By working with nature, we have the potential to reduce emissions by more than a third of what is needed by 2030.”

In October 2020, Governor Newsom outlined a comprehensive and results-oriented nature-based solutions agenda for California in Executive Order (EO) N-82-20. The EO called on the California Natural Resources Agency (NRA) to enable enduring conservation measures on a broad range of landscapes, including natural areas and working lands, in partnership with land managers and natural resource user groups.

In response to the Governor’s EO, the state released the draft *Natural and Working Lands Climate Smart Strategy* in 2021, which describes how these lands can deliver on our climate change goals and identifies options to track nature-based climate action and measure progress. The state is committed to “track nature-based climate solutions and their outcomes, as well as to improve our understanding and ability to measure outcomes of climate smart actions. To improve over time, our efforts will need to be flexible; successful climate smart

land management requires adaptive approaches that are continually reassessed as ecosystems are affected by climate change and our understanding of the processes at work grows.”

Although natural and working lands can remove carbon dioxide from the atmosphere and sequester it in soil and vegetation, disturbances such as severe wildfire, land degradation, and conversion can cause these landscapes to emit more carbon dioxide than they store.

California’s natural and working lands are not healthy and the critical ecosystem services they provide, including their ability to sequester carbon from the atmosphere, are at risk. Actions to protect, restore, and sustainably manage the health and resiliency of these lands can greatly accelerate our progress to mitigate climate change and our ability to reduce worsening climate change impacts.

To advance that goal, AB 1992 would authorize blue carbon demonstration projects in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state’s natural and working lands and climate resilience strategies.

ARB’s 2017 Scoping Plan set a preliminary goal to reduce GHG emissions from natural and working lands by at least 15 – 20 million metric tons of carbon dioxide equivalents (MMT CO₂e) by 2030.

The 2022 Scoping Plan for the first time includes modeling for seven land types within the natural and working land sector, including wetlands. The Scoping Plan notes:

Wetlands cover 2 percent of the state (roughly 1.7 million acres) and include inland and coastal wetlands, such as vernal pools, peatlands, mountain meadows, salt marshes, and mudflats. These lands are essential to California’s communities as they serve as hotspots for biodiversity, contain considerable carbon in the soil, are critical to the state’s water supply, and protect upland areas from flooding due to sea level rise and storms. Wetlands have been severely degraded through reclamation, diking, draining, and dredging practices in the past, resulting in the emissions of the carbon stored in the soils and the loss of ecosystem benefits. Climate smart strategies to restore and protect all the types of wetlands can reduce emissions while simultaneously improving the climate resilience of surrounding areas and improving the water quality and yield for the state. Restored wetlands also can reduce pressure on California’s aging water infrastructure. These benefits beyond emissions reductions will help in the future, as climate change is predicted to negatively affect water supply.

This bill’s findings declare that blue carbon is not currently included in the state’s natural and working lands inventory due, in part, to the limited availability of data and methodologies to inventory the stored carbon. While “blue carbon” is not explicitly referenced in the Scoping Plan update, the inclusion of wetlands under natural and working lands provides the opportunity to include blue carbon in the conversation as it relates to wetland restoration and meeting the state’s GHG goals.

- 6) **Counting GHG benefits.** While various models exist to evaluate carbon stocks and sequestration rates for different habitats, the California Ocean Science Trust has stated that more research is needed to provide clear estimates and to better understand blue carbon opportunities in California. Information gaps include understanding the differences in carbon

sequestration rates for restored wetland habits versus mature blue carbon ecosystems; determining how macro-algae and kelp forests contribute to carbon export and burial; and, better mapping of existing California blue carbon habitats and field measurements of their GHG emissions.

AB 1992 would allow the Commission to authorize blue carbon demonstration projects in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state's natural and working lands and climate resilience strategies.

Beyond data collection, this could help the state in meeting its strategic goals to restore wetlands, restore seagrass, achieve 30x30, and sequester GHGs to meet our climate goals.

7) **Related legislation:**

AB 45 (Boerner, 2023) was identical to AB 1992. This bill was held in the Senate Appropriations Committee.

AB 1407 (Addis, 2023) would require the OPC, upon appropriation of funding by the Legislature, to establish a Kelp Forest and Estuary Restoration and Recovery Framework that has a goal of restoring a specified amount of kelp forest, eelgrass meadow, and oyster beds annually. This bill is on the Senate on the Inactive File.

AB 2593 (Boerner Horvath, 2022) would have authorized the Commission to approve blue carbon projects, as defined, in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state's natural and working lands and climate resilience strategies. This bill was held in the Senate Appropriations Committee.

AB 2649 (C. Garcia, 2022) would have set annual targets for natural carbon sequestration starting in 2030 by requiring the removal of 60 million metric tons of carbon equivalent (MMT CO₂e) per year, increasing to 75 MMT CO₂e annually in 2035. Defined "natural carbon sequestration" as "the removal and storage of atmospheric carbon dioxide equivalents by vegetation and soils on natural, working, and urban lands." Much of the policy language from this bill was codified in the Budget Act to require ARB to establish goals for carbon sequestration in natural and working lands. The bill was subsequently held in the Senate.

AB 1298 (Mullin, 2020) would have appropriated an unspecified amount to the OPC for blue carbon projects that increase the ability of the ocean and coastal ecosystems to capture, sequester, and store carbon dioxide. This bill was held due to the COVID-19 pandemic and limits on how many bills policy committee could hear.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
California Environmental Voters
City of San Diego
Climate Reality Project, California Coalition
Sustainable Rossmoor

Opposition

California Apartment Association
California Association of Realtors
California Building Industry Association

Analysis Prepared by: Paige Brokaw / NAT. RES. /

ⁱ [Understanding blue carbon | NOAA Climate.gov](https://www.noaa.gov/understanding-blue-carbon)

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2091 (Grayson) – As Amended February 28, 2024

SUBJECT: California Environmental Quality Act: exemption: public access: nonmotorized recreation

SUMMARY: Establishes an exemption from the California Environmental Quality Act (CEQA) for a change in use to allow public access for nonmotorized recreation in areas acquired for open space or park purposes.

EXISTING LAW requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines.) (Public Resources Code 21000, *et seq.*)

THIS BILL:

- 1) Provides that CEQA does not apply to a change in use to allow public access for nonmotorized recreation in areas acquired for open space or park purposes, including public access on the following:
 - a) Preexisting paved and natural surface roads.
 - b) Preexisting trails.
 - c) Preexisting pathways.
 - d) Use of disturbed areas for vehicle parking, such as driveways, involving no new paving or grading, as access points for park and open space.
- 2) Specifies that such a change in use is not a physical change in the environment requiring environmental review, even if physical changes to the environment requiring future environmental review are reasonably foreseeable consequences of the change in use to allow public access for nonmotorized recreation.
- 3) Requires the lead agency claiming exemption to file a notice with the State Clearinghouse in the Office of Planning and Research and with the county clerk of the county in which the land is located.
- 4) Establishes the following definitions:
 - a) “Public access” means allowing visitors on public agency-managed park and open space.
 - b) “Nonmotorized recreation” means low-impact recreational activities, including, but not limited to, hiking, walking, bike riding, equestrian use, and nature viewing.

5) Sunsets the exemption January 1, 2030.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

This bill stems from the question whether CEQA applies in the first instance to a public agency action to provide public access to existing open space, where no other physical changes are involved in the agency's action. Though such an action seems insignificant, controversy and questions of environmental impacts could arise, e.g., from neighbors concerned about an increase in traffic or the access introducing recreational activities that cause impacts on protected species or tribal cultural resources. The bill establishes a relatively narrow exemption, confirming that minor actions to provide public access for non-motorized recreation are not subject to CEQA.

- 2) **Author's statement:**

AB 2091 is a narrowly tailored bill that would facilitate public access to open space in a more expeditious manner by allow a public agency, such as a park district, to open up acquired land that has existing roads and trails for non-motorized recreational uses, without requiring additional CEQA analysis. Recent legislation has made it easier for park agencies to acquire land for the preservation of open space and recreational purposes by granting an exemption under CEQA, but in some cases, additional consideration must be taken before the land can be opened up for public use – even if the acquired land had pre-existing roads and trails. The additional considerations can often be used by project opponents to delay public access through the CEQA process, costing agencies thousands of dollars and denying the public access to nature acquired by public agencies. AB 2091 will help public agencies save time and resources, and allow the public to access open space and non-motorized recreational opportunities in a more expeditious manner.

- 3) **Proposed exemption is broader than necessary to accomplish the stated purpose, which may risk public investments in conservation lands.** While the bill is relatively narrow, it still goes a bit beyond the stated purpose and may include activities and impacts that are inconsistent with conservation purposes for which lands have been acquired and managed.

For example, if a public agency introduces mountain bikes, dogs or horses to properties that may include protected species or tribal cultural resources, an exemption with no consideration of environmental impacts and no tribal consultation may not be appropriate. *The author and the committee may wish to consider* amendments to clarify and narrow the bill to assure public access is consistent with conservation objectives and isn't provided in areas likely to contain endangered, threatened, rare, or special status species, or tribal cultural resources.

- 4) **Double referral.** This bill has been double-referred to the Water, Parks and Wildlife Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bear Yuba Land Trust
California Association of Recreation & Park Districts
California Outdoor Recreation Partnership
California Trails Foundation
County of Nevada
County of Placer
East Bay Regional Park District
Eastern Sierra Land Trust
Feather River Land Trust
John Muir Land Trust
Midpeninsula Regional Open Space District
Placer Land Trust
Save Mount Diablo
Sierra Business Council
Sierra County Land Trust
Sierra Foothill Conservancy
Sierra Nevada Alliance
Sonoma County Regional Parks
Truckee Donner Land Trust

Opposition

None on file

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2190 (Mathis) – As Introduced February 7, 2024

SUBJECT: California Environmental Quality Act: expedited judicial review: infrastructure projects: hydrogen

SUMMARY: Deletes the exclusion of hydrogen projects from expedited administrative and judicial review under SB 149 (Caballero), Chapter 60, Statutes of 2023.

EXISTING LAW:

- 1) The California Environmental Quality Act (CEQA) requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA guidelines). (Public Resources Code (PRC) 21000, *et seq.*)
- 2) Authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval. The courts are required to give CEQA actions preference over all other civil actions. Requires the court to regulate the briefing schedule so that, to the extent feasible, hearings commence within one year of the filing of the appeal. Requires the plaintiff to request a hearing within 90 days of filing the petition. Requires the court to establish a briefing schedule and a hearing date, requires briefing to be completed within 90 days of the plaintiff's request for hearing, and requires the hearing, to the extent feasible, to be held within 30 days thereafter. (PRC 21167, *et seq.*)
- 3) Requires a court, upon finding a public agency's actions are not in compliance with CEQA, to order one or more of the following:
 - a) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part;
 - b) If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision into compliance with this division; and
 - c) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with CEQA.

Any order shall include only those mandates which are necessary to achieve compliance with CEQA and only those specific project activities in noncompliance with CEQA. (PRC 21168.9)

- 4) SB 149 establishes procedures for expedited administrative review (i.e., concurrent preparation of the record) and judicial review (i.e., requiring the courts to resolve CEQA litigation within 270 days, to the extent feasible) for four categories of public and private infrastructure projects, including energy infrastructure, subject to eligible projects being certified by the governor, approved by the lead agency on or before January 1, 2033, and meeting specified environmental and labor requirements. (PRC 21189.80, *et seq.*)
- 5) SB 149 defines energy infrastructure projects as renewable energy generation eligible under the Renewables Portfolio Standard (excluding resources that utilize biomass fuels); new energy storage systems of 20 megawatts or more (excluding specified pumped hydro facilities); manufacture, production, or assembly of specified energy storage and renewable energy components; electric transmission facilities (with projects in the Coastal Zone subject to regulation by the Coastal Commission). Explicitly excludes projects utilizing hydrogen as a fuel. (PRC 21189.81)

THIS BILL deletes the exclusion of projects utilizing hydrogen as a fuel from the expedited review provisions of SB 149.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

An EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Generally, CEQA actions taken by public agencies can be challenged in superior court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations. Under current law, court challenges of CEQA decisions generally must be filed within 30-35 days, depending on the type of decision. The courts are required to give CEQA actions preference over all other civil actions. However, the schedules for briefing, hearing, and decision are less definite. The petitioner must request a hearing within 90 days of filing the petition and, generally, briefing must be completed

within 90 days of the request for hearing. There is no deadline specified for the court to render a decision.

Following the precedent of several prior bills that applied to “environmental leadership” and other specific projects and project types, SB 149 offered expedited judicial review to a broad range, and unlimited number, of infrastructure projects falling into four categories – energy, transportation, water, and semiconductor/microelectronic.

CEQA streamlining was part of a larger infrastructure package originally proposed by the Newsom Administration. SB 149 the product of negotiations, and part of the agreement was to exclude hydrogen projects.

2) **Author’s statement:**

AB 2190 is a necessary and common sense measure which authorizes the Governor to certify energy infrastructure projects that use hydrogen as a fuel as eligible for streamlining benefits related to CEQA. In doing so, this bill removes an unnecessary barrier to the development of crucial infrastructure and facilitates the expansion of an environmentally friendly source of energy.

- 3) **Hydrogen is not inherently clean.** The environmental impacts of hydrogen, including effects on climate and air quality, can range from very favorable to very unfavorable, depending on production, delivery, end use, and the fuel the hydrogen is replacing. For example, hydrogen produced with fossil fuels and used in a combustion application that replaces a renewable energy source is not a good environmental solution. However, hydrogen produced with zero-carbon energy and used in a zero-emission application that replaces diesel combustion has clear climate and air quality benefits.

The source of the hydrogen and the source of the energy used to split hydrogen are significant factors in determining the lifecycle emissions associated with hydrogen use. Today, there are several means of hydrogen production and it is likely that these will evolve as technology advances.

Green hydrogen can result in almost no GHG emissions. Produced by electrolyzing water, green hydrogen is made using 100% renewable electricity to split hydrogen from water molecules. Less than 0.1% of hydrogen production globally comes from water electrolysis.

However, 96% of hydrogen produced today is considered to be gray hydrogen. Gray hydrogen is produced by heating natural gas, or methane, with steam to form syngas (a mixture of hydrogen and carbon monoxide and carbon dioxide). The syngas is separated to produce hydrogen. This process results in relatively high greenhouse gas emissions.

- 4) **No evidence that hydrogen projects have been delayed by CEQA litigation.** In addition to environmental questions about real-world hydrogen production, another key reason hydrogen projects were not included in SB 149 is that no case was made that hydrogen projects are facing unreasonable delays due to CEQA litigation.
- 5) **Double referral.** This bill has been double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

Asian Pacific Environmental Network

California Environmental Voters

CEJA Action

Center on Race, Poverty, & the Environment

Communities for a Better Environment

Leadership Counsel for Justice & Accountability

Livable California

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2236 (Bauer-Kahan) – As Introduced February 8, 2024

SUBJECT: Solid waste: reusable grocery bags: standards: plastic film prohibition

SUMMARY: Eliminates plastic film bags from the state’s single-use bag ban.

EXISTING LAW:

- 1) Prohibits stores from distributing of single-use carryout bags to customers at the point of sale. (Public Resources Code (PRC) 42281)
- 2) Defines “store” as a retail establishment that meets any of the following:
 - a) A full-line, self-service retail store with gross annual sales of \$2 million or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items;
 - b) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law and has a licensed pharmacy;
 - c) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a specified license from the Department of Alcoholic Beverage Control; or,
 - d) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises and that holds a specified license from the Department of Alcoholic Beverage Control. (PRC 42280)
- 3) Beginning January 1, 2025, prohibits a store from providing a precheckout bag to a customer if the bag is not compostable or recycled paper, as specified. (PRC 42281.2)

THIS BILL:

- 1) Requires that recycled paper bags distributed by stores to customers must contain 100% postconsumer recycled materials.
- 2) Revises the definition of “single-use carryout bag” to remove the specification that the bags must be provided at the point of sale by a store.
- 3) Repeals the current exemption for bags provided to customers to contain an unwrapped food item and replaces it with an exemption for bags provided to customers to contain or wrap uncooked meat, fish, seafood, poultry, other unwrapped or non-prepacked flowers, plants, or other items for the purpose of separating them from other items to avoid contamination, prevent damage from moisture, or for sanitary, public health, or environmental protection purposes.

- 4) Repeal provisions that allow retail establishments to voluntarily comply with the provisions of the plastic bag law that they are not required to comply with, including for bags that are not covered by the law's requirements or stores that are not subject to the law.
- 5) Repeal the requirement that stores may only sell or distribute reusable bags made from plastic film that are certified to meet the requirements of the plastic bag law.
- 6) Requires that reusable bags distributed by stores be made from cloth or other machine washable fabric or other nonfilm plastic washable material. Requires that reusable bags have a minimum fabric weight of 80 grams per square meter or equivalent for bags made of any nonfilm plastic or natural, synthetic, petroleum-based, or nonpetroleum-based origin, including woven polypropylene or polyethylene-terephthalate, cotton, jute, or canvas.
- 7) Repeals the requirement that reusable bags eligible for recycling be labeled with instructions for how to recycle the bag.
- 8) Requires reusable bags to be labeled with a statement that the bag does not contain lead, cadmium, or any other toxic material that may pose a threat to public health.
- 9) Repeals the requirement that if a reusable bag is claimed to be recyclable it must comply with federal Guides for the Use of Environmental Marketing Claims.
- 10) Repeals various requirements relating to reusable bags made from plastic film.
- 11) Specifies that except as provided, a store shall not provide a single-use carryout bag or a reusable grocery bag to a consumer at the point of sale.
 - a) Authorizes a store to make reusable bags available for purchase if they meet the requirements established by the bill;
 - b) Authorizes a store to make recycled paper bags, as specified; and,
 - c) Authorizes a store to distribute compostable bags, as specified.
- 12) Repeals the authority for stores to provide reusable grocery bags at no cost to consumers who are using a payment card or voucher, as specified.
- 13) Specifies that the provisions of this bill go into effect on January 1, 2026.
- 14) Makes related technical and clarifying changes to existing law.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Plastic pollution.** Plastics pose a threat to the environment from origin to end-of-life. Plastic production is responsible for three and a half percent of all greenhouse gas emissions—more than the entire aviation sector. In 2021, global plastics production was estimated at 390.7 million metric tons, a 4% increase from the previous year. The United Nations Environment Programme reports that only 9% of all plastic ever made has been recycled, 12% has been incinerated, and the remaining 79% has accumulated in landfills or the environment.

Once plastics enter the environment, they remain there for hundreds to thousands of years. Plastics do not break down into their constituent parts, but instead break down into smaller and smaller particles, or microplastics. Because they are so small, microplastics can travel in the air and water, and can be easily absorbed by living things and accumulate up the food chain. Microplastics have been found in the most pristine natural environments on earth, including in the deep ocean, Antarctic sea ice, and in the sand of remote deserts. Microplastics are found in household dust and drinking water (bottled and tap), and humans are inhaling and consuming them. A March, 2024, study published in *Science of the Total Environment* identified microplastics in all human tissues sampled, with the polyvinyl chloride being the dominant polymer. The highest abundance of microplastics were found in human lung tissue, followed by the small intestine, large intestine, and tonsils. A February, 2024 study published in *Toxicological Sciences* analyzed samples of 62 human placentas and found microplastics present in every sample. Shockingly little information exists about the potential health impacts of microplastics exposure. Laboratory studies have found that microplastics increase the risk of cancer and disrupt hormone pathways in lab rats.

Plastic pollution and the impacts of microplastics on human health fall disproportionately on marginalized communities. Both due to plastics and to the environmental impacts of plastic production. Nearly all plastic is produced from fossil fuels and generates greenhouse gas emissions and toxic chemicals that impact air and water quality. About 14% of oil is used in petrochemical manufacturing, a precursor to producing plastic. By 2050, plastic production is predicted to account for 50% of oil and fracked gas demand growth. According to *Feeding the Plastics Industrial Complex: Taking Public Subsidies, Breaking Pollution Limits*, a report released on March, 14, 2024, by the Environmental Integrity Project, “more than 66% of people within three miles of factories that manufacture the main ingredients in plastic products are people of color living in communities that are over-exposed to air pollution while schools and other public services are chronically underfunded.” The report notes that these facilities receive billions in subsidies while repeatedly violating environmental laws and regulations. For example, Indorama, the world’s largest producer of polyethylene terephthalate (PET) resins used in beverage containers and other single-use packaging, cited a facility in Louisiana that cracks natural gas or oil into ethylene. The facility received both a \$1.5 million grant from the state and an exemption from local taxes – a subsidy estimated to be worth at least \$73 million over 10 years. In return, Indorama violated its permitted air pollution control limits. In one example, over five months in 2019, the facility released more than 90 times the permitted level of volatile organic compounds. Instead of coming into compliance after multiple violations, the state revised the facility’s pollution control permit to allow higher levels of emissions.

Recycling plastic into new products is one way to reduce plastic pollution, as it keeps the recycled plastic out of the environment and reduces our dependence on virgin resin. However, recycling is currently only feasible for some of the more common, and least toxic, forms of plastic. The most effective way to tackle the plastic pollution crisis is to use less of it.

- 2) **Plastic bags.** According to United Nations Environmental Programme, up to five trillion (5,000,000,000,000) plastic bags are used worldwide every year. While cigarette butts are the most common type of plastic waste, food wrappers, plastic bottles, plastic bottle caps, plastic grocery bags, plastic straws, and stirrers are the next most common items. According

to the report *Advancing Sustainable Materials Management: Facts and Figures 2018*, the United States Environmental Protection Agency found that the United States generated 4.2 million tons of plastic bags, sacks, and wraps in 2018. Of that amount, 3.04 million tons were landfilled; only 10% was recycled. This is in a large part due to how difficult film plastic, the type of plastic used to make plastic bags, is to recycle. In curbside recycling systems, film plastic contaminates the plastic recycling stream and clogs up the machinery used to sort recyclables. In compost systems, plastic bags act as a contaminant that must be screened out, or is ground into the finished compost, contributing to microplastic pollution. The state's dedicated film plastic collection program, which required stores to collect film plastic bags for recycling, expired in 2020. Efforts to extend the at-store recycling program have failed in the Legislature.

- 3) **The Bag Ban.** In 2016, California voters approved Proposition 67, the statewide referendum to approve the Single-Use Carryout Bag Ban (SB 270, Padilla, Chapter 850, Statutes of 2014). As a result, most grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores no longer provide single-use, light-weight carry-out bags to their customers at the point of sale. The ban does not apply to the bags consumers use prior to the point of sale, such as produce bags and bags used for bulk items. The bag ban resulted in significant reductions in the number of plastic bags collected at beach cleanup days in the state. However, the definition used for "reusable bag" in SB 270 allowed the use of thicker film plastic bags that meet the requirements for reuse, but are not typically reused by consumers.

While the use of plastic bags did appear to go down after the passage of the bag ban, more recent waste characterization studies show a reversal in that trend. The bag ban required film plastic bags to contain specified percentages of postconsumer recycled content and be recyclable in the state. However, the state law requiring stores to accept plastic bags back for recycling sunset in 2020. Few stores continue to accept them back for recycling and curbside collection programs generally cannot accommodate film plastics for recycling. Even when film plastic bags are collected for recycling, they may not be recycled. In December, 2022, ABC News placed 46 tracking devices in plastic bag collection systems throughout the country. By May, 2023, half of the trackers were pinging at landfills or trash incinerators. Three made their way to Asia, where much of the plastic collected for recycling in the United States ends up, because the country has not developed significant markets for recyclable content materials, including plastic. Much of the plastic generated here pollutes oceans across the globe, as bales of plastic exported for recycling are processed, the plastic with value is collected and recycled, and the rest is discarded or incinerated. In countries with inadequate waste management systems, this plastic enters waterways and flows to the ocean.

In December of 2021, the California Commission on Recycling Markets and Curbside Recycling, comprised of public agencies, private solid waste enterprises, and environmental organizations, asked the Attorney General (AG) to look investigate film plastic bag manufacturers' use of labels indicating that the bags are recyclable. In November of 2022, the AG sent letters to Novolex, Revolution, Interplast, Advance Polybag, Metro Polybag, and Papier-Mettler asking them to substantiate their claims regarding the recyclability of plastic bags sold in California.

- 4) **This bill.** This bill is intended to eliminate the existing provision of law that allows film plastic bags to be distributed as reusable bags under the state's bag ban. This bill also intends

to improve standards for other reusable bags. This bill makes other, related changes to the bag ban, including requiring that paper bags contain 100% postconsumer recycled content.

5) **Author's statement:**

A decade ago, we made a promise to eliminate plastic bags in California. SB 270 was an incredible step forward at the time, but the exempted thicker plastic bags are not reused or recycled as anticipated. Instead, they are suffocating our wildlife, and polluting drinking sources with microplastics. Eliminating plastics is about fighting big oil. As our grid moves to renewable sources, oil companies are not ending their drilling. By 2050, plastics will drive half of global oil demand, more than shipping or airlines. To save the planet, our energy transition must go hand in hand with a plastics transition. Eliminating these unrecyclable plastic grocery bags is a long-overdue step to free our state from plastic dependence.

6) **Related legislation.** SB 1053 (Blakespear) is identical to this bill. It has been referred to the Senate Environmental Quality Committee.

7) **Suggested amendments:**

- a) Correct a drafting error by inserting "by a store" on page 5, line 26.
- b) Revise the exemption for bags used to contain or wrap unwrapped food items to refer to the existing definition of precheckout bags.
- c) Reinstate ability of stores not subject to the law to participate voluntarily.
- d) Clarify the requirements for woven plastic reusable bags.
- e) Reinstate the requirement that claims regarding recyclability must comply with federal standards for environmental marketing claims.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action

350 Sacramento

7th Generation Advisors

Active San Gabriel Valley

American Sustainable Business Council

Azul

California Grocers Association

California Product Stewardship Council

California Public Interest Research Group (CALPIRG) Students

Californians Against Waste

CALPIRG, California Public Interest Research Group

Center for Biological Diversity

Center for Environmental Health

City and County of San Francisco

Clean Water Action
CleanEarth4Kids.org
Climate Action California
Climate Reality Project, California Coalition
Community Environmental Council
Courage California
Ecology Center
Environmental Working Group
FACTS Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Glendale Environmental Coalition
Global Alliance for Incinerator Alternatives (GAIA)
Green America
Green Behind the Scenes
Indivisible California StateStrong
Kroger Company
LA Waterkeeper
Last Plastic Straw
National Stewardship Action Council
Naturepedic
Northern California Recycling Association
Ocean Conservancy
Oceana
Plastic Pollution Coalition
Regeneration Pajaro Valley Climate Action
San Francisco Baykeeper
Save Our Shores
Save the Albatross Coalition
Save the Bay
Sierra Club California
SoCal 350 Climate Action
Surfrider Foundation
Surfrider San Francisco
Sustainable Rossmoor
Upstream
Wholly H2O
Wishtoyo Foundation

Oppose Unless Amended

Association of Postconsumer Plastic Recyclers
Durabag Co., INC
Prezero US, INC
Recycling Partnership
United Food and Commercial Workers, Western States Council
Western Center on Law and Poverty
Western Plastics Association

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2285 (Rendon) – As Amended March 11, 2024

SUBJECT: Environmental protection: 30x30 goal: urban nature-based investments: parity.

SUMMARY: Encourages the Governor’s office, state agencies, and the Legislature, when distributing resources towards conservation and restoration goals during future budgetary deliberations, to ensure parity in allocations toward urban nature-based investments and requires state funding agencies to amend guidelines as necessary to meet the goal of conserving at least 30% of the state’s lands and coastal waters by 2030 (30x30) to allow for urban nature-based projects on degraded lands to be eligible and competitive for state funds.

EXISTING LAW:

- 1) Directs California Natural Resources Agency (NRA) to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and establishing the 30x30 goal. (Executive Order (EO) No. N-82-20)
- 2) Codifies the 30x30 goal. (Public Resources Code (PRC) 71450)
- 3) Requires NRA, in implementing actions to achieve the 30x30 goal, to prioritize specified actions. Requires the Secretary of NRA to prepare and submit, beginning on or before March 31, 2024, an annual report to the Legislature on the progress made during the prior calendar year toward achieving that goal, as provided. (PRC 71451-71452)
- 4) Establishes the Equitable Outdoor Access Act and sets forth the state’s commitment to ensuring all Californians can benefit from, and have meaningful and sustainable access to, the state’s rich cultural and natural resources. (PRC 1000)
- 5) Creates, under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a "Superfund" to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Provides the United States Environmental Protection Agency with the authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. (42 United States Code (USC) 9601, et seq.)
- 6) Directs the Department of Toxic Substances Control (DTSC) to implement CERCLA through the state’s Hazardous Substance Account Act. (Health & Safety Code 78000, et seq.)

THIS BILL:

- 1) Codifies the November 2023 report of the Outdoors for All initiative, “Providing Equitable Access to Parks and Nature,” priorities to achieve the goals of the Outdoors for All initiative.

- 2) Encourages the Governor's office, state agencies, and the Legislature, when distributing resources towards conservation and restoration goals during future budgetary deliberations, to ensure parity in allocations toward urban nature-based investments.
- 3) States that urban nature-based investment parity shall include consideration of higher land value acquisition and development costs per acre, the use and rehabilitation of degraded lands and brownfield sites for conservation projects, the proximity to populations lacking park and greenspace access with programming interests and uses preferred within urban outdoor recreation spaces, the acute health needs of a local population due to historic lack of greenspace access and development externalities, local Park Needs Assessment plans, and the availability of mobility options near a proposed land conservation site.
- 4) Encourages regulatory agencies, such as DTSC, to work with local communities to restore degraded lands that could contribute to a more equitable 30x30 strategy.
- 5) Requires state funding agencies, including, but not limited to, the state conservancies and the Wildlife Conservation Board (WCB), when programming and awarding funds to revise, to modify or amend guidelines as necessary to meet the 30x30 goal to allow for urban nature-based projects on degraded lands to be eligible and competitive for state funds.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

California has committed to protecting and preserving our natural lands, but it's critically important we're not leaving our densely populated, underserved communities behind in our conservation efforts. By encouraging California to prioritize greening and restoration of lands in heavily urbanized areas alongside our conservation efforts for natural and rural land, we can ensure we're taking a comprehensive approach to environmental protection that will protect vulnerable communities and provide greater access to nature across California.

- 2) **30x30.** In October 2020, Governor Newsom issued Executive Order N-82-20 which establishes a state goal of conserving 30% of California's lands and coastal waters by 2030 – known as 30x30. The 30x30 goal is intended to help conserve our lands and coastal waters through voluntary, collaborative action with partners across the state to meet three objectives: conserve and restore biodiversity, expand access to nature, and mitigate and build resilience to climate change. The 30x30 goal was codified by SB 337 (Min), Chapter 392, Statutes of 2023. California's 30x30 commitment is part of a global effort to increase biodiversity conservation, including in the United States. In January of 2021, the Biden administration issued an Executive Order on tackling the climate crisis and committed the United States to 30x30 through its America the Beautiful initiative.

NRA released *Pathways to 30x30 California* in April 2022, which describes the key objectives and core commitments that are a part of California's 30x30 conservation framework; defines conservation for the purpose of California's 30x30 initiative and establishes a current baseline of conserved areas; outlines strategic actions necessary to

achieve 30x30; and, introduces CA Nature, a suite of publicly available applications to identify conservation opportunities and track our collective progress.

As of May 2023, the state has conserved 24.4% of lands and 16.2% of coastal waters for 30x30, adding approximately 631,000 acres to lands conserved over the past year and identifying concrete strategies to strengthen conservation in coastal waters. California's strategy to conserve an additional six million acres of land and half a million acres of coastal waters is organized into ten pathways that are specific state actions that will help achieve 30x30.

- 3) **Outdoors for All.** The Outdoors for All initiative is intended to expand parks and nature access in communities with little outdoor space, supporting programs to connect people who lack access.

Spending time outdoors directly benefits mental and physical health. It improves mood and happiness, lowers stress, and strengthens people's sense of meaning. Research shows that people who visit outdoor spaces for 30 minutes or more during a week have lower rates of depression and high blood pressure. Access to outdoor spaces also facilitates exercise, which improves long-term physical health. Many healthcare professionals recognize these benefits, and in some places have started to issue medical prescriptions to spend time in nature to improve health outcomes.

Outdoor access is not equitably distributed to all communities. A history of discriminatory policies and exclusionary zoning have led to long-term disinvestment, fewer parks and outdoor spaces, and less coastal access for many communities. The practice of redlining led to neighborhoods with far fewer trees and parks that provide shade and clean the air for lower-income residents and communities of color. Instead, these neighborhoods have more paved surfaces that absorb and radiate heat. During extreme heat events some cities experience differences of up to 12 degrees between formally red- and green-lined areas.

Establishing welcoming places where all people feel safe and have a sense of belonging is essential to building an Outdoors for All. AB 30 (Kalra), Chapter 939, Statutes of 2022 codified the state's commitment to ensuring all Californians can benefit from, and have meaningful access to, the state's rich cultural and natural resources.

Outdoors for All also furthers two other NRA priorities, Nature Based Solutions and 30x30, by investing in California's public lands and natural resources. Tying it all together, *Pathways to 30x30 Annual Progress Report* (May 2023) notes,

By increasing both the variety and accessibility of outdoor recreation, California's 30x30 initiative is working to enable everyone in California to enjoy and connect with nature. Seizing opportunities to expand conservation that also increase access has been a priority over the past year and will remain so going forward. The Outdoors for All strategy will guide this facet of its 30x30 work.

- 4) **Investments in urban nature-based investments.** Parks, open spaces, recreation facilities, trails, and gardens are essential community infrastructure, but, as mentioned, not all communities have access to these resources. In Los Angeles (LA) County, communities with the fewest parks often have the environmental burdens, i.e., most pollutants and other stressors that directly impact public health and well-being. In LA, people of color account for

84% of the population living in areas with highest environmental burdens. Over time, some areas of the county have accrued significant environmental burdens as the result of historic land development practices, natural resource extraction and consumption, industrial operations, transportation projects, energy production and other impacts of urbanization.

The LA County *2022 Parks Needs Assessment Plus* identifies priority areas for environmental conservation and restoration to form the basis of a local 30x30 strategy. This assessment reimagines conservation to include both traditional efforts to acquire and protect natural lands as well as the restoration of degraded areas, such as brownfields, landfills, and oil fields. There is a special focus on lower-income communities of color, in which vulnerable populations and environmental burdens are concentrated.

The May 2023 *Pathways to 30x30 California Annual Progress Report* to the Legislature lists as one of the pathways to 30x30, “identify and prioritize acquisition of degraded landscapes and waterways most important to protecting biodiversity.” Work is underway on that effort through funding for restoration projects with improved information expected from the State Wildlife Action Plan scheduled to be released in 2025.

Specific actions already taken to further 30x30 in urbanized areas include the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy investment of \$1.5 million in the Colorado Lagoon Open Channel Improvement Project to remove a 900 foot long culvert that runs through Marina Vista Park and replace it with a shallow earthen channel, reintroducing full tidal connectivity between Colorado Lagoon and Alamitos Bay to create 3.35 acres of new subtidal habitat and enhance 17.28 acres of existing marsh habitat at Colorado Lagoon. The project includes tree planting and other amenities to contribute to recreational benefits.

SMMC also invested \$8.3 million in the River Wilderness Park (RWP) to serve as a trailhead at the northern terminus of the San Gabriel River Bike Trail, which stretches approximately 38 miles through the Los Angeles Basin and to the ocean—linking many of the region’s most underserved communities to dynamic open spaces. Construction of the RWP will include walking paths, river overlooks, extension of the San Gabriel River Bike trail, and public amenities (interpretive features, restrooms, play areas, and concessions).

The author indicates/believes there could be additional urban investments. According to the author, maps that show where land has been conserved toward 30x30 goals show that it is nearly all outside of disadvantaged, urbanized communities. Indeed, much of the Los Angeles region, including Southeast LA County, and East LA show no conserved lands. This is also true for more challenged Bay Area communities, such as Oakland, Richmond, and San Leandro.

- 5) **Revising funding guidelines.** California has various programs for creating more green space in urbanized areas. Last year, nearly \$30 million was awarded through the Department of Forestry and Fire Prevention’s (CAL FIRE) Urban and Community Forestry Grant Program for sustainable urban forest projects. These projects help local communities create green spaces, increase long-term benefits for surrounding communities, protect communities from extreme heat, and advance urban forest management. CAL FIRE is also in the process of awarding \$117 million for green schoolyards. These programs are important for providing improving the quality of life in our urban environments, but they are not necessarily investing in the restoration of degraded areas to create new open space.

Restoration of degraded lands is typically costly, complicated, and requires time and commitment. Mapping where environmental benefits and burdens are concentrated is a critical step in reversing policies, systems, and norms that have led to pervasive open space inequities in our most diverse communities.

The 30x30 progress report notes that last year, a \$97 million acquisition was finalized by the Trust for Public Land and made possible by funding from the state and other sources to secure Banning Ranch, a 387 acres of lowlands and coastal bluffs in West Newport Beach near where the Santa Ana River meets the Pacific Ocean. Over the next several years, Banning Ranch will undergo substantial clean up and limited restoration to convert former oil fields into a coastal park that can be opened to the public.

AB 2285 requires state funding agencies to allow for urban nature-based projects on degraded lands to be eligible and competitive for state funds. While nothing in current law or the Governor's EO prohibits these investments, this bill would expressly prioritize them.

- 6) **Committee amendments.** While investments in urban environments are already occurring under 30x30, encouraging parity in funding to urban projects may not harmonize with the overarching mission of 30x30.

Giving greater consideration to urban areas as it relates to investments furthering Outdoor Access for All, however, fits more appropriately with the findings and intent of the bill.

Therefore, *the Committee may wish to consider* amending the bill to do the following:

- a) Move the operative language in Sec. 2 of the bill from the 30x30 statute to the Outdoors for All statute.
 - b) Require the state to recognize the co-equal goals and benefits of 30x30 and Outdoors for All and, to the extent practical, maximize investment in urban communities consistent with those initiatives.
 - c) Conform the findings and declarations to the changes described above.
- 7) **Double referral.** This bill has also been referred to the Assembly Water, Parks & Wildlife Committee.
- 8) **Related legislation:**

AB 2320 (Irwin) requires the NRA annual report to the Legislature on progress made to achieve the 30x30 goal to include the identification of key wildlife corridors in the state, connections between large blocks of natural areas and habitats, progress on protecting additional acres of wildlife corridors, and goals for wildlife corridor protection in the next five years. This bill has been referred to the Assembly Water, Parks & Wildlife Committee.

AB 2440 (Reyes) requires NRA, in implementing the strategies to achieve the 30x30 goal, to promote and support partnering state agencies and departments, including the Department of Parks and Recreation, in the acquisition and responsible stewardship of state land. This bill has also been referred to the Assembly Natural Resources Committee.

9) **REGISTERED SUPPORT / OPPOSITION:**

Support

California Park & Recreation Society
Southern California Golf Association

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2311 (Bennett) – As Introduced February 12, 2024

SUBJECT: Greenhouse Gas Reduction Fund: grant program: edible food

SUMMARY: Adds edible food recovery activities to the activities eligible for funding from the Department of Resources Recycling and Recovery's (CalRecycle) grant program that provides financial assistance to promote the development of organic waste infrastructure and waste reduction programs (infrastructure grant program).

EXISTING LAW:

- 1) Requires the Air Resources Board (ARB) to develop a comprehensive strategy to reduce the emissions of short-lived climate pollutants (SLCP) to achieve a 40% reduction in methane emissions, 40% reduction in hydrofluorocarbon gases, and 50% reduction in anthropogenic black carbon below 2013 levels by 2030. (Health and Safety Code (HSC) 39730-39730.5)
- 2) Requires the state to reduce the disposal of organic waste by 40% from the 2014 level by 2020 and 75% by 2025 to help achieve the state's methane reduction goal. (HSC 39730.6)
- 3) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the state's organic waste reduction goals. (Public Resources Code (PRC) 42652.5)
- 4) Establishes the Waste Diversion and Greenhouse Gas Reduction Financial Assistance program to reduce organics waste and resultant emissions, which includes:
 - a) The CalRecycle GHG Reduction Revolving Loan Program, which provides loans to reduce GHG emissions by advancing organic waste processing infrastructure, recyclables, and diversion.
 - b) The infrastructure grant program to support in-state development of organic waste infrastructure, food waste prevention, or other projects to reduce organic waste or to process it into new products, such as organics composting, waste to energy, recycling, and waste diversion strategies like edible food recovery. When awarding grants under this program, requires CalRecycle to consider the amount of GHG reductions, organic material diversion, and benefits to disadvantaged communities among other criteria. Specifies that eligible projects include, but are not limited to:
 - i) Capital investments in new facilities and increased throughput at existing facilities;
 - ii) Designing and constructing in-vessel digestion facilities;
 - iii) Designing and constructing or expanding facilities to process recyclable materials;
 - iv) Projects that improve the quality of recycled materials;
 - v) Projects undertaken by local governments at publicly owned facilities to improve the recovery, sorting, or baling of recyclable materials;
 - vi) Purchase of equipment and construction of facilities to help develop, implement, or expand edible food waste recovery operations; and,

vii) Establishment of reuse programs to divert items from landfill disposal for reuse by members of the public.

- c) The Zero-Waste Equity Grant Program to support targeted strategies and investments in communities transitioning to a zero-waste circular economy. (PRC 42995-42999.7)

THIS BILL:

- 1) Adds edible food recovery, including, but not limited to, the transportation of recovered edible food and the purchase or subscription to technology that improves the efficiency and tracking of edible food recovery to the list of activities eligible for funding from CalRecycle's grant program that provides financial assistance to promote the development of organic waste infrastructure and waste reduction programs.
- 2) Requires CalRecycle to consider the increased amount of edible food recovery capacity that a funded project will create when awarding grants pursuant to the bill.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Organic waste recycling.** An estimated 35 million tons of waste are disposed of in California's landfills annually. More than half of the materials landfilled are organics. CalRecycle's 2021 waste characterization study, found that 34% of disposed waste is organic waste. According to University of California Los Angeles Center for Health Policy Research, more than a third of Californians (39%) can't afford enough food. In spite of widespread food insecurity, 11.2 billion pounds of food is disposed of annually in the state.

ARB is required to approve and implement a comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the law specifies that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste, including food, 50% by 2020 and 75% by 2025 from the 2014 level. SB 1383 also requires that by 2025, 20% of edible food that would otherwise be sent to landfills is redirected to feed people. Specifically, the law requires: jurisdictions to establish food recovery programs and strengthen existing food recovery networks; food donors to arrange to recover the maximum amount of edible food; and, food recovery organizations and services that participate in the programs to maintain specified records.

To achieve this, California's waste management infrastructure is going to have to process and recycle much higher quantities of organic materials, involving significant investments in additional processing infrastructure. Organic waste is primarily recycled by composting the material, which generates compost that can be used in gardening and agriculture as a soil amendment and engineering purposes for things like slope stabilization. Anaerobic digestion is also widely used to recycle organic wastes. This technology uses bacteria to break down the material in the absence of oxygen and produces biogas, which can be used as fuel, and digestate, which can also be used as a soil amendment. Tree trimmings and prunings can also be mulched.

In order to ensure that there are adequate markets for the state's increasing quantities of products made from organic waste, like much, compost, and digestate, CalRecycle established procurement requirements for jurisdictions. The procurement targets are based on the average amount of organic waste generated by Californians annually multiplied by the population of a jurisdiction.

- 2) **Funding.** CalRecycle's Local Assistance Grant Program provides funding to local jurisdictions to meet the state's organic waste reduction goals. Funded by the Greenhouse Gas Reduction Fund (GGRF), eligible costs include capacity planning, collection, edible food recovery, education and outreach, enforcement and inspection, program evaluation, procurement requirements, and record keeping. On February 16, 2024, CalRecycle awarded over \$109 million for 387 grants to numerous jurisdictions throughout the state. The most recent grant awards for edible food recovery were awarded in March of 2022, and totaled approximately \$1.7 million. Grants included funding the purchase of refrigerated box trucks for the transportation of edible food and walk-in freezers for edible food storage. In total, CalRecycle has awarded \$20 million in grants to recover edible food. According to CalRecycle, its food waste prevention and rescue grant program has funded more than 86 million meals served, created 345 jobs, diverted more than 51 tons of food from the landfill, and reduced nearly over 99,000 million metric tons of carbon dioxide equivalent emissions. Future grants are dependent on additional budget appropriations.
- 3) **This bill.** This bill codifies that edible food recovery projects are eligible for the infrastructure grant program, including the transportation of recovered edible food and the purchase or subscription to technology that improves the efficiency and tracking of edible food recovery. While CalRecycle has previously funded various transportation projects to improve food recovery, it has determined that the fees to support subscription services or software that provide edible food recovery services are not eligible for funding. This bill would require CalRecycle to include these as eligible expenses for grant funding.

The author notes that this bill could improve equity in two ways. By codifying edible food recovery as eligible for SB 1383 grant funding, it has the potential to increase the amount of food available to low-income and food insecure Californians. Additionally, food waste is the state's largest contributor to SLCP emissions from landfills. Reducing food waste from landfill disposal reduces GHG emissions, which has a benefit to vulnerable communities. According to the National Institutes of Health:

Studies of adults have found evidence of racial disparities related to climactic changes with respect to mortality, respiratory and cardiovascular disease, mental health, and heat-related illness. Children are particularly vulnerable to the health impacts of climate change, and infants and children of color have experienced adverse perinatal outcomes, occupational heat stress, and increases in emergency department visits associated with extreme weather.

4) **Author's statement:**

As part of our commitment to reducing harmful GHG emissions from landfills, California has embarked on an aggressive plan to increase composting and divert edible food from ending up in landfills. This bill provides a small, but impactful, change to help streamline the methods for how food can be provided to community based organizations for distribution to hungry Californians.

- 5) **Related legislation.** A number of bills relating to organic waste management have been introduced this year. As the bills move through the process, the authors should work together and with CalRecycle, stakeholders, and the relevant policy committees to ensure that the bills are complimentary and not duplicative or conflicting. The bills include:

AB 2346 (Lee) authorizes local jurisdictions to be credited for the procurement of recovered organic waste products through contracts with direct service providers, and authorizes jurisdictions to receive procurement credit for investments made in projects that increase organic waste recycling capacity. This bill has been referred to the Assembly Natural Resources Committee.

AB 2514 (Aguiar Curry) exempts small counties with a population under 70,000 from the state's organic waste reduction requirements. This bill defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen. This bill also requires CalRecycle to include hydrogen and pipeline biomethane converted from organic waste as eligible for procurement credit by local jurisdictions and requires CalRecycle to consider "life-cycle carbon intensity" when providing incentives to facilitate progress toward the organic waste reduction targets. Finally, this bill requires CalRecycle, in consultation with ARB, to report to the Legislature on the amount of methane emissions leaked from "different recovered organic waste product procurement target compliance pathways" and measures to reduce methane leakage. This bill has been referred to the Assembly Natural Resources Committee.

AB 2577 (Irwin) requires the regulations adopted by CalRecycle to meet the state's edible food recovery goal to include product labeling requirements that reduce food waste. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 19, 2024.

AB 2658 (Bains) exempts food processing establishments that do not "divert organic waste to landfills" from the state's organic waste diversion targets. This bill has been referred to the Assembly Natural Resources Committee.

AB 2902 (Wood) indefinitely extends the exemption for small rural counties with a population below 70,000 from the state's organic waste reduction requirements, as specified. This bill provides additional compliance flexibility for small counties that produce less than 200,000 tons of solid waste annually. This bill also provides a process by which jurisdictions located at higher altitudes may receive an exemption from CalRecycle where food waste collection bins pose a threat to public health or animal safety due to bears. This bill has been referred to the Assembly Natural Resources Committee.

SB 972 (Min) requires CalRecycle, ARB, and the California Environmental Protection Agency to hold at least two joint meetings each calendar year to coordinate the implementation of policies that affect organic waste reduction targets. This bill has been referred to the Senate Environmental Quality Committee.

SB 1034 (Blakespear) requires the Office of Planning and Research, in consultation with CalRecycle, to develop a model zoning ordinance that facilitates the siting of compost facilities and requires local jurisdictions, when amending a zoning ordinance to also amend an appropriate zoning ordinance based on the model ordinance. This bill also requires district or regional water boards to act on permits for compost facilities within 30 days. This bill has been referred to the Senate Environmental Quality Committee.

SB 1046 (Laird) requires CalRecycle to prepare a program environmental impact report that streamlines the California Environmental Quality Act process for small and medium sized compost facilities. This bill has been referred to the Senate Environmental Quality Committee.

SB 1175 (Ochoa Bogh) requires CalRecycle to consider alternatives to census tracts when establishing the boundaries for a low-population or elevation waiver from the state's organic waste reduction requirements and extends the length of the waivers to 10 years. This bill has been referred to the Senate Environmental Committee.

SB 1232 (Grove) authorizes CalRecycle to issue a waiver, upon request, from the requirement to separate and recover food waste and food-soiled paper for all or part of a rural jurisdiction in which there is low population density and limited waste collection services. This bill has been referred to the Senate Environmental Quality Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Compost Coalition
California Environmental Voters
Californians Against Waste
League of California Cities
South Bayside Waste Management Authority

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2344 (Petrie-Norris) – As Introduced February 12, 2024

SUBJECT: Fire prevention: grant programs: reporting.

SUMMARY: Requires the Wildfire and Forest Resilience Task Force (Task Force), on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience, as provided.

EXISTING LAW:

- 1) Requires the Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state’s “Wildfire and Forest Resilience Action Plan” issued by the Task Force in January 2021. (Public Resources Code (PRC) 4771)
- 2) Requires the Task Force to submit, as part of the implementation strategy, a report to the appropriate policy and budget committees of the Legislature on progress made in achieving the goals and key actions identified in the state’s action plan, on state expenditures made to implement these key actions, and on additional resources and policy changes needed to achieve these goals and key action. (PRC 4771 (e)(1))
- 3) Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to administer the forestry assistance program to provide loans to encourage forest resource improvements and otherwise facilitate good forest land management through a program of financial, technical, and educational assistance, as well as through applied research. (PRC 4792)
- 4) Requires the Governor’s Office of Emergency Services (CalOES) to enter into a joint powers agreement with CAL FIRE to develop and administer a comprehensive wildfire mitigation program to encourage cost-effective structure hardening and retrofitting that creates fire-resistant homes, businesses, and public buildings, and facilitate vegetation management, the creation and maintenance of defensible space, and other fuel modification activities that provide neighborhood or communitywide benefits against wildfire. (Government Code 8654.4)
- 5) Requires CAL FIRE to establish a local assistance grant program for fire prevention and home hardening education activities in California. (PRC 4124.5)
- 6) Establishes the Federal Emergency Management Agency (FEMA) pursuant to President Carter’s Executive Order 12127, effective April 1, 1979, to provide clear direction for emergency management and disaster response and recovery.
- 7) Establishes the federal Building Resilient Infrastructure and Communities program to support states, local communities, tribes and territories as they undertake hazard mitigation projects, reducing the risks they face from disasters and natural hazards. (42 United States Code (U.S.C.) 203)

- 8) Establishes the federal Hazard Mitigation Grant Program to provide grants to communities during federal disasters. (42 U.S.C. 5133)
- 9) Establishes the federal Fire Management Assistance Grant Program to provide grant assistance to assist in reimbursement for equipment, supplies, and personnel to any state, tribal, or local government for the mitigation, management, and control of any declared fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster. (42 U.S.C. 5187)

THIS BILL:

- 1) Defines “Program” as any of the following programs:
 - a) The Forestry Assistance Program;
 - b) The Comprehensive Wildfire Mitigation Program;
 - c) The local assistance grant program for fire prevention and home hardening education activities;
 - d) CAL FIRE’s grant programs related to wildfire prevention, forest health, forest legacy, urban and community forestry, forest health research, forest improvement, wildfire resilience, workforce and business development, and volunteer fire capacity;
 - e) The federal Building Resilient Infrastructure and Communities program;
 - f) The federal Hazard Mitigation Grant Program;
 - g) The federal Fire Management Assistance Grant Program;
 - h) The federal Community Wildfire Defense Grant program; and,
 - i) Any other relevant publicly funded grant program administered in California to benefit forest health and resilience, harden homes and communities, or prevent and mitigate wildfires, if information on the program is readily available.
- 2) Requires, on or before July 1, 2025, and every July 1 thereafter, the Task Force to compile and post on its internet website all of the following information for each program, for each fiscal year in which the Legislature appropriated program funding or program projects occurred in the state, as applicable:
 - a) The amount of funding allocated from the program;
 - b) The list of recipients and subrecipients that received an allocation from the program, including the location of the project;
 - c) The amount of funding that has been encumbered by each recipient;
 - d) A brief description of the project, including the location, current status, and the proposed schedule for the project’s completion; and,

- e) A brief description of the anticipated benefits of the project, which may include benefits for fire prevention and mitigation, habitat, forest resiliency, climate resiliency, public safety, or protection of important natural resources, including water quality and water supply.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

Implementation of California's Wildfire and Forest Resilience Action Plan requires significant fiscal resources to undertake projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they occur. Since FY 2020-21, the State has appropriated approximately \$2.8 billion for programs to support the State's wildfire and forest resilience goals and objectives. While wildfire and forest resilience projects have been and continue to be awarded to communities throughout the state, the data is reported piecemeal across various state agencies, departments, boards, and offices. Further, the reporting is not adequate to understand the status of projects and programs and how the investments are making a collective difference in communities. Understanding the status of current programs is vital information in order to target and maximize additional investments in fire-prone areas.

- 2) **Wildfire prevention.** Wildfires have been growing in size, duration, and destructivity over the past 20 years. Growing wildfire risk is due to accumulating fuels, a warming climate, and expanding development in the wildland-urban interface. The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time, destroying thousands of buildings, forcing hundreds of thousands of people to flee their homes, and exposing millions of residents to dangerously unhealthy air. Managing forest health and efforts to restrict fire spread is vital to wildfire prevention.

The 2021 and 2022 Budget Acts committed \$2.8 billion over four years to continue strengthening forest and wildfire resilience statewide. The Governor's proposed 2024/2025 budget maintains \$2.7 billion of these investments over five years. This bill finds and declares that the state has invested nearly \$3 billion since the 2019 Budget Act into programs and projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur.

- 3) **California Wildfire and Forest Resilience Task Force.** The Task Force is a collaborative effort to align federal, state, local, public and private, and tribal entities together to support projects tailored for regional fire prevention needs.

The Task Force's *January 2021 California Wildfire and Forest Resilience Action Plan* (Action Plan) is the initial five-year plan for implementing the Agreement for Shared Stewardship of California's Forest and Rangelands (Shared Stewardship Agreement) with the United States Forest Service (USFS), coordinating the state's forestry efforts with other federal, local, tribal, regional, and private organizations. The Action Plan details goals to

treat 500,000 acres annually by 2025 through the Shared Stewardship Agreement; to underscore building resilience in threatened communities through adaptive strategies, such as hardening homes, buildings, and infrastructure, and increasing defensible space and fuel breaks; forest thinning and prescribed fire; and, move innovation in monitoring and research.

The Action Plan aligns with the investments in the state budget to combat wildfire risk and improve the health of forested landscapes. In 2021, the state dramatically scaled wildfire resilience investments from \$200 million to \$1.5 billion, forcing greater efficiency in putting resources into projects. That funding launched more than 552 wildfire resilience projects in less than a year. By speeding up and increasing the scale of wildfire resilience activities from home-hardening to fuel breaks to reforestation, these investments are giving California a fighting chance to match the scale and frequency of the wildfire crisis. Information on the funding by project is detailed on the Natural Resources Agency's Wildfire Resilience Program webpage. Further, the Task Force's expenditure plan¹ identifies the breakdown of the funding across the various wildfire prevention programs, including those included in this bill.

- 4) **Fire prevention financing programs.** This bill requires the Task Force to compile and post information on legislative appropriations for the following programs. It is important to note that these programs are not an exhaustive list of programs appropriating taxpayer dollars for forest health and wildfire prevention in California.
- Forestry assistance program. Under this program, CAL FIRE works with private landowners, particularly smaller nonindustrial landowners, to upgrade the management of their lands, and improve both the productivity of the land and the degree of protection and enhancement of the forest resource system as a whole.
 - Comprehensive wildfire mitigation program. Enacted pursuant to AB 38 (Wood), Chapter 391, Statutes of 2019, this program requires the Natural Resources Agency, in consultation with the Office of the State Fire Marshal and the Task Force, to review the regional capacity of each county that contains a very high fire hazard severity zone to improve forest health, fire resilience, and safety. Cal OES can enter into a joint powers agreement with CAL FIRE to administer a comprehensive wildfire mitigation and assistance program to encourage cost-effective structure hardening and facilitate vegetation management.
 - Wildfire Prevention Grants. CAL FIRE provides grants for local projects in and near fire threatened communities that focus on increasing the protection of people, structures, and communities. Qualified activities include hazardous fuels reduction, wildfire prevention planning and wildfire prevention education with an emphasis on improving public health and safety while reducing greenhouse gas emissions. CAL FIRE considers the wildfire hazards and risk of an area, the geographic balance of projects, and whether the project is complementary to other wildfire prevention or forest health activities when awarding grants.
 - Local assistance grant program. This program is fire prevention and home hardening education activities. Groups eligible for grants include local agencies, resource conservation districts, fire safe councils, the California Conservation Corps, certified

community conservation corps, University of California Cooperative Extension, California Volunteers, Native American tribes, and qualified nonprofit organizations.

- Federal Building Resilient Infrastructure and Communities (BRIC). This grant program provides funds annually for hazard mitigation planning and projects to reduce risk of damage before a disaster. Funding is available in federal funding for eligible FEMA BRIC projects and project scoping activities.
- Federal Hazard Mitigation Grant Program (HGMP). FEMA provides hazard mitigation funding assistance for eligible mitigation measures that reduce disaster losses. "Hazard mitigation" is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. The funds are administered by Cal OES.
- Federal Fire Management Assistance Grant Program (FMAG). Administered by FEMA, grants are available to states, local, and tribal governments, for the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster.

5) **Keeping tabs on how the money is spent.** The Pew Charitable Trusts November 2022 report, *Wildfires: Burning Through State Budgets*, made the following recommendations for policymakers who are tasked with managing the growing risks and spending associated with wildfire:

- States should evaluate and strengthen current budgeting practices to account for growing risk. By comparing actual spending versus expected spending, assessing the threat of future fires, and implementing other tools, states can more accurately understand how much to budget for wildfire management, including mitigation.
- States should explore opportunities to better track and share data on wildfire spending. Wildfire spending data should be made more accessible, transparent, and comprehensive across all levels of government, which could improve intergovernmental coordination and provide policymakers with evidence to more strategically allocate resources.

The author argues that understanding the status of current programs is vital information to target existing and future investments. Data is also needed to understand the impacts previous investments achieved and to make program modifications in improved outcomes, to the extent possible.

Grant reporting is currently required for all of the aforementioned grant programs, but that information is siloed by program and by agency, and there is not a place where all spending on wildfire prevention activities can be tracked by project type or geographic implementation.

6) **Tracking state funding.** With a \$38 billion (and growing) budget shortfall, and multi-billion dollar deficits in the foreseeable future, tracking taxpayer dollars to ensure they are spent as efficiently and effectively as possible is both pragmatic and responsible. In addition, with the impacts of climate change exacerbating drought and increasing unpredictability in weather patterns, tracking the efficacy of investments in forest health and fire risk prevention will be an ongoing priority.

In 2017, the Legislature approved SB 1 (Beall), Chapter 5, Statutes of 2017, also known as the Road Repair and Accountability Act of 2017, which provided funding for local jurisdictions to fix and maintain roads and bridges through transportation related taxes and fees. SB 1 requires the California Transportation Commission (CTC) to track the performance of all SB 1 funded programs under its purview and report to the public how well recipients of SB 1 funds are delivering on promises made to the taxpayers. As a result, CTC has tracked \$17.36 billion in gas tax expenditures across more than 9,000 transportation projects. CTC's website tracking the expenditures includes details on the project name, implementing agency, project description, cost, fund type, project status, federal and state districts, geography, and date when the project info was updated.

The CTC's ability to detail information for more than \$17 billion provides a model for the Task Force to map the state's \$2.7+ billion investments in wildfire prevention.

- 7) **This bill.** AB 2344 requires the Task Force to create and maintain a comprehensive data portal, including a searchable data base of projects by city, county, and legislative district, on wildfire and forest resilience programs, projects, and expenditures.

The author's intent is to help the state fully understand how California's investments are influencing the state's overall wildfire risk, where resources have been directed, what the outcomes have been, and where resources need to be directed in future budgets and programs. The sheer magnitude of investments needed to increase the pace and scale of wildfire and forest resilience activities requires an accurate understanding of where investments have been made and where needs remain.

In May 2022, the Task Force announced the Forest & Wildland Stewardship Interagency Tracking System on its website to report on the status of wildfire and forest resilience projects. The goal is to provide transparency and accountability for state and federal land management efforts toward the acreage targets stated in the Agreement for Shared Stewardship and other documents, including strategy documents created by the Task Force. Data will be collected on the project, the treatment, and the activity. The expected product is a spatial database that can provide both summary information on statewide activity and geographic information system (GIS) maps capable of showing local implementation, for use by policymakers, land managers, scientists, and the public.

That effort would grease the skids to implement this bill, should it be enacted, and build a system for tracking wildfire prevention investments much like the one for SB 1 funds.

- 8) **Related legislation.** AB 788 (Petrie-Norris, 2023) would have required the Task Force to make available on its existing internet website basic data and information already collected by state agencies to the public on wildfire and forest resilience programs, projects, and expenditures. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

ⁱ [Expenditure Plan – California Wildfire & Forest Resilience \(wildfiretaskforce.org\)](http://wildfiretaskforce.org)

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2393 (Dixon) – As Introduced February 12, 2024

SUBJECT: Tidelands and submerged lands: County of Orange and Newport Bay: franchises or leases

SUMMARY: Extends from 50 to 66 years the maximum period of time for which Orange County may grant franchises or leases for the use of Newport Bay tidelands and submerged lands for specified public trust purposes.

EXISTING LAW:

- 1) Protects, pursuant to the common law doctrine of the public trust (Public Trust Doctrine), the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways (public trust lands) are to be held in trust by the state for the benefit of the people of California.
- 2) Requires the State Lands Commission (SLC) to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local governments. (Public Resources Code 6001 *et seq.*)
- 3) Grants, in trust, public trust lands to more than 80 local public agencies to be managed for the benefit of all the people of the state and pursuant to the Public Trust Doctrine and terms of the applicable granting statutes.
- 4) Prohibits any public trust lands granted to any city by the state from being leased more than 66 years unless the grantee's statute specifies the term for which granted lands may be leased. (Civil Code 718).
- 5) Grants to the County of Orange all the right, title, and interest of the State of California in and to certain tidelands and submerged lands situated upon and under Newport Bay, as specified, in trust for certain purposes, including, among other things, for the establishment, improvement, and conduct of public bathing beaches, public marinas, public aquatic playgrounds, and similar recreational facilities open to the general public. (Chapter 494, Statutes of 1919)
- 6) Requires that Orange County, and its successors, only use those granted lands for prescribed purposes, and prohibits Orange County from granting franchises or leases for those tidelands and submerged lands for periods that exceed 50 years for public uses and purposes. (Chapter 526, Statutes of 1919, as amended by Section 1 of Chapter 415 of the Statutes of 1975)

FISCAL EFFECT: Unknown

COMMENTS:**1) Author's statement:**

AB 2393 would extend the available lease terms for public trust lands in Newport Bay from fifty years to sixty-six years, providing a stronger investment opportunity for a developer to revitalize the land and expand public use of the lands. The extension is significantly helpful for large and expensive projects to obtain financing. The State Lands Commission will retain oversight over the county's activities to ensure that public trust conditions and granting statute requirements are met.

- 2) **Public Trust.** The foundational principle of the common law Public Trust Doctrine is that it is an affirmative duty of the state to protect the people's common heritage in navigable waters for their common use. The traditional uses allowed under the Public Trust Doctrine were described as water-related commerce, navigation, and fisheries. As a common law doctrine, the courts have significantly shaped the Public Trust Doctrine in a number of important ways. Courts have found that the public uses to which sovereign lands are subject are sufficiently flexible to encompass changing public needs. Courts have also made clear that sovereign lands subject to the Public Trust Doctrine cannot be sold into private ownership.

For more than 100 years, the Legislature has granted public trust lands to local governments so the lands can be managed locally for the benefit of the people of California. There are more than 80 trustees in the state, including the ports of Los Angeles, Long Beach, San Diego, San Francisco, Oakland, Richmond, Benicia, and Eureka. While these trust lands are managed locally, SLC has oversight authority to ensure those local trustees are complying with the Public Trust Doctrine and the applicable granting statutes.

- 3) **Orange County trusted lands.** Orange County was granted sovereign tide and submerged lands in Newport Bay in trust in 1919 to establish and operate a harbor, for bulkheads and breakwaters, and for the promotion and accommodation of commerce and navigation.

In 1961, the County was granted sovereign tide and submerged lands in the Dana Point Harbor in trust to establish and operate a harbor for the promotion and accommodation of commerce and navigation, for recreational use, public parks, parking, highways, and playgrounds.

In 1975, the County was authorized to transfer portions of land to SLC to be operated as an ecological reserve or wildlife refuge by the California Department of Fish and Wildlife.

In 1975, the Legislature granted tidelands and submerged lands in Newport Bay to Orange County for a 50 year lease. The land is in trust for three specific uses: 1) a public harbor and related facilities; 2) public beaches, marinas, public aquatic playgrounds, and recreational facilities open to the general public; and, 3) an ecological reserve for scientific study and open space and wildlife habitat.

- 4) **This bill.** The Tidelands Grant that AB 2393 is seeking to modify is for Newport Dunes, which encompasses 69.7 acres. Newport Dunes is a State tidelands property located on the Upper Newport Bay that is held in trust by the County of Orange and leased to a private operator.

In February 1989, Orange County and Newport Dunes Inc. entered into an agreement in to redevelop the Upper Newport Bay property in three phases. A recreational vehicle (RV) park, launch ramp, and a 400-space dry boat storage were developed as part of the first phase; boat slips and a marina center were added during phase two. Phase three called for the development of a hotel property with 275 hotel rooms.

A 2016 lease amendment approval by the County gave the hotel developers until 2026 to have construction completed. That lease extension was necessary to give the developers enough time to obtain entitlements and gain key project approvals by the city of Newport Beach and California Coastal Commission.

The County is currently planning for a full revitalization of, and new master plan for, the Newport Dunes facility. This would include the renovation and upgrade of the existing RV facilities, boat ramp, boat slips and docks, as well as existing buildings and facilities. The updated site plan will integrate these existing upgraded facilities with the new hotel, a fully automated boat storage facility, and new restaurant. The new site plan would also create better access and flow within the site along with improved access off of Back Bay and Bayside Drives.

According to the author, 50 years is too short when considering multiple use and phased projects with significant infrastructure work. An extension of the leasing period will allow additional planning, construction, and investment recovery time, while making it easier to secure financing for particularly expensive projects. Finally, an extended lease period will allow Orange County more flexibility when creating land lease agreements.

AB 2393 extends the lease for Newport Dunes tidelands and submerged lands in Newport Bay from 50 years to 66 years, consistent with the precedent for extending other public trust lands' leases.

5) **Related legislation:**

SB 367 (Bates), Chapter 332, Statutes of 2017, extended the leasing period for the tidelands and submerged lands in Dana Point Harbor from fifty to sixty-six years.

SB 399 (Hall), Chapter 450, Statutes of 2015, extended certain lease terms for the City of Los Angeles from fifty to sixty-six years.

REGISTERED SUPPORT / OPPOSITION:

Support

Orange County

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2440 (Reyes) – As Introduced February 13, 2024

SUBJECT: 30x30 goal: partnering state agencies: Department of Parks and Recreation

SUMMARY: Requires the California Natural Resources Agency (NRA) to prioritize promoting and supporting partnering state agencies and departments, including, but not limited to, the Department of Parks and Recreation (DPR), in the acquisition and responsible stewardship of state land.

EXISTING LAW:

- 1) Directs NRA to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and establishing the goal of conserving at least 30% of the state’s lands and coastal waters by 2030 (30x30). (Executive Order (EO) No. N-82-20)
- 2) Codifies the 30x30 goal. (Public Resources Code (PRC) 71450)
- 3) Requires NRA, in implementing actions to achieve the 30x30 goal, to prioritize specified actions. Requires the Secretary of NRA to prepare and submit, beginning on or before March 31, 2024, an annual report to the Legislature on the progress made during the prior calendar year toward achieving that goal, as provided. (PRC 71451-71452)

THIS BILL:

- 1) Requires NRA, in implementing the 10 pathways and specific near-term priority actions described in the Pathways to 30x30 Report to achieve the 30x30 goal, to additionally prioritize promoting and supporting partnering state agencies and departments, including, but not limited to, DPR, in the acquisition and responsible stewardship of state land.
- 2) Requires NRA’s annual Pathways to 30x30 Report to specify the amount of funding expended by each partnering state agency and department for specified efforts, and to include information on progress made to provide equitable outdoor access.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author’s statement:**

AB 2440 would incorporate State Parks Department and other agencies managing state-owned lands into the state’s goals to conserve 30% of lands and coastal waters by 2030 and require an update on progress towards expanding access to nature for all Californians. Given the unique role California State Parks plays in conserving public land in the United States, there should be an explicit call out to state agencies like State Parks in the 30x30 goal. As the state plans to achieve its ambitious 30x30 goal it should track outdoor equitable access to ensure that

racial, economic, and historical disparities are not being replicated. Latino and Black populations are less likely to have access to green space because of existing racial inequities while green space access is most strongly associated with higher education and high-income communities. AB 2440 would push the state to be more strategic on how it's using public assets like State Parks in the 30x30 goal and hold the state accountable on equitable outdoor access.

- 2) **30x30.** In October 2020, Governor Newsom issued Executive Order N-82-20, which establishes a state goal of conserving 30% of California's lands and coastal waters by 2030 – known as 30x30. The 30x30 goal is intended to help conserve our lands and coastal waters through voluntary, collaborative action with partners across the state to meet three objectives: conserve and restore biodiversity, expand access to nature, and mitigate and build resilience to climate change. The 30x30 goal was codified by SB 337 (Min), Chapter 392, Statutes of 2023. California's 30x30 commitment is part of a global effort to increase biodiversity conservation, including in the United States. In January of 2021, the Biden Administration issued an EO on tackling the climate crisis and committed the United States to 30x30 through its America the Beautiful initiative.

NRA released *Pathways to 30x30 California* in April 2022, which describes the key objectives and core commitments that are a part of California's 30x30 conservation framework; defines conservation for the purpose of California's 30x30 initiative and establishes a current baseline of conserved areas; outlines strategic actions necessary to achieve 30x30; and, introduces CA Nature, a suite of publicly available applications to identify conservation opportunities and track our collective progress.

As of May 2023, the state has conserved 24.4% of lands and 16.2% of coastal waters for 30x30, adding approximately 631,000 acres to lands conserved over the past year and identifying concrete strategies to strengthen conservation in coastal waters. California's strategy to conserve an additional six million acres of land and half a million acres of coastal waters is organized into ten pathways that are specific state actions that will help achieve 30x30.

According to the May 2023 progress report, *Pathways to 30x30 California Annual Progress Report*, key actions related to land acquisition include:

- Through the California Biodiversity Council, mobilizing a state-federal interagency team to identify and secure emerging federal funding for new conservation acquisitions;
 - Prioritizing additional lands for acquisition that provide habitats that are underrepresented in currently conserved areas;
 - Prioritizing acquisition of unprotected lands adjacent to or surrounded by currently established public lands to expand and improve habitat and achieve climate benefits; and,
 - Strategically coordinate acquisitions to increase connectivity between conserved or restored habitats to provide wildlife corridors.
- 3) **Park Acquisitions.** AB 2440 requires NRA, in implementing the efforts to achieve the 30x30 goal, to additionally prioritize promoting and supporting partnering state agencies and

departments, including, but not limited to, DPR, in the acquisition and responsible stewardship of state land.

California's state parks system include beaches, underwater refuges, native Californian cultural preserves, museums, lighthouses, ghost towns, recreation areas, and wilderness areas. The system encompasses nearly 1.6 million acres of land and includes 279 state park units, more than 340 miles of coastline, 970 miles of lake and river frontage, 15,000 campsites, 5,200 miles of trails, 3,195 historic buildings, and more than 11,000 known prehistoric and historic archaeological sites.

DPR recognizes that California's population is expected to grow by nearly 30% in the next quarter century, which will put ever-increasing pressure on the state's remaining wild lands. Under its State Park Acquisition Guidelines, DPR will, in part, focus its efforts on the preservation of under-protected, under-represented, and rarely found resources in California.

Specifically, the guidelines require DPR to prioritize new lands for the park system that create linkages between existing units of the parks system to other large blocks of protected habitat, protect under-protected habitats, protect under-protected ecological regions, protect evolutionary hotspots, and other criterion that are consistent with the foundation of 30x30.

The May 2023 30x30 Progress Report notes that accomplishments that advanced the 30x30 initiative in the past year include DPR and California Native American tribes having begun collaborative management and shared stewardship of specific park units through two new memoranda of understanding.

In addition, the state budget for 2023-2024 included \$5.8 million in one-time and ongoing support for Dos Rios Ranch in the Central Valley to become California's newest state park. This funding supplemented more than \$45 million in combined acquisition and restoration funding secured from state and federal agencies, business partners, and nonprofit organizations. The investment initiated the process of opening this spot for public access in a part of the state that lacks parks.

Also last year, a \$97 million acquisition was finalized by the Trust for Public Land and made possible by funding from the state and other sources to secure Banning Ranch - 387 acres of lowlands and coastal bluffs in West Newport Beach near where the Santa Ana River meets the Pacific Ocean. Over the next several years, Banning Ranch will undergo substantial clean up and limited restoration to convert former oil fields into a coastal park that will be open to the public.

The California State Parks Foundation, sponsor of the bill, writes that AB 2440 "highlights the critical role of State Parks in reaching the state's goal to conserve 30% of lands and coastal waters by 2030 and ensure equitable access to the outdoors for all." With the state facing a \$70 billion+ budget deficit, DPR won't likely have funding for new acquisitions or funding for maintenance for new lands. However, codifying the prioritization could be implemented in the future when the state is equipped to expand the state parks system and use that expansion to further the goals of meeting 30x30.

- 4) **Other state agencies that acquire land.** The 30x30 Status Report identifies projects with the specific funding committed as part of the 2022-2023 Nature Based Solutions budget package, including numerous acquisitions by state conservancies and land trusts, including:

- Sierra Nevada Conservancy investments in the Sierra County Land Trust acquisition of the Sierra Buttes O'Gara-Currens Parcels 33, 34 (\$158,000); the Bear Yuba Land Trust acquisition of the Wildflower Ridge Preserve (\$735,000); and, the Placer Land Trust acquisition of the Moy Acquisition and Protection Project (\$591,000).
- Wildlife Conservation Board (WCB) granted \$20 million for the Yanci Ranch Conservation Easement for Yolo County's land acquisition program.

Further, CNRA continues to make progress on acquiring additional lands for conservation from willing sellers. Ongoing efforts include mobilizing a state-federal interagency team to identify and secure emerging federal funding for new conservation acquisitions, including the recently approved federal infrastructure bill and expansion of the Land and Water Conservation Fund and prioritizing acquisition of unprotected lands adjacent to or surrounded by currently established public lands.

By requiring NRA's annual report to specify the amount of funding expended by each partnering state agency and department, the bill is essentially formalizing in state law information the report is already providing, and it ensures the annual reports will continue to provide that level of detail.

5) **Double referral.** This bill has also been referred to the Assembly Water, Parks & Wildlife Committee.

6) **Related legislation:**

AB 2320 (Irwin) requires NRA's annual report to the Legislature on progress made to achieve the 30x30 goals to include the identification of key wildlife corridors in the state, connections between large blocks of natural areas and habitats, progress on protecting additional acres of wildlife corridors, and goals for wildlife corridor protection in the next five years. This bill has been referred to the Assembly Water, Parks & Wildlife Committee.

AB 2285 (Rendon) encourages the Governor's office, state agencies, and the Legislature, when distributing resources towards conservation and restoration goals during future budgetary deliberations, to ensure parity in allocations toward urban nature-based investments and requires state funding agencies to amend guidelines as necessary to meet the 30x30 goal to allow for urban nature-based projects on degraded lands to be eligible and competitive for state funds. This bill is scheduled to be heard in the Assembly Natural Resources Committee on March 19.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Parks Foundation

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2511 (Berman) – As Introduced February 13, 2024

SUBJECT: Beverage container recycling: market development payments

SUMMARY: Extends the sunset date for the Plastic Market Development Payment Program (PMDP) by six months, from July 1, 2025 to January 1, 2026.

EXISTING LAW establishes the Beverage Container Recycling and Litter Reduction Act (Bottle Bill) (Public Resources Code (PRC) 14500 *et seq.*), which:

- 1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.
- 2) Defines “beverage” as:
 - a) Beer and other malt beverages;
 - b) Wine and distilled spirit coolers;
 - c) Carbonated water;
 - d) Noncarbonated water;
 - e) Carbonated soft drinks;
 - f) Noncarbonated soft drinks and sports drinks;
 - g) Noncarbonated fruit juice drinks that contain any percentage of fruit juice;
 - h) Coffee and tea drinks;
 - i) Carbonated fruit drinks;
 - j) Vegetable juice;
 - k) Wine and sparkling wine; and,
 - l) Distilled spirits. (PRC 14505)
- 3) Defines “beverage container” as the individual, separate bottle, can, jar, carton, or other receptacle in which a beverage is sold, and which is constructed of metal, glass, plastic, or any other material, or any combination of these materials. Specifies that “beverage container” does not include cups or other similar open or loosely sealed receptacles. (PRC 14505)
- 4) Requires plastic beverage containers subject to the Bottle Bill to contain the following percentages of postconsumer recycled plastic annually:
 - a) From January 1, 2022 until December 31, 2024, no less than 15%;
 - b) From January 1, 2025 until December 31, 2029, no less than 25%; and,
 - c) On and after January 1, 2030, no less than 50%. (PRC 14547)

- 2) Establishes the PMDP, which authorizes CalRecycle to pay a market development payment to a reclaimer for empty plastic beverage containers collected and recycled and to a product manufacturer using recycled plastic from a reclaimer in the state, as specified. Sunsets this provision on July 1, 2025.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing.
- 2) **PMDP.** The PMDP was established in 2006 facilitate the development of California markets for recycled empty plastic beverage containers. Recycling plastic containers in-state reduces landfill waste, reduced plastic pollution, and reduced greenhouse gas emissions. Subject to the availability of funds, CalRecycle makes payments of up to \$10 million annually, to certified entities and California product manufacturers. Payments are available to certified entities that wash and produce flake, pellet, or other form usable for a product manufacturer from empty plastic beverage containers collected in the state for recycling; and, product manufacturers using the plastic material from a certified entity to manufacture plastic products in the state.

Only plastic beverage containers subject to the Bottle Bill are eligible for the PMDP, and each entity is responsible for ensuring that only CRV material is claimed. To assist in determining the proper amount of CRV materials claimed for PMDP, CalRecycle determines a statewide average PMDP rate for polyethylene terephthalate (PET) and high-density polyethylene (HDPE) annually. The rates are used to determine the total eligible PMDP payments for certified entities and product manufacturers after excluding non-qualifying material.

The Budget Act of 2023, SB 101 (Budget), Chapter 610, Statutes of 2023, appropriated \$47 million for the PMDP to be available for encumbrance or expenditure until June 30, 2027. CalRecycle is awarding \$10 million of this appropriation for payments in the 2023-24 Fiscal Year.

- 3) **This bill.** This bill extends the sunset on the program to allow CalRecycle additional time to award the funds that have been appropriated for the PMDP.
- 4) **Author's statement:**

AB 2511 would simply extend the Plastic Market Development program sunset date to more closely align with the budget appropriation date. This successful

program incentivizes reuse of California-generated recycled beverage containers, creates and maintains jobs in California, and helps close the loop on plastic beverage container recycling. Prior to the enactment of this incentive program, virtually all of the plastic collected for recycling in California was exported overseas. However, as a result of this incentive program, there has been a significant increase in the in-state reuse of California-generated material. Reusing California-generated material here is not only environmentally beneficial; it creates and maintains jobs in California.

REGISTERED SUPPORT / OPPOSITION:**Support**

Californians Against Waste

Opposition

None on file

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2577 (Irwin) – As Introduced February 14, 2024

SUBJECT: Organic waste: reduction regulations

SUMMARY: Requires the regulations adopted by the Department of Resources Recycling and Recovery (CalRecycle) to meet the state’s edible food recovery goal to include product labeling requirements that reduce food waste.

EXISTING LAW:

- 1) Requires the Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006, to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and adopt regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. The Act authorizes ARB to permit the use of market-based compliance mechanisms to comply with GHG reduction regulations once specified conditions are met. Requires ARB to approve a statewide GHG emissions limit equivalent to 85% below the 1990 level by 2045. (Health and Safety Code (HSC) 38500-38599.11)
- 2) Requires ARB to develop a comprehensive strategy to reduce the emissions of short-lived climate pollutants (SLCP) to achieve a 40% reduction in methane emissions, 40% reduction in hydrofluorocarbon gases, and 50% reduction in anthropogenic black carbon below 2013 levels by 2030. (HSC 39730-39730.5)
- 3) Requires the state to reduce the disposal of organic waste by 40% from the 2014 level by 2020 and 75% by 2025 to help achieve the state’s methane reduction goal. (HSC 39730.6)
- 4) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the state’s organic waste reduction goals. Specifies that the regulations, among other things:
 - a) May require local jurisdictions to impose requirements on generators or other relevant entities within their jurisdictions and may authorize local jurisdictions to impose penalties on generators for noncompliance; and,
 - b) Shall include requirements intended to meet the goal that not less than 20% of edible food that is currently disposed of is recovered for human consumption by 2025. (Public Resources Code (PRC) 42652.5)
- 5) Requires the California Department of Food and Agriculture (CDFA) in consultation with the Department of Public Health (DPH), to publish information that encourages food manufacturers, processors, and retailers responsible for the labeling of food products to voluntarily use specified "best by" and "use by" labels that communicate quality and safety dates, respectively. (Food and Agriculture Code (FAC) 82001)
- 6) Requires CDFA to encourage food distributors and retailers to develop alternatives to consumer-facing “sell by” dates, defined to mean a date on a label affixed to the packaging or container of food that is intended to communicate primarily to a distributor or retailer for

purposes of stock rotation and that is not a quality date or a safety date. (FAC 82001)

- 7) Provides that it is unlawful for an egg handler to sell, offer for sale, or expose for sale certain eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled with certain information, including, among other information, the words “sell-by” immediately followed by the month and day in bold type, as specified. (FAC 27644, 24644.5)
- 8) Requires repackaged eggs to be labeled with the original sell by date. (FAC 27687)
- 9) Requires a food facility that packages food using a reduced-oxygen packaging method and *Clostridium botulinum* to have an approved plan limiting the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time product is maintained frozen, or the original manufacturer’s “sell by” or “use by” date, whichever occurs first. (HSC 114057.1)
- 10) Requires raw shucked shellfish to be obtained in nonreturnable packages that bear a legible “sell by” date or a “best if used by” date for packages, as specified. (HSC 114039)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Organic waste recycling.** An estimated 35 million tons of waste are disposed of in California's landfills annually. More than half of the materials landfilled are organics, such as food waste and yard waste. CalRecycle’s 2021 waste characterization study found that 34% of disposed waste is organic waste. According to University of California Los Angeles Center for Health Policy Research, more than a third of Californians (39%) can’t afford enough food. In spite of widespread food insecurity, 11.2 billion pounds of food is disposed of annually in the state.

ARB is required to approve and implement a comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the law specifies that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste, including food, 50% by 2020 and 75% by 2025 from the 2014 level. The law also requires that by 2025, 20% of edible food that would otherwise be sent to landfills is redirected to feed people. Specifically, the law requires: jurisdictions to establish food recovery programs and strengthen existing food recovery networks; food donors to arrange to recover the maximum amount of edible food; and, food recovery organizations and services that participate in SB 1383 to maintain specified records.

To achieve this, California’s waste management infrastructure is going to have to process and recycle much higher quantities of organic materials, involving significant investments in additional processing infrastructure. Organic waste is primarily recycled by composting the material, which generates compost that can be used in gardening and agriculture as a soil amendment and engineering purposes for things like slope stabilization. Anaerobic digestion is also widely used to recycle organic wastes. This technology uses bacteria to break down the material in the absence of oxygen and produces biogas, which can be used as fuel, and

digestate, which can also be used as a soil amendment. Tree trimmings and prunings can also be mulched. These processes are expensive and Californians are paying to manage billions of pounds of wasted food every year.

- 2) **Food labeling.** There is no standardized date on food labels. Moreover, there are no federal, state, or local regulations on the use of dates, with the exception of baby formula. Instead, labels use a variety of terms, including "use by," "best before," "sell by," and "enjoy by" dates, which are both poorly understood and surprisingly under-regulated. AB 954 (Chiu) Chapter 787, Statutes of 2017 requires CDFA and DPH to encourage food manufacturers, processors, and retailers responsible for the labeling of food products to voluntarily use specified "best by" and "use by" labels that communicate quality and safety dates.

Food labels have been used for decades to estimate peak freshness. Unlike "use by" labels, which are found on perishable foods like meat and dairy, "best before" labels are not related to safety and may encourage consumers to throw away food that is perfectly safe to eat.

Major United Kingdom grocery stores have removed "best before" labels from prepackaged fruit and vegetables. The European Union is considering revising its labeling laws for "use by" and "best before" labels. There is growing momentum in the United States to standardize the language on date labels to help educate buyers about food waste. Other states have introduced bills to streamline date labels, including Colorado, Massachusetts, and New Jersey.

The United States Department of Agriculture estimates that almost one third of the American food supply is wasted. Quantifying these losses at the household level, the average consumer spends about \$1,300 annually on food that is later discarded. Moreover, product prices have remained high following pandemic-induced inflation, further prioritizing the need for families to make the most of their grocery budgets and minimize waste.

Many Californians, especially our underserved and marginalized communities, struggle with food insecurity. These communities are harmed by unclear food labels, which lead them to throw away nutritious and quality food. Additionally many of these communities rely on food banks, pantries, and other charitable sources of food. While these charitable organizations regularly accept and distribute donated food with expired dates that may indicate that they should already be sold or past peak quality, but remain safe, it often results in recipients believing that they are being given spoiled food. This is an unnecessary scenario that could be remedied by standardizing the use of labels.

While CDFA and DPH have developed voluntary standards for food manufacturers, processors, and retailers to use in labeling food products, Californians have continued to see a variety of labels that use phrases other than ones selected by CDFA and DPH across a range of food products. The presence of other phrases have hampered efforts to educate consumers on the quality and safety messages meant by the uniform terms.

- 3) **This bill.** This bill requires CalRecycle to incorporate product labeling requirements that reduce food waste in its regulations to meet the state's edible food recovery goal. While reducing food waste is an essential component of achieving the state's SLCP reduction targets, it is not clear that CalRecycle has the expertise needed to establish food labeling requirements.

4) Author's statement:

Food products often feature phrases next to dates such as “Best By”, “Expires On”, “Use By”, “Enjoy By”, “Best Before”, and “Sell By”, among countless other variations. The meaning of these phrases can be unclear to average consumers as they can indicate a product's peak freshness, when a product is no longer safe for consumption, or, in the case of “Sell By” dates, act as a guide for when retailers should pull products from the shelf. These phrases are often all referred to as “expiration dates”, which can lead to consumer confusion. With the exception of baby formula, date labels on packaged food are not federally regulated. Furthermore, state rules can be widely inconsistent and only apply to certain product groups. This confusion ultimately leads to food being unnecessarily wasted, grocery budgets strained, and increased methane emissions from rotting food contributing to climate change.

AB 2577 addresses the food waste and methane emissions stemming from these confusing date labels by directing CalRecycle to adopt food product labeling requirements as part of its regulations to meet California's SB 1383 surplus food rescue goals. The bill gives CalRecycle the authority to determine which food labels it would like to adopt in order to most effectively reduce food waste.

5) Previous and related legislation:

AB 660 (Irwin) would require, on and after January 1, 2025, food manufacturers, processors, and retailers responsible for labeling food items to use “BEST if Used by” to indicate quality, “Use by” to indicate product safety, and would prohibit the use of “Sell by” on food items. This bill is currently in the Senate Agriculture Committee.

AB 954 (Chiu), Chapter 787, Statutes of 2017, requires CDFA, in consultation with DPH, to publish information to encourage food manufacturers, processors, and retailers responsible for labeling food items to voluntarily use uniform terms on food product labels to communicate quality dates and safety dates. Requires CDFA to encourage food distributors and retailers to develop alternatives to consumer-facing “sell by” dates.

AB 2311 (Bennett) adds edible food recovery activities to the activities eligible for funding from CalRecycle's grant program that provides financial assistance to promote the development of organic waste infrastructure and waste reduction programs. This bill is also scheduled to be heard in the Assembly Natural Resources Committee on March 19, 2024.

AB 2346 (Lee) authorizes local jurisdictions to be credited for the procurement of recovered organic waste products through contracts with direct service providers, and authorizes jurisdictions to receive procurement credit for investments made in projects that increase organic waste recycling capacity. This bill has been referred to the Assembly Natural Resources Committee.

AB 2514 (Aguiar Curry) exempts small counties with a population under 70,000 from the state's organic waste reduction requirements. This bill defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen. This bill also requires CalRecycle to include hydrogen and pipeline

biomethane converted from organic waste as eligible for procurement credit by local jurisdictions and requires CalRecycle to consider “life-cycle carbon intensity” when providing incentives to facilitate progress toward the organic waste reduction targets. Finally, this bill requires CalRecycle, in consultation with ARB, to report to the Legislature on the amount of methane emissions leaked from “different recovered organic waste product procurement target compliance pathways” and measures to reduce methane leakage. This bill has been referred to the Assembly Natural Resources Committee.

AB 2658 (Bains) exempts food processing establishments that do not “divert organic waste to landfills” from the state’s organic waste diversion targets. This bill has been referred to the Assembly Natural Resources Committee.

AB 2902 (Wood) indefinitely extends the exemption for small rural counties with a population below 70,000 from the state’s organic waste reduction requirements, as specified. This bill provides additional compliance flexibility for small counties that produce less than 200,000 tons of solid waste annually. This bill also provides a process by which jurisdictions located at higher altitudes may receive an exemption from CalRecycle where food waste collection bins pose a threat to public health or animal safety due to bears. This bill has been referred to the Assembly Natural Resources Committee.

SB 972 (Min) requires CalRecycle, ARB, and the California Environmental Protection Agency to hold at least two joint meetings each calendar year to coordinate the implementation of policies that affect organic waste reduction targets. This bill has been referred to the Senate Environmental Quality Committee.

SB 1034 (Blakespear) requires the Office of Planning and Research, in consultation with CalRecycle, to develop a model zoning ordinance that facilitates the siting of compost facilities and requires local jurisdictions, when amending a zoning ordinance to also amend an appropriate zoning ordinance based on the model ordinance. This bill also requires district or regional water boards to act on permits for compost facilities within 30 days. This bill has been referred to the Senate Environmental Quality Committee.

SB 1046 (Laird) requires CalRecycle to prepare a program environmental impact report that streamlines the California Environmental Quality Act process for small and medium sized compost facilities. This bill has been referred to the Senate Environmental Quality Committee.

SB 1175 (Ochoa Bogh) requires CalRecycle to consider alternatives to census tracts when establishing the boundaries for a low-population or elevation waiver from the state’s organic waste reduction requirements and extends the length of the waivers to 10 years. This bill has been referred to the Senate Environmental Committee.

SB 1232 (Grove) authorizes CalRecycle to issue a waiver, upon request, from the requirement to separate and recover food waste and food-soiled paper for all or part of a rural jurisdiction in which there is low population density and limited waste collection services. This bill has been referred to the Senate Environmental Quality Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Community Food Bank
California Compost Coalition
California Environmental Voters
California Product Stewardship Council
Californians Against Waste (sponsor)
California Public Interest Research Group
Elders Climate Action NorCal
Elders Climate Action SoCal
Los Angeles Alliance for a New Economy
Natural Resources Defense Council
Plastic Free Future
RethinkWaste
Save Our Shores
Second Harvest of Silicon Valley
Solana Center for Environmental Innovation
StopWaste
Zero Waste Sonoma

Opposition

California League of Food Processors

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2648 (Bennett) – As Amended March 13, 2024

SUBJECT: Environmentally preferable purchasing: single-use plastic bottles

SUMMARY: Prohibits state agencies from purchasing single-use plastic bottles, as specified.

EXISTING LAW:

- 1) Establishes the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill), which requires beverage containers, as defined, to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to CalRecycle for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments. (Public Resources Code (PRC) 14500 *et seq.*)
- 2) Establishes the Sustainable Packaging for the State of California Act of 2018, which requires food service facilities, as defined, located in a state-owned facility or operating on state property from dispensing prepared food using food service packaging unless the food service packaging has been determined by the Department of Resources Recycling and Recovery (CalRecycle) as reusable, recyclable, or compostable. (PRC 42370-42370.7)
- 3) Establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum recycled content requirements and source reduction requirements for single-use packaging and food service ware, as defined. Requires compliance with the requirements to take place through an expanded producer responsibility program. Excludes beverage containers subject to the Bottle Bill from the definition of single-use packaging and food service ware. (PRC 42040 *et seq.*)
- 4) Requires state agencies and large state facilities to provide adequate receptacles, signage, education, and staffing for collecting and recycling recyclable materials. (PRC 42924.5)

THIS BILL:

- 1) Prohibits a state agency from entering into, modifying, amending, or renewing a contract to purchase single-use plastic bottles for internal use or resale.
- 2) Encourages each state agency to install and maintain at least one, or maintain at least one existing, water bottle refill station located to ensure maximum access by all visitors and to allow visitors to bring their own reusable beverage bottle for use at all water bottle refill stations.
- 3) Requires a state agency to take appropriate steps to replace the use of single-use plastic bottles at food service facilities with nonplastic, recyclable alternatives, including, but not limited to, aluminum cans, glass bottles, water fountains, or water bottle refill stations for reusable or refillable water containers.

- 4) Authorizes a state agency to enter into or renew a contract to purchase single-use plastic bottles only when reasonably necessary to protect the general health, safety, and welfare in preparing for or responding to a declaration of emergency.
- 5) Requires DGS to ensure that any new, modified, or renewed agreements, contracts, or procurement undertaken by a food service facility as part of a contract or agreement with DGS complies with this bill.
- 6) Requires DGS to take appropriate steps, including, but not limited to, revising relevant state contracting and procurement rules and procedures in order to fulfill the requirements of this bill.
- 7) Defines “food service facility” to mean an operation of business that is located in a state-owned facility, operating on or acting as a concessionaire on state property, or under contract to provide food service to a state agency and that stores, serves, vends, or offers for sale bottled liquids. Specifies that food service facility may include, but is not limited to, a cafeteria, commissary, restaurant, deli, store, shop, market, or mobile food unit.
- 8) Requires, on or before January 1, 2026, a state agency to submit a report to the Joint Legislative Budget Committee confirming its compliance with the bill’s requirements.
- 9) Specifies that the bill only applies to contracts entered into, modified, amended, or renewed on or after January 1, 2025.
- 10) Specifies that this bill does not limit the duties of a state agency under a collective bargaining agreement entered into or renewed before January 1, 2025.
- 11) Defines terms used in the bill, including “single-use plastic bottle” to mean a beverage in a sealed plastic bottle or plastic-coated carton with a capacity of 21 fluid ounces or less.
- 12) Requests that the University of California comply with the bill’s requirements.
- 13) States legislative findings and declarations relating to plastic pollution and the use of single-use plastic bottles.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Plastic pollution.** Plastics pose a threat to the environment from origin to end-of-life. Plastic production is responsible for three and a half percent of all greenhouse gas emissions—more than the entire aviation sector. In 2021, global plastics production was estimated at 390.7 million metric tons, a 4% increase from the previous year. The United Nations Environment Programme reports that only 9% of all plastic ever made has been recycled, 12% has been incinerated, and the remaining 79% has accumulated in landfills and the environment.

Once plastics enter the environment, they remain there for hundreds to thousands of years. Plastics do not break down into their constituent parts, but instead break down into smaller and smaller particles, or microplastics. Because they are so small, microplastics can travel in the air and water, and can be easily absorbed by living things and accumulate up the food

chain. Microplastics have been found in the most pristine natural environments on earth, including in the deep ocean, Antarctic sea ice, and in the sand of remote deserts.

Microplastics are found in household dust and drinking water (bottled and tap), causing people to inhale and consume them. In January of this year, the National Institutes of Health tested three popular brands of bottled water. On average, the researchers found that “a liter of bottled water included about 240,000 tiny pieces of plastic.” The water did not just contain plastic from the bottle; they found seven common forms of plastic. A March 2024 study published in *Science of the Total Environment* identified microplastics in all human tissues sampled, with the polyvinyl chloride being the dominant polymer. The highest abundance of microplastics were found in human lung tissue, followed by the small intestine, large intestine, and tonsils. A February 2024 study published in *Toxicological Sciences* analyzed samples of 62 human placentas and found microplastics present in every sample. Shockingly little information exists about the potential health impacts of microplastics exposure. Laboratory studies have found that microplastics increase the risk of cancer and disrupt hormone pathways in lab rats.

Plastic pollution and the impacts of microplastics on human health fall disproportionately on marginalized communities. Both due to plastics and to the environmental impacts of plastic production. Nearly all plastic is produced from fossil fuels and generates greenhouse gas emissions and toxic chemicals that impact air and water quality. About 14% of oil is used in petrochemical manufacturing, a precursor to producing plastic. By 2050, plastic production is predicted to account for 50% of oil and fracked gas demand growth. According to *Feeding the Plastics Industrial Complex: Taking Public Subsidies, Breaking Pollution Limits*, a report released on March, 14, 2024, by the Environmental Integrity Project, “more than 66% of people within three miles of factories that manufacture the main ingredients in plastic products are people of color living in communities that are over-exposed to air pollution while schools and other public services are chronically underfunded.” The report notes that these facilities receive billions in subsidies while repeatedly violating environmental laws and regulations. For example, Indorama, the world’s largest producer of polyethylene terephthalate (PET) resins used in beverage containers and other single-use packaging, cited a facility in Louisiana that cracks natural gas or oil into ethylene. The facility received both a \$1.5 million grant from the state and an exemption from local taxes – a subsidy estimated to be worth at least \$73 million over 10 years. In return, Indorama violated its permitted air pollution control limits. In one example, over five months in 2019, the facility released more than 90 times the permitted level of volatile organic compounds. Instead of coming into compliance after multiple violations, the state revised the facility’s pollution control permit to allow higher levels of emissions.

While recycling plastic into new products is one way to reduce plastic pollution, as it keeps the recycled plastic out of the environment and reduces our dependence on virgin resin, recycling is currently only feasible for some of the more common, and least toxic, forms of plastic. The most effective way to tackle the plastic pollution crisis is to use less of it.

- 2) **Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for

the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing.

- 3) **Bottle bans.** In 2018, the California State University system enacted a policy that banned plastic straws and single-use plastic bags in 2019, expanded polystyrene food service items in 2021, and single-use plastic water bottles by 2023. Subsequently, the University of California enacted a policy in 2020 that eliminated the use of plastic bags by 2021, single-use food service items by 2022, and single-use plastic bottles by 2023.

In Massachusetts, Executive Order 619 of 2023 prohibits state executive departments from purchasing single-use plastic bottles. The order applies to single-use plastic bottles 21 ounces or less containing beverages including, but not limited to, water, juice, milk, and soft drinks. The order authorizes state departments to limit the purchase or use of single-use plastic bottles only under the following circumstances: 1) No alternative is available or practicable; 2) Necessary to protect health, safety, and welfare; 3) Compliance would conflict with contract requirements or labor agreements solicited before the effective date of the order; and, 4) To prepare for an emergency.

- 4) **This bill.** This bill is intended to reduce the unnecessary use of plastic beverage containers in state facilities and replace them with the nonplastic recyclable and reusable containers. It also requires the installation of water bottle filling stations to ensure that the use of reusable containers is convenient for state employees and visitors to state facilities. This bill includes an exemption for plastic bottles that are necessary for emergency response, public health and safety, and natural disasters.

5) **Author's statement:**

It is time that state government models the change we encourage of everyone else. The impact of plastics is pervasive and well-documented, and makes this transition necessary. The State of California has massive purchasing power and resources to show that this change is feasible in all but the most unique situations, for California's residents and visitors alike.

6) **Suggested amendments:**

- a) Correct drafting errors in the legislative findings.
- b) Require state agencies to include reusable bottles as possible alternatives to disposable single-use plastic bottles.
- c) Replace "water" with "beverage" on page 3, line 28 of the bill.
- d) Change the size of containers subject to the bill from 21 fluid ounces to less than 24 fluid ounces to be consistent with the state's Bottle Bill.
- e) Replace "liquid" with "beverage" on page 4, line 16.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Ventura County Climate Hub
Active San Gabriel Valley
Atrium 916
Ban SUP
Blue Ocean Warriors
Breast Cancer Prevention Partners
California Environmental Voters
California Public Interest Research Group
Citizens' Climate Lobby
CleanEarth4Kids.org
Climate Action California
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, Orange County
Climate Reality Project, San Fernando Valley
Environmental Defense Center
Fossil Free California
Marine Conservation Institute
Monterey Bay Aquarium
Napa Climate Now
National Stewardship Action Council
Ocean Conservancy
Oceana
Plastic Pollution Coalition
RethinkWaste
San Joaquin Valley Democratic Club
Save Our Shores
Save the Albatross Foundation
Save the Bay
Sierra Club California
Surfrider Foundation
Sustainable Mill Valley
Sustainable Rossmoor
The 5 Gyres Institute
The Last Beach Cleanup
The Last Plastic Straw
Upstream
WeTap
Zero Waste Sonoma

Opposition

National Association for PET Container Resources
Plastics Industry Association

Analysis Prepared by: Elizabeth MacMillan / NAT. RES. /

Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

SB 551 (Portantino) – As Amended February 12, 2024

SENATE VOTE: Not relevant

SUBJECT: Beverage containers: recycling

SUMMARY: This bill would allow beverage manufacturers to demonstrate compliance with the state's recycled content requirements for beverage containers by submitting a consolidated report to the Department of Resources Recycling and Recovery (CalRecycle), as specified.

EXISTING LAW establishes the Beverage Container Recycling and Litter Reduction Act (Bottle Bill) (Public Resources Code (PRC) 14500 *et seq.*), which:

- 1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to CalRecycle for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.
- 2) Defines "beverage" as:
 - a) Beer and other malt beverages;
 - b) Wine and distilled spirit coolers;
 - c) Carbonated water;
 - d) Noncarbonated water;
 - e) Carbonated soft drinks;
 - f) Noncarbonated soft drinks and sports drinks;
 - g) Noncarbonated fruit juice drinks that contain any percentage of fruit juice;
 - h) Coffee and tea drinks;
 - i) Carbonated fruit drinks;
 - j) Vegetable juice;
 - k) Wine and sparkling wine; and,
 - l) Distilled spirits. (PRC 14505)
- 3) Defines "beverage container" as the individual, separate bottle, can, jar, carton, or other receptacle in which a beverage is sold, and which is constructed of metal, glass, plastic, or any other material, or any combination of these materials. Specifies that "beverage container" does not include cups or other similar open or loosely sealed receptacles. (PRC 14505)
- 4) Requires plastic beverage containers subject to the Bottle Bill to contain the following percentages of postconsumer recycled plastic annually:
 - a) From January 1, 2022 until December 31, 2024, no less than 15%;

- b) From January 1, 2025 until December 31, 2029, no less than 25%; and,
 - c) On and after January 1, 2030, no less than 50%. (PRC 14547)
- 5) Requires glass beverage containers to contain a minimum of 35% postfilled (recycled) glass, as specified. (PRC 14549)
- 6) On or before March 1 of each year, requires manufacturers of beverages sold in plastic beverage containers to report the amount in pounds and by resin type of virgin plastic and postconsumer recycled plastic used by the manufacturer for plastic beverage containers for the previous calendar year. On or before March 1, 2024, requires a manufacturer of postconsumer recycled plastic to report to amount in pounds of food-grade flake, pellet, sheet, fines, or other forms that were sold in the previous calendar year. (PRC 14549.3)

THIS BILL:

- 1) Authorizes the report to contain aggregated information that covers one or more beverage manufacturers if those manufacturers share rights to the same brands or the products are distributed, marketed, or manufactured by a single reporting beverage manufacturer.
- 2) Specifies that beverage manufacturers included in the report are jointly and severally responsible for compliance with PRC 14547 and PRC 14549.3 (a) and for penalties imposed in connection with the report, including, but not limited to, the annual administrative penalty specified in PRC 14547 (b).
- 3) Authorizes CalRecycle to adopt emergency regulations to implement the bill until January 1, 2025.
- 4) Specifies that no reimbursement is required by the bill because the only costs that may be incurred by a local agency or school district will be incurred because the bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, as specified.
- 5) States that this bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Section 6 of Article XIII B of the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal

processing.

- 2) **Recycled content.** AB 793 (Ting), Chapter 115, Statutes of 2020, require plastic beverage containers subject to the Bottle Bill to contain specified amounts of postconsumer recycled plastic. Specifically, containers must contain 15% by 2022, 25% by 2025, and 50% by 2030. This law is intended to improve the market for recycled plastic by increasing demand, and increasing scrap values for recyclers. The law also includes reporting requirements for plastic reclaimers (i.e., recyclers), manufacturers of postconsumer recycled plastic, and beverage manufacturers. These reporting requirements are critical to ensure that CalRecycle is able to verify and enforce the recycled content requirements. Under AB 793, penalties begin to be assessed on March 1, 2024. The penalty is assessed using a formula that is essentially equal to 20 cents for each pound of virgin plastic used, less the pounds of postconsumer recycled plastic used.

When developing the regulations to implement AB 793, CalRecycle relied on the Bottle Bill definition of “manufacturer,” in which case every manufacturer of every brand of beverage would have to report separately.

- 3) **This bill.** This bill revises the program to authorize beverage manufacturers to report at the parent company level for all subsidiary brands. This gives beverage manufacturers more flexibility in complying with the recycled content requirements by allowing them to achieve the requirements by averaging recycled content use across various product lines. It also makes reporting less burdensome for manufacturers.
- 4) **Enforcement challenges.** While this change may ease reporting for manufacturers, it may make it more challenging for CalRecycle to enforce the recycled content law. In practice, this bill will result in CalRecycle potentially receiving two numbers in just a few reports that cover potentially hundreds of brands, the total amount of virgin plastic procured and the total amount of postconsumer recycled plastic procured for use in California beverage containers. This may make it difficult for CalRecycle to evaluate the validity and accuracy of the information reported, and, when enforcement is necessary, what entity to bring the enforcement action against.

5) **Author’s statement:**

This bill clarifies an agreement when AB 793 was passed to allow beverage companies to report and comply with mandatory minimum content requirements across their portfolio rather than by specific product line. When regulatory staff implemented mandatory minimum recycled content legislation, they narrowly interpreted the definition of “beverage manufacturer” to be every bottling plant. Balancing the compliance and reporting across all product lines takes into consideration supply chain and production realities.

- 6) **Urgency.** This bill contains an urgency clause.
- 7) **Suggested amendments.** In order to ensure that the information provided to CalRecycle is usable, *the committee may wish to amend the bill* to require that information be reported in the manner and form prescribed by CalRecycle and make related technical and clarifying changes.

REGISTERED SUPPORT / OPPOSITION:

Support

American Beverage Association
California Manufacturers and Technology Association
Californians Against Waste
Consumer Brands Association

Opposition

None on file

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