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# California State Assembly

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## NATURAL RESOURCES

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ISAAC G BRYAN  
CHAIR

## AGENDA

Monday, April 8, 2024  
2:30 p.m. -- State Capitol, Room 447

### BILLS HEARD IN SIGN-IN ORDER

#### **\*\* = Bills Proposed for Consent**

- |                |                    |                      |   |
|----------------|--------------------|----------------------|---|
| 1.             | AB 2083            | Berman               | Industrial facilities' heat application equipment and process emissions.                  |
| 2.             | AB 2208            | Zbur                 | California Ports Development and Offshore Wind Infrastructure Bond Act of 2024.           |
| <del>3.</del>  | <del>AB 2212</del> | <del>Lowenthal</del> | <del>Energy: offshore wind energy development. <b>PULLED</b></del>                        |
| 4.             | <b>**AB 2298</b>   | Hart                 | Coastal resources: voluntary vessel speed reduction and sustainable shipping program.     |
| 5.             | AB 2346            | Lee                  | Organic waste reduction regulations: procurement of recovered organic waste products.     |
| 6.             | AB 2465            | Gipson               | Equity: socially disadvantaged groups and organizations: nonprofit organizations: grants. |
| 7.             | AB 2503            | Lee                  | California Environmental Quality Act: exemption: rail projects.                           |
| 8.             | AB 2514            | Aguiar-Curry         | Solid waste: organic waste.   |
| 9.             | <b>**AB 2522</b>   | Wendy Carrillo       | South Coast Air Quality Management District: district board: compensation.                |
| 10.            | <b>**AB 2600</b>   | Calderon             | Urban forestry: school greening projects: grants.   |
| 11.            | AB 2639            | Joe Patterson        | Forestry: timber operations: maintenance of timberlands for fuels reduction.              |
| 12.            | AB 2716            | Bryan                | Oil and gas: low-production wells: sensitive receptors.                                   |
| 13.            | <b>**AB 2731</b>   | Wendy Carrillo       | California Pollution Control Financing Authority: eligible projects.                      |
| 14.            | AB 2787            | Joe Patterson        | Energy: building standards: photovoltaic requirements.                                    |
| 15.            | AB 2902            | Wood                 | Organic waste: reduction regulations: exemptions.   |
| 16.            | <b>**AB 2958</b>   | Calderon             | State Air Resources Board: board members: compensation.                                   |
| 17.            | AB 3150            | Quirk-Silva          | Fire safety: fire hazard severity zones: defensible space: State Fire Marshal.            |
| <del>18.</del> | <del>AB 3183</del> | <del>Alvarez</del>   | <del>Public resources: Native American Heritage Commission. <b>PULLED</b></del>           |
| 19.            | AB 3192            | Muratsuchi           | Major coastal resorts: coastal development permits: audits: waste.                        |
| 20.            | AB 3233            | Addis                | Oil and gas: operations: restrictions: local authority.                                   |
| 21.            | ACA 16             | Bryan                | Environmental rights.   |



Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2083 (Berman) – As Amended April 1, 2024

**SUBJECT:** Industrial facilities' heat application equipment and process emissions

**SUMMARY:** Requires the California Energy Commission (CEC) to assess the potential for the state to reduce greenhouse gas (GHG) emissions from the state's industrial facilities' heat application equipment and processes by at least 85% below 1990 levels by January 1, 2045. Requires CEC to report its findings to the Legislature by January 1, 2027.

**EXISTING LAW:**

- 1) Requires the Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], 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. AB 32 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 prepare, adopt, and update an inventory of GHG emissions from different sectors, including estimates for carbon dioxide, methane, nitrous oxide, and fluorinated gases with high global warming potential. (Public Resources Code (PRC) 39607.4)
- 3) Establishes the Industrial Decarbonization and Improvements to Grid Operations (INDIGO) Program to provide incentives for the implementation of projects that provide significant benefits to the electrical grid, reduce GHG emissions, achieve the state's clean energy goals, and exceed compliance requirements. (PRC 25662-25662.6)
- 4) Requires the Public Utilities Commission (CPUC) to establish a renewable portfolio standard (RPS) requiring all retail sellers, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatt hours of those products sold to their retail end-use customers achieves 44% of retail sales by December 31, 2024, 52% by December 31, 2027, and 60% by December 31, 2030. (Public Utilities Code (PUC) 399.11)
- 5) Establishes that the policy goal of the state that eligible renewable energy resources and zero-carbon resources supply 100% of all retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045. (PUC 454.53)
- 6) Requires the CEC to adopt the Integrated Energy Policy Report (IEPR) every two years, which must contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. (PRC 25302)

- 7) Defines under-resourced communities as disadvantaged communities pursuant to HSC 39711, low-income communities pursuant to HSC 39713, or disadvantaged communities pursuant to PRC 75005. (PRC 71130)

**THIS BILL:**

- 1) Requires the CEC, on or before July 1, 2026, in consultation with the CPUC, ARB, Governor's Office of Business and Economic Development (GOBiz), and the Independent System Operator to assess the potential for the state to reduce GHG emissions from the state's industrial facilities' heat application equipment and processes by at least 85% below 1990 levels by January 1, 2045.
- 2) Requires the assessment to include:
  - a) An evaluation of the cost per metric ton of carbon dioxide equivalent (CO<sub>2</sub>e) and of the potential reduction from each subsector of industrial emissions sources relative to other statewide GHG emissions reduction strategies;
  - b) How to maximize criteria pollutant emissions reductions in disadvantaged communities and meet applicable federal Clean Air Act deadlines in nonattainment areas;
  - c) Strategies to reduce GHG emissions from industrial heating in both new and existing industrial facilities, assessing which subsectors within the industrial sector have the greatest readiness for transition to zero-emission technologies;
  - d) Strategies to reduce GHG emissions from industrial heating processes and applications that also reduce or eliminate criteria air pollutants;
  - e) The opportunities and challenges associated with reducing GHG emissions through electrification of industrial heat processes, and the commensurate health benefits;
  - f) An evaluation of interim zero-emission technology deployment targets, including industrial heat pumps and thermal energy storage devices, necessary to achieve the GHG emissions and criteria air pollutant reductions required in the industrial sector;
  - g) The opportunities and challenges associated with reducing GHG emissions from high-heat processes;
  - h) An assessment of how demand response, distributed energy resources, energy efficiency, thermal energy storage, and other complementary resources and strategies may optimize industrial energy use to strengthen grid reliability and reduce GHG emissions;
  - i) The potential impacts of emissions reduction strategies on ratepayers, construction costs, and grid reliability;
  - j) The workforce necessary to install, maintain, and operate new zero-emission equipment; and,
  - k) An analysis of the potential for, and opportunities associated with, facilitating and expanding businesses in California that manufacture zero-emission equipment.

- 3) Requires CEC to report the findings of the assessment to the Legislature on or before January 1, 2027. Sunsets the report on January 1, 2031.
- 4) Beginning with the IEPR due on November 1, 2027, and in all subsequent IEPRs, requires CEC to include a report on GHG emissions, based on existing data, associated with the supply of energy to industrial facilities by fuel type and to make this information available on its website.
- 5) States related legislative findings and declares the intent of the Legislature to achieve significant reductions in GHG emissions and criteria air pollutants from the state's industrial stock by January 1, 2045.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Industrial emissions.** ARB's GHG Emissions Inventory estimates the GHG emissions from major sectors in the state. According to the Inventory, from 2000-2020, industrial emissions comprised 23% of total GHG emissions in the state, second only to the transportation sector, which accounted for 38%. Other major sectors included electricity (16%), agriculture and forestry (9%), residential (8%), and commercial (6%). Emissions from the industrial sector are largely driven by fuel combustion from sources like refineries, oil and gas production, cement plants, and the portion of cogeneration emissions attributed to thermal energy output. Refineries and hydrogen production are the largest individual source within this sector, contributing 54% of the sector's total emissions. Industrial GHG emissions are trending downward, but additional reductions will be necessary to achieve the state's emissions reduction goals. In addition to GHG emissions, industrial sources also emit air pollution, including criteria air pollutants and toxic air contaminants.
- 2) **Industrial Decarbonization and Improvements to Grid Operations.** The INDIGO Program was established by AB 209 (Budget), Chapter 251, Statutes of 2022, to contribute to economy-wide decarbonization by providing incentives for projects that enhance grid reliability, electrify processes that rely on fossil fuels, incorporate renewable resources, increase energy efficiency, or develop and deploy novel decarbonization technologies.
- 3) **Food Production Investment Program.** Established in 2018, the Food Production Investment Program (FPIP) provides grants to reduce GHG emissions at food production facilities through the adoption of advanced energy technologies. According to CEC, the food processing industry is one of California's largest energy users and a significant producer of GHG emissions. FPIP's goals include helping food producers achieve a low-carbon future, demonstrating the reliability and effectiveness of advanced energy decarbonization technologies and strategies, enhance the electric grid, especially during peak periods, and benefit or improve public health and the environment.
- 4) **Cement decarbonization.** Cement is one of the most widely manufactured products in the world, and its production is extremely energy intensive. Cement production is hard to decarbonize, because a majority of emissions result from the chemical process of limestone calcination (removing carbon from limestone-calcium carbonate), rather than the combustion of fuels. Cement plants are also one of the few remaining markets for coal in the state. ARB is required to develop a comprehensive strategy, by July 1, 2023, to achieve a GHG

emissions intensity 40% below baseline levels by 2035, and net-zero by 2045. ARB has conducted three workshops since October, 2022, but has not yet released the strategy.

- 5) **The federal roadmap.** In September 2022, the United States Department of Energy published the *Industrial Decarbonization Roadmap*, which focuses on the five major sources of industrial emissions nationally: chemical manufacturing, petroleum refining, iron and steel manufacturing, food and beverage production, and cement production. The federal roadmap identifies strategies to significantly reduce GHG emissions in these sectors, including electrification of process heat using induction, radiative heating, or advanced heat pumps; electrification of high-temperature range processes such as those found in iron, steel, and cement making; and, replacing thermally-driven processes with electrochemical alternatives.

New federal investments from the Inflation Reduction Act and the Infrastructure Investment and Jobs Act provide significant funding for the transition to lower emission technologies, including \$10 billion in 48C Advanced Energy Tax Credit, which includes applications that retrofit industrial or manufacturing facilities with low- or zero-carbon process heat systems, and the \$5.812 billion Advanced Industrial Facilities Deployment Program to assist with projects that purchase, install, or implement advanced technology for reducing emissions at eligible facilities, retrofit, upgrade, or make improvements, and conduct engineering studies or other work needed to prepare for advancements to net-zero emissions.

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

California is a leader in transitioning from combustion to zero-emission technologies in the electricity and transportation sectors, but industrial emissions have largely remained unaddressed. Industrial emissions make up 23% of GHG emissions in California, which is the second largest source behind transportation. Unfortunately, emissions reported from industrial sources have remained flat or even risen in recent years. Moreover, these same sources also emit large quantities of criteria air pollutants and toxic air contaminants that contribute to the heavy air pollution that burdens primarily under-resourced communities. It is time for California to begin the transition of our state's industrial sector—a critical economic contributor to our state—to zero-emission technologies. AB 2083 is a key first step for California to push the transition of our industrial sectors to zero-emission. This bill achieves this by tasking the California Energy Commission to assess the potential for the state's industrial facilities to reduce GHG emissions in heat application equipment and processes by at least 85% below 1990 levels by 2045. Planning for electrification will bring sustained economic growth to our industries and reduce heavy air pollution that burdens our most vulnerable communities.

- 7) **This bill.** The state has taken significant steps to achieve GHG emissions reductions statewide; however, the industrial sector has not kept up with the state's actions to reduce emissions in the electricity and transportation sectors. This bill is intended to identify the potential for the state to reduce GHG emissions from the state's industrial facilities' heat application equipment and processes by at least 85% below 1990 levels by January 1, 2045. This target parallels the statewide GHG emissions limit.
- 8) **Previous legislation.** AB 841 (Berman, 2023) would have required CEC to create a roadmap for electrifying industrial processes, including processes requiring heat. This bill was held in the Senate Appropriations Committee.

9) **Double referral.** This bill has also been referred to the Utilities and Energy Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Breathe California Sacramento Region  
Center for Community Action and Environmental Justice  
Central California Asthma Collaborative  
Climate Reality Project - Silicon Valley Chapter  
Earthjustice  
Elders Climate Action NORCAL Chapter  
Elders Climate Action SOCAL Chapter  
Industrious Labs  
Natural Resources Defense Council  
Sierra Club California  
So Cal 350 Climate Action  
Sunflower Alliance  
The Climate Center

**Opposition**

None on file

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



Date of Hearing: April 8, 2024

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Isaac G. Bryan, Chair

AB 2208 (Zbur) – As Amended March 21, 2024

**SUBJECT:** California Ports Development and Offshore Wind Infrastructure Bond Act of 2024

**SUMMARY:** Enacts the California Ports Development and Offshore Wind Infrastructure Bond Act of 2024, to authorize \$1 billion in general obligation (GO) bonds for offshore wind energy. Authorizes the bond act for the November 5, 2024, general election.

**EXISTING LAW:**

- 1) Establishes that the policy goal of the state that eligible renewable energy resources and zero-carbon resources supply 100% of all retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045. (Public Utilities Code 454.53)
- 2) Requires the State Energy Resources Conservation and Development Commission (CEC), in coordination with relevant federal, state, and local agencies, to develop a strategic plan for offshore wind energy developments installed off the California coast in federal waters, and requires the CEC to submit the strategic plan to the Natural Resources Agency and the Legislature on or before June 30, 2023. (Public Resources Code 25991)
- 3) Prescribes, pursuant to the State General Obligation Bond Law, the state's responsibilities regarding the issuance and sale of GO bonds. (Government Code 16720)
- 4) Requires, except under certain circumstances, a  $\frac{2}{3}$  vote of the Legislature and a majority vote of the people at an election, before the state may issue a general obligation (GO) bond. (Article XVI of the California Constitution.)

**THIS BILL:**

- 1) Establishes the California Ports Development and Offshore Wind Infrastructure Bond Act of 2024.
- 2) Defines the following terms:
  - a) "Commission" means the CEC.
  - b) "Committee" means the California Ports Development and Offshore Wind Infrastructure Finance Committee.
  - c) "Fund" means the California Ports Development and Offshore Wind Infrastructure Fund (Fund).

- d) “Socially disadvantaged group” means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of the group without regard to their individual qualities. These groups include all of the following:
- i) African Americans;
  - i) Alaskan Natives;
  - ii) Asian Americans;
  - iii) Hispanics;
  - iv) Native Americans;
  - v) Native Hawaiians and Pacific Islanders; and,
  - vi) Women.
- e) “Vulnerable population” means a subgroup of a population within a region or community that faces a disproportionately heightened risk or increased sensitivity to impacts of climate change and that lacks adequate resources to cope with, adapt to, or recover from those impacts.
- 3) Authorizes an amount of not more than 5% of the moneys allocated for a program funded pursuant to this bond to be used to pay the administrative costs of that program.
- 4) Requires, to the extent practicable, a project receiving funding to provide workforce education and training, and contracting and job opportunities, for vulnerable populations or socially disadvantaged groups.
- 5) Requires the CEC to provide to the Governor and the Legislature regular reports on the progress of projects funded pursuant to this bond. Requires the reports submitted to the Legislature to be submitted in accordance with Section 9795 of the Government Code.
- 6) Requires the proceeds of specified bonds issued and sold pursuant to this bond to be deposited into the Fund. Moneys in the Fund shall be available, upon appropriation by the Legislature, for purposes of this bond.
- 7) Requires the sum of \$1 billion to be available, upon appropriation by the Legislature, to the CEC to support any of the following activities related to the development of offshore wind generation:
- a) Construction of port facilities for manufacturing, assembly, staging, and integration of entitlements and components for offshore wind generation;

- b) Expansion and improvement of port infrastructure to accommodate vessels involved in the installation, maintenance, and operation of offshore wind generation; and,
  - c) Upgrades to port facilities to support the transportation and storage of offshore wind generation components, including, but not limited to, turbines and blades.
- 8) Authorizes the CEC to expend moneys appropriated consistent with the strategic plan.
- 9) Authorizes \$1 billion in bonds, not including the amount of any refunding bonds issued, to be issued and sold for the purposes expressed in this division and to reimburse the General Obligation Bond Expense Revolving Fund. Requires the bonds, when sold, issued, and delivered, to be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.
- 10) Provides for standard provisions in GO bond law, either explicitly or by reference, as specified.
- 11) Specifies the bond will be on the November 5, 2024, general election ballot.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

Offshore wind energy will play a crucial role in meeting California's goal of achieving 100% renewable energy by 2045 and has the potential to create a significant number of high-paying jobs in the state. California must invest in the industry domestically in order to achieve this potential. AB 2208 presents to voters an act authorizing \$1 billion dollars in bond funds for seaport infrastructure improvements to facilitate offshore wind energy projects off the California coast. This bill not only transforms offshore wind aspirations into an actionable plan but will also play a pivotal role in advancing the transition towards electrification across various sectors, including housing and transportation.

- 2) **Clean energy goals.** The 100 Percent Clean Energy Act of 2018 increased California's renewable portfolio standard (RPS) goal to 60% by 2030 and requires RPS-eligible resources and zero-carbon resources to supply 100% of California's electricity retail sales and electricity procured to serve state agencies by 2045.

Based on a joint analysis by the CEC, the Public Utilities Commission, and the California Air Resources Board (ARB), an estimated six gigawatts (GW) of renewable energy and storage resources need to come online annually to meet the state's 2045 carbon neutrality goal. To meet these bold renewable energy targets, California's offshore waters are quickly emerging as a prime location for new floating offshore wind projects.

- 3) **Offshore wind.** The advantage of offshore wind over its land-based counterpart is that the offshore wind resource is far more consistent, reliable, and energetic, with little of the topographic and small-scale variability typically seen on land. Offshore wind is a clean energy source at night complementing solar energy by providing energy generation at the end of the day and into the evening as the sun sets. The National Renewable Energy Laboratory has identified 200 GW of offshore wind technical potential for California.

In September 2021, the Legislature passed AB 525 (Chiu), Chapter 231, Statutes of 2021, requiring the CEC to develop a strategic plan for offshore wind energy developments installed off the California coast in federal waters.

The strategic plan, released in January 2024, is guided by three AB 525 interim reports. The first report, adopted in August 2022, evaluated and quantified the maximum feasible capacity of offshore wind to achieve reliability, ratepayer, employment, and decarbonization benefits and established aspirational planning goals of 2 to 5 GW for 2030 and 25 GW for 2045. The second report, adopted in February 2023, provided a preliminary assessment of the economic benefits of offshore wind as they relate to seaport investments and workforce development needs and standards. The third report, adopted in May 2023, described permitting roadmap options that included time frames and milestones for a coordinated, comprehensive, and efficient permitting process for offshore wind energy facilities and associated electricity and transmission infrastructure off the coast of California. The strategic plan also discusses the impacts and strategies to address those impacts in California's underserved communities.

- 4) **Port infrastructure costs.** To make offshore wind a reality, California must invest in significant infrastructure improvements to its ports where wind turbines will need to be assembled and deployed.

The AB 525 report estimates that an investment of about \$11 billion to \$12 billion would be required to build out the ports to accommodate upgrades to support a range of activities, including construction and staging of floating platform foundations, manufacturing and storage of components, final assembly, and long-term operations and maintenance.

In January, the U.S. Department of Transportation granted \$426 million Infrastructure Investment and Jobs act of 2021 to the Humboldt Bay Harbor, Recreation and Conservation District for construction of the onshore facilities to support the building and operation of offshore wind turbines off the Humboldt County Coast. A deep water port and properly equipped marine terminal will be needed so components of the massive, 1,000-plus-foot turbine devices can be shipped in, assembled and towed out to federally leased waters to begin transmitting power. The federal grant is a sizeable kick-start for port improvements in California, but more funding will be needed for the state to meet its offshore wind goals.

This bill places a \$1 billion bond initiative on the next general election ballot to authorize funding for construction of port facilities for manufacturing, assembly, staging, and integration of entitlements and components for offshore wind generation; expansion and improvement of port infrastructure to accommodate vessels involved in the installation, maintenance, and operation of offshore wind generation; and, upgrades to port facilities to support the transportation and storage of offshore wind generation components, including, but not limited to, turbines and blades.

- 5) **Making ends meet with bonds.** Bonds are a way the state can borrow money to pay various state investments. The state sells bonds to investors to receive “up-front” funding for these projects and then repays the investors, with interest, over a period of time. The state repays GO bonds using the state General Fund. Under the California Constitution, state GO bonds must be approved by voters.

After selling bonds, the state makes annual payments until the bonds are paid off. The annual cost of repaying bonds depends primarily on the interest rate and the time period over which the bonds have to be repaid. The state often makes bond payments over a 30-year period. Over the last five fiscal years, the state has issued an average of \$7.3 billion of GO bonds annually. In 2021-22, the state issued \$6.6 billion of GO bonds.

- 6) **State budget deficit.** The state is facing a \$58 billion deficit, and multi-billion dollar deficits over the next several future fiscal years. Governor Newsom’s proposed budget for fiscal year 2024-2025 proposes to cut \$6 billion (~27% of the total cuts) from its climate change agenda.

The Legislature is currently considering several environmental bond proposals as potential funding options to both fill the gaps where budget cuts may be made and augment funding where the authors want to prioritize spending. Those measures include:

- a) AB 408 (Wilson) - \$3.365 billion for the Climate-resilient Farms, Sustainable Healthy Food Access, and Farmworker Protection Bond Act of 2024;
- b) AB 1567 (Garcia) - \$15.995 for the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, Clean Energy, and Workforce Development Bond Act of 2024;
- c) SB 638 (Eggman) - \$6 billion for the Climate Resiliency and Flood Protection Bond Act of 2024; and,
- d) SB 867 (Allen) – \$15.5 billion for the Drought and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, and Park Creation and Outdoor Access Bond Act of 2023.

None of these bond proposals include funding specifically for port infrastructure or development.

- 7) **Bond indebtedness.** The Public Finance Division (PFD) of the State Treasurer’s Office (STO) manages the state’s debt portfolio, overseeing the issuance of debt, and monitors and services the state’s outstanding debt. According to PFD, the state has approximately \$949 million of variable rate GO bonds outstanding as of the end of 2021-22.

Using certain assumptions for debt issuance, the STO estimates debt service payments from the General Fund will increase by \$63.7 million in 2022-23 and \$618.6 million in 2023-24.

The most recent reported ratio of General Fund-supported debt service to General Fund revenues was 3.42% in 2021-22. The STO estimates this ratio will be 3.50% in 2022-23.

8) **Double referral.** This bill is also referred to the Assembly Utilities and Energy Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

350 Sacramento  
American Wind Energy Association  
California Environmental Voters  
California Interfaith Power and Light  
California State Association of Electrical Workers  
California Wind Energy Association  
City of Long Beach  
Clean Power Campaign  
Climate Action California  
Coalition of California Utility Employees  
Elected Officials to Protect America - Code Blue  
Environment California  
Environmental Protection Information Center  
Environmental Working Group  
Friends Committee on Legislation of California  
Harbor Association of Industry and Commerce (HAIC)  
Long Beach; Port of  
Offshore Wind California  
Santa Cruz Climate Action Network  
USC Schwarzenegger Institute

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2298 (Hart) – As Amended March 20, 2024

**SUBJECT:** Coastal resources: voluntary vessel speed reduction and sustainable shipping program.

**SUMMARY:** Requires the Ocean Protection Council (OPC) to implement a statewide voluntary vessel speed reduction (VSR) and sustainable shipping program for the California coast in order to reduce air pollution, the risk of fatal vessel strikes on whales, and harmful underwater acoustic impacts.

**EXISTING LAW:**

Under federal law:

- 1) Establishes protections, pursuant to the Endangered Species Act (ESA), for fish, wildlife, and plants that are listed as threatened or endangered. Lists blue, fin, and humpback whales as endangered species. (16 United States Code (U.S.C.) 1538 *et seq.*)
- 2) Establishes the Marine Mammal Protection Act (MMPA) to prevent marine mammal species and population stocks from declining beyond the point where they ceased to be significant functioning elements of the ecosystems of which they are a part. Prohibits the “take” of marine mammals—including harassment, hunting, capturing, collecting, or killing—in U.S. waters and by United States citizens on the high seas. (16 U.S.C. 1361 *et seq.*)
- 3) Establishes the National Marine Sanctuaries Act and authorizes the Secretary of Commerce to designate and protect areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational or esthetic qualities as national marine sanctuaries. (16 U.S.C. 1431 *et seq.*)

Under state law:

- 4) Establishes the OPC to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations. (Public Resources Code 35615 (a)(1))
- 5) Establishes the California Air Resources Board (ARB) to regulate emissions from mobile sources. (Health & Safety Code 39500 *et seq.*)
- 6) Requires, per ARB’s At Berth Regulations, a certain percentage of fleet’s vessels to plug into shore power while at berth to reduce emissions from ocean-going vessels to improve air quality at California ports. (Title 17 California Code of Regulations 93130-93130.22)

**THIS BILL:**

- 1) Requires, on or before January 1, 2027, OPC, in coordination with air pollution control districts and air quality management districts along the coast and in consultation with the federal Office of National Marine Sanctuaries, the United States Environmental Protection Agency (US EPA), the United States Navy, the United States Coast Guard (USCG), ARB, and the maritime industry, to implement a statewide voluntary VSR and sustainable shipping program for the California coast in order to reduce air pollution, the risk of fatal vessel strikes on whales, and harmful underwater acoustic impacts.
- 2) Requires the program to expand the existing Protecting Blue Whales and Blue Skies Program and authorizes the program to include all of the following components developed in a manner that is consistent with how the program components were developed for the Protecting Blue Whales and Blue Skies Program:
  - a) A marketing program to engage cargo owners and other commercial interests to promote voluntary VSR and sustainable shipping, and an acknowledgment of the program's participants;
  - b) Data collection on ship speeds along the California coast in order to analyze the program for future refinement, expansion, or both;
  - c) Data collection on underwater acoustic impacts or fatal vessel strikes on whales, to the extent data is available;
  - d) Data collection on the regional air quality impacts on the coast and impacts to air quality in coastal disadvantaged communities from oceangoing vessel traffic, as collected and provided by the regional air pollution control districts and air quality management districts;
  - e) Incentives to program participants based on a percentage of distance traveled by a participating vessel at a reduced speed, including speed zones at 10 knots or less, to the extent that local or federal funding is available;
  - f) Development of VSR zones along the coast that take into account navigational safety, protected marine mammal migration and breeding seasons, federal marine sanctuaries and state marine protected areas, shipping lanes, and any other relevant variables;
  - g) Seasonality of the program; and,
  - h) Description of covered vessels.
- 3) Prohibits the program from including any ocean territories that are covered by any VSR program other than the Protecting Blue Whales and Blue Skies Program or a memorandum of understanding (MOU) entered into before January 1, 2025.

- 4) Limits the program to vessels that are 300 gross tons or greater.
- 5) Authorizes the OPC to impose additional qualifying criteria on program participants in order to receive incentives under the program, including, but not limited to, individual transit speeds, such as maximum speed in transit or maximum transit average speed.
- 6) Requires OPC, on or before December 31, 2028, to submit a report to the Legislature regarding the implementation of the program, as specified. Sunsets the reporting requirement on December 31, 2032.
- 7) Provides that the program, each component of the program, and actions taken by OPC to implement the program are based upon voluntary actions initiated by entities pursuant to this bill and are not regulations as defined in state law, and shall not be implemented in a way that conflicts with federal law and regulations.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

The Santa Barbara voluntary vessel speed reduction program is a prime example of what happens when we prioritize public health, protect the marine ecosystem, and showcase the beneficial partnership between shipping companies, public health agencies, marine sanctuaries, and environmental organizations. Assembly Bill 2298 provides participating companies with the official endorsement of the State of California for their efforts to reduce emissions and protect whales. This invaluable state-level recognition will increase visibility, interest and support for conservation efforts along the California coast.

- 2) **Vessel traffic on California coast.** California's seaports are North America's primary intermodal gateway to Asia and Transpacific trade. Nationwide, more than 2 million jobs are linked to maritime industry business conducted at California's public seaports, contributing to California having the largest state economy in the U.S.

Every year, the world's largest container ships and auto carriers make thousands of transits along the California coast, with an estimated 120 tons per day of nitrogen dioxides (NO<sub>x</sub>), an ozone precursor, being emitted within 100 nautical miles (Nm) of the coast. These emissions negatively affect the public health of coastal communities and cause some areas of the coast to be in nonattainment with the national ambient air quality standards for ozone and particulate matter (PM).

Ocean-going vessel speed reductions offer the possibility for significant reductions in emissions of oxides of nitrogen (NO<sub>x</sub>), oxides of sulfur (SO<sub>x</sub>), diesel PM and carbon dioxide (CO<sub>2</sub>). The reduction of 3-10 knots per ship eliminates an entire ton of smog-forming emissions each day.

- 3) **Marine mammal impacts.** Widespread hunting of whales during the nineteenth and twentieth centuries left many whale populations severely depleted. In the U.S., marine mammals have

legal protection under the MMPA, making the take of those marine mammals illegal. Nonetheless, human-caused mortality of whales still occurs in U.S. waters, in some cases threatening the recovery of depleted populations.

Strikes of blue (*Balaenoptera musculus*), humpback (*Megaptera novaeangliae*), and fin (*Balaenoptera physalus*) whales are major causes of death for those species. Blue, humpback, and fin whales migrate seasonally along the West Coast of the U.S., where they overlap with significant shipping activity. Important feeding hotspots for blue and humpback whales occur in waters near the Ports of Los Angeles/Long Beach/ (POLA/POLB) and Oakland where they intersect with vessel traffic lanes. All three whales are listed as endangered under the ESA with associated legal protections.

A 2017 study, *High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection* (R. Cotton Rockwood, et al), found the majority of strike mortality occurs in waters off California, from near and south of Bodega Bay and tends to be concentrated in a band approximately 24 Nm offshore and in designated shipping lanes leading to and from major ports.

Marine animals are challenging for vessel operators to see as they spend most or all of their time underwater and generally have a low profile when surfacing to breathe. Many marine animals may not be able to detect a vessel, or move out of the way of an approaching vessel quickly enough.



Whales are not the only collateral damage. Sea turtles, and protected fish like sturgeon and giant manta rays, are some of the species struck by vessels and often injured or killed. Sea turtles are found throughout U.S. waters from very close to shore to open ocean. They are at risk of being struck by vessels as they surface to breathe

or as they rest, bask, or feed near the surface or in shallow water. There are six species of sea turtles listed as endangered or threatened under the ESA.

According to the National Oceanic and Atmospheric Administration (NOAA), it is estimated that hundreds to thousands of sea turtles are struck by vessels in the U.S. every year, and many of them are killed. Vessel strikes are one of the most common causes of sea turtles stranding in the U.S.

Collisions involving larger marine animals and small or medium sized boats can damage vessels and cause serious, sometimes fatal, injuries to people, especially when the vessels are operating at high speeds.

- 4) **Vessel speed reduction for ocean-going vessels.** In May 2001, an MOU between the POLA/POLB, US EPA, ARB, the South Coast Air Quality Management District, the Pacific Merchants Shipping Association, and the Marine Exchange of Southern California was signed that specifically requested ocean-going vessels to voluntarily reduce their speed to 12

knots at a distance of 20 Nm from the POLA/POLB. Both ports continue to operate this voluntary program.

POLA provides financial incentives to vessel operators who go 12 knots over the entire distance for which they wish to receive an incentive reimbursement. (The distance is determined by the Marine Exchange.)

POLB's Green Flag Program rewards vessel operators for slowing down to 12 knots or less within 40 Nm of Point Fermin (near the entrance to the Harbor). More than 90% of vessels coming into POLB participate in the program. Participating vessel operators can earn dockage rate reductions.

Furthermore, the Superintendent of the Monterey Bay National Marine Sanctuary announced last March that they will implement voluntary VSR in that entire Sanctuary, making all four California national marine sanctuaries with a VSR zone starting May 1, 2023.

- 5) **Protecting Blue Whales and Blue Skies Program.** Established in 2014, the goal of the Protecting Blue Whales and Blue Skies Program is to reduce the environmental impacts of shipping along California's coast line. It is a voluntary VSR program off the Santa Barbara, Ventura, and Bay Area coast to encourage transit speeds of 10 knots or less to reduce air pollution, the risk of harmful whale strikes, and the level of ocean noise. The 10-knot target complements NOAA's and USCG's requests for all vessels (300 gross tons or larger) to reduce speeds during the months of peak endangered blue, humpback, and fin whale abundance to protect these whales from ship strikes.

The program is a partnership between the Santa Barbara Air Pollution Control District, Ventura County Air Pollution Control District, and the Bay Area Air Quality Management District, with the federal Office of National Marine Sanctuaries, marine sanctuary foundations, and various nonprofits and federal agencies.

The program partners monitor the speeds of hundreds of vessels that pass through the VSR zones each year. Using a fleet-based approach, they assign a recognition level to each of their shipping company participants based on the percentage of their vessels that travel at a speed of 10 knots or less.

The program runs each year from mid-May to mid-November to coincide with peak ozone and whale feeding and migration. The current program participation rate is about 60%.

Since its inception, through 2023, the Protecting Blue Whales and Blue Skies Program has provided small incentives and publicity to program participants and has achieved more than 1.1 million slow speed miles, a reduction of more than 4,400 tons of nitrogen oxides, a reduction of over 150,000 metric tons of regional greenhouse gas emissions, and an estimated 50% decreased risk of whale strikes during prime migration season in the affected coastal areas.

The 2017 study on whale strike mortalities stated that while risk is highest in the shipping lanes off San Francisco and Long Beach, only a fraction of total estimated mortality occurs in these proportionally small areas, making any conservation efforts exclusively within these areas insufficient to address overall strike mortality.

This bill will expand the VSR zones across the whole coast of California, broadening the effort to reduce whale and other marine mammal collisions.

Additionally, by expanding the current voluntary program statewide, this bill will ensure benefits of cleaner coastal air and noise reduction are equitably afforded to all coastal communities.

- 6) **State oversight.** This bill would require the OPC in coordination with air pollution control districts and air quality management districts along the coast and in consultation with the federal Office of National Marine Sanctuaries, US EPA, the United States Navy, the USCG, and ARB to implement a statewide voluntary VSR and sustainable shipping program that expands the existing Protecting Blue Whales and Blue Skies Program.

The OPC, in its Strategic Plan, identified the task to develop a statewide whale and sea turtle protection plan by 2022 with a target of zero mortality. To accomplish this goal, the OPC notes the following action:

With ARB, coastal air districts, ports, and the National Marine Sanctuary Program, develop a permanent, statewide, Vessel Speed Reduction Program that incentivizes the shipping industry to prevent whale strikes, reduce coastal air pollution, and minimize marine noise pollution.

The OPC is mandated with coordinating activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources. This bill would task the OPC with implementing this program, helping to move the needle on the OPC's Strategic Plan goal for zero marine mammal mortality.

- 7) **VSR Zones.** Under the Protecting Blue Whales and Blue Skies Program are agreed upon distances – VSR zones – that take into account shipping lanes, marine sanctuaries, migratory whales, and ozone. They include a recommended vessel speed in a defined area, which is managed seasonally or dynamically.

NOAA's voluntary program in the Channel Islands is triggered by observed whale aggregations in the traffic separation scheme – an area in the sea where navigation of ships is highly regulated. Historically, the voluntary VSR zone usually starts in May and goes through mid-November. Additionally, air quality is most impacted by shipping from April to October, which is when emission reductions achieved by vessel speed reductions would have the greatest impact.

The bill would require the new statewide program to be an expansion of the existing Blue Whales and Blue Skies Program; therefore, the development and design of VSR zones under the new program would mirror the current program.

- 8) **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.

A group of scientists recently published findings that whales store such massive amounts of carbon that protecting them provides a significant assist in our global effort to sequester carbon. Twelve great whale species — including blue, humpback, and fin — hold an estimated two million metric tons of carbon in their bodies. That’s roughly equivalent to the amount of carbon released from burning 225 million gallons of gasoline. Another 62,000 metric tons of carbon — the equivalent of 7 million gallons of gas — is trapped every year in the form of whale falls, the bodies of dead whales that sink to the seafloor and support an ecosystem of scavengers.

Protecting whales (and other marine species) is consistent with our state 30x30 goals to protect biodiversity and meet our carbon neutrality goals.

The California Natural Resources Agency (NRA) report, *Pathways to 30x30: Accelerating Conservation of California’s Nature*, prioritizes strengthening partnerships with federal resource managers and California Native American tribes to improve conservation within coastal waters. It states:

Explore possible new measures and initiatives to address threats to biodiversity within National Marine Sanctuaries in partnership with California Native American tribes, scientists, federal resource managers, and key stakeholder groups, such as strengthening water quality and invasive species protections, exploring mandatory vessel speed reductions to protect whales, and enhancing the durability of existing restrictions on fishing gear and methods.

- 9) **Double referral.** This bill was heard in the Assembly Water, Parks, and Wildlife Committee on March 19 and approved 13-0.

10) **Related legislation:**

AB 953 (Connolly) 2023 was identical to this bill. It was held in the Senate Appropriations Committee.

SB 69 (Weiner) 2019 would have directed ARB to develop a similar voluntary VSR program in coordination with affected air districts and the national marine sanctuaries. The bill contained a multitude of other, unrelated proposed policies, and was held in the Assembly Appropriations Committee

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of Monterey Bay Area Governments  
 Bay Area Air Quality Management District  
 California Air Pollution Control Officers Association  
 California Marine Sanctuary Foundation  
 Central Coast Clean Cities Coalition  
 Central Coast Climate Collaborative

City of Sand City  
Cleaneart4kids.org  
Coastal Conservation Association of California  
County of Santa Barbara  
Environmental Defense Center  
Goleta; City of  
Monterey Bay Air Resources District  
Oxnard Harbor District/port of Hueneme  
Pacific Environment  
Pacific Merchant Shipping Association  
Sacramento Clean Cities Coalition  
San Diego County Air Pollution Control District  
San Luis Obispo County Air Pollution Control District  
Santa Barbara County Air Pollution Control District  
Santa Barbara County Green Business Program  
Santa Barbara Women's Political Committee  
Ventura County Air Pollution Control District  
Ventura County Regional Energy Alliance

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2346 (Lee) – As Introduced February 12, 2024

**SUBJECT:** Organic waste reduction regulations: procurement of recovered organic waste products

**SUMMARY:** Provides additional compliance options for local governments to meet the state's organic waste procurement requirements.

**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 the Department of Resource Recovery and Recycling (CalRecycle), in consultation with ARB, to adopt regulations to achieve the state's organic waste reduction requirements. Specifies that the regulations, in part:
  - a) May require jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.
  - b) Include requirements intended to meet the goal that not less than 20% of edible food is recovered for human consumption by 2025.
  - c) May include penalties for noncompliance, as specified.
  - d) Specify that penalties for the organic waste procurement target established by CalRecycle shall be imposed on the following schedule:
    - i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 30% of its recovered organic waste procurement target;
    - ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 65% of its recovered organic waste procurement target; and,
    - iii) On and after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 100% of its recovered organic waste procurement target.

- e) Exempt rural jurisdictions in possession of a rural exemption from the organic procurement targets until January 1, 2026, and authorize CalRecycle to provide rural counties an extended organic procurement schedule on and after January 1, 2027. (Public Resources Code (PRC) 42652.5)
- 4) Beginning January 1, 2022, requires jurisdictions to annually procure a specified quantity of recovered organic waste products that meets or exceeds its annual organic waste procurement target. Specifies that the organic waste procurement target is calculated by multiplying the per capita procurement target (0.8 tons per resident per year) by the jurisdiction's population. (California Code of Regulations (CCR) 18993.1)
- 5) Specifies that the organic waste procurement target may be met by procuring:
  - a) Compost from a compost facility or in-vessel digestion facility;
  - b) Renewable gas used for transportation, electricity, or heating applications;
  - c) Electricity from biomass conversion; and,
  - d) Mulch, as specified. (CCR 18993.1)
- 6) Defines "direct service provider" as a person, company, agent, district, or other entity that provides a service or services to a jurisdiction pursuant to a contract or other written agreement. (CCR 18982)

**THIS BILL:**

- 1) Authorize local jurisdictions to be credited for the procurement of recovered organic waste products, pursuant to CCR 18993.1, through an agreement with a direct service provider, including on a prospective or retroactive basis, as long as the purchase occurs during the year for which the jurisdiction seeks procurement credit.
- 2) Authorizes jurisdictions to count organics procured from the following toward their organic waste procurement target:
  - a) Community compost operations;
  - b) On-farm compost operations; and,
  - c) Home compost operations.
- 3) Authorizes jurisdictions to count investments made within the jurisdictions' geographic boundaries for the expansion of the capacity of compostable materials handling operations or community composting operations toward its organic waste procurement target.
- 4) Specifies conversion factors for calculating investments made by jurisdictions:
  - a) For the creation of new compostable materials handling operations, community composting operations, or onsite composting operations, for the year in which the investment was made, authorizes the jurisdiction to claim procurement credit based on

the percentage of the total cost of the project that the jurisdiction funded, multiplied by the estimated annual compost production capacity.

- b) For the expansion of existing compostable materials handling operations, community composting operations, or onsite composting operations, for the year in which the investment was made, authorizes the jurisdiction to claim procurement credit based on the percentage of the total cost of the project that the jurisdiction funded, multiplied by the estimated annual compost production capacity.

**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.

SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB 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 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.

In order to ensure that there are adequate markets for the state's increasing quantities of products made from organic waste, like mulch, compost, and digestate, CalRecycle established procurement requirements for local jurisdictions. The procurement targets are based on the average amount of organic waste generated by Californians annually multiplied by the population of a jurisdiction. Jurisdictions can meet the target by procuring, giving away, or arranging for the use of the material through contracts with direct service providers. Eligible materials include compost, mulch, biomass electricity, or renewable gas, as

specified. According to Stopwaste, the sponsor of this bill, costs to meet the target for a city of 100,000 people using compost range from \$400,000 to \$1.2 million per year.

The organic materials procurement targets are a critical component of the state's SLCP reduction program; however, numerous local jurisdictions throughout the state have raised concerns about the lack of flexibility in the current program hinders their ability to achieve the targets. Some of the concerns that have been raised include the lack of organic materials processing in the state, even in jurisdictions with established composting programs. In some urban areas, there are limited green areas to apply the quantities of organic materials necessary, in which case they have to contract with direct service providers to use the materials on their behalf. Alternatively, rural areas struggle to comply with the procurement requirements given the lack of local infrastructure and distance from organics recycling facilities.

- 2) **This bill.** This bill is intended to remove some of the barriers local governments have identified to achieving the state's organic materials procurement targets. This bill does so by expanding the list of eligible materials to include compost produced by community compost, on-farm, and home compost operations.

This bill also allows jurisdictions to get procurement credit for investments made to create or expand new organic waste processing capacity, pursuant to a formula prescribed by the bill. For example, under the bill, a jurisdiction that invests \$500,000 in a facility with a total cost of \$5 million (10% of the total cost) that is estimated to produce 45,000 tons of organic materials (e.g., compost, mulch) would receive credit for 4,500 tons (10%) for the year in which the jurisdiction made the investment.

Finally, this bill allows materials procured by direct service providers operating under an agreement with a jurisdiction to be included in a jurisdiction's procurement target. For instance, if a city has a contract with a landscaping company, mulch and compost purchased by the company pursuant to the contract would count toward the city's procurement target.

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

In order to continue California's pioneering efforts to combat climate change, the Legislature enacted SB 1383 in 2016 and the California Department of Resources Recycling and Recovery (CalRecycle) subsequently adopted regulations to reduce short-lived climate pollutants and organic waste in landfills. These are critical programs that must be supported. This bill seeks to provide local governments more flexibility to meet the requirements of this program in order to improve administrative efficiency without stepping back from our climate goals.

- 4) **Suggested amendment.** Given the challenges associated with quantifying and verifying materials generated in home compost operations, *the committee may wish to amend the bill to remove this provision.*

- 5) **Related legislation:**

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 has been referred to the Assembly Appropriations 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 has been referred to the Assembly Appropriations 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 1045 (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 Local Government 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 Appropriations 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 Appropriations Committee.

SB 1232 (Grove) exempts a portion of a county from the state's organic waste collection requirements if the county proposed a fee for the collection and it was rejected by property owners. This bill has been referred to the Senate Local Government Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Alameda County Board of Supervisors  
California Compost Coalition  
Californians Against Waste  
City and County of San Francisco  
City of Alameda  
City of Albany  
City of Berkeley  
City of Dublin  
City of Fremont  
City of Livermore  
City of Newark  
City of Piedmont  
County of Los Angeles Board of Supervisors  
David Haubert, Alameda County Supervisor  
League of California Cities  
Little Hoover Commission  
Local Ecology and Agriculture Fremont

### **Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2465 (Gipson) – As Introduced February 13, 2024

**SUBJECT:** Equity: socially disadvantaged groups and organizations: nonprofit organizations: grants

**SUMMARY:** Requires specified state entities to prioritize socially disadvantaged groups under various grant programs, and includes descendants of enslaved persons in the United States in the definition of socially disadvantaged group.

**EXISTING LAW:**

- 1) Defines “socially disadvantaged group” to mean a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups include all of the following: African Americans, Native Indians, Alaskan Natives, Hispanics, Asian Americans, and Native Hawaiians and Pacific Islanders. (Food and Agricultural Code (FAC) 512)
- 2) Requires the Wildlife Conservation Board (WCB) to investigate, study, and determine what areas within the state are most essential and suitable for wildlife production and preservation, and will provide suitable recreation; and shall ascertain and determine what lands within the state are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for, fishing and hunting. (Fish and Game Code 1345)
- 3) Requires the secretary of the Natural Resources Agency (NRA), to support the development of sustainable communities, to manage and award financial assistance, for the preparation and implementation of green infrastructure projects that reduce greenhouse gas (GHG) emissions and provide multiple benefits, to local governments and nonprofit organizations. Requires at least 75% of the moneys available for these grants to be allocated to projects that are located in, and that provide benefits to, disadvantaged communities. Requires the secretary to maximize the expenditure of funds made available pursuant to the Statewide Park Development and Community Revitalization Act of 2008. (Government Code 12802.10)
- 4) Requires the Department of Conservation (DOC) to administer local assistance grants. (Public Resources Code (PRC) 614)
- 5) Authorizes the director of the Department of Forestry and Fire Protection (CAL FIRE) to provide grants to, or enter into contracts or other cooperative agreements with, entities, including, but not limited to, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies, for the implementation and administration of projects and programs to improve forest health and reduce GHG emissions. (PRC 4799.05)
- 6) Authorizes the director of CAL FIRE to award grants to provide assistance of 25% to 90% of costs for projects meeting specified urban forestry guidelines. Authorizes the director to waive the cost sharing requirement for projects that are in disadvantaged and low-income

communities. Grants may be made to cities, counties, districts, and nonprofit organizations. (PRC 4799.12)

- 7) Establishes the California Recreational Trails Act (PRC 5070) and requires moneys in the Recreational Trails Fund to be available to Department of Parks and Recreation (DPR) for competitive grants to cities, counties, districts, state and federal agencies, federally recognized California Native American tribes, nonfederally recognized California Native American tribes included on the contact list maintained by the Native American Heritage Commission, and nonprofit organizations with management responsibilities over public lands to acquire and develop recreational trails. (PRC 5072.8)
- 8) Requires the State Coastal Conservancy (SCC) to award grants to local agencies and nonprofits to prepare plans and feasibility studies, and provide technical assistance. (PRC 31111)
- 9) Establishes the Sacramento-San Joaquin Delta Conservancy in the Natural Resources Agency to support efforts that advance environmental protection and the economic well-being of Delta residents, and, among other things, promote environmental education through grant funding. (PRC 32320-32322)
- 10) Establishes the Sierra Nevada Conservancy in the Natural Resources Agency to protect the environment and increase opportunities for tourism and recreation. (PRC 33320) Authorizes the Sierra Nevada Conservancy to make grants or loans to public agencies, nonprofit organizations, and tribal organizations. (PRC 33343)
- 11) Establishes the Environmental Justice Small Grant Program under the jurisdiction of the California Environmental Protection Agency. (PRC 71116)
- 12) Requires the Department of Water Resources (DWR) to develop and administer the Dam Safety and Climate Resilience Local Assistance Program to provide state funding for repairs, rehabilitation, enhancements, and other dam safety projects at existing state jurisdictional dams and associated facilities that were in service prior to January 1, 2023. (Water Code (WC) 6700)
- 13) Requires DWR to establish a program to implement watershed-based riverine and riparian stewardship improvements by providing technical and financial assistance in support of projects that reduce flood risk, restore and enhance fish populations and habitat, improve water quality, achieve climate change benefits, and in general ensure resilient ecological function within areas that include, but are not limited to, urban or urbanizing areas of the state. (WC 7049)

**THIS BILL:**

- 1) For purposes of the bill, defines “socially disadvantaged organization” as a nonprofit organization that has, as a majority of its board of directors, members of a socially disadvantaged group, as that term is defined in FAC 512.
- 2) Amends the definition of “socially disadvantaged group” in FAC 512 to include descendants of enslaved persons in the United States.

- 3) Requires, until January 1, 2031:
- a) The secretary of NRA, when awarding grants for sustainable communities to give additional consideration to awarding moneys for a project that is undertaken by a socially disadvantaged organization.
  - b) CAL FIRE to prioritize the award of an urban forestry grant to socially disadvantaged organizations.
  - c) WCB, when awarding grants under its authority, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - d) DOC, when awarding grants pursuant to its authority, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - e) CAL FIRE, when awarding grants for the implementation and administration of projects and programs to improve forest health and reduce GHG emissions, to prioritize the awarding of grant funding to socially disadvantaged organizations.
  - f) DPR, when awarding grants for the California Recreational Trails Act, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - g) SCC, when awarding grants pursuant to its authority, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - h) The Sacramento-San Joaquin Delta Conservancy, when awarding grants pursuant to its authority, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - i) The Sierra Nevada Conservancy, when awarding grants pursuant to its authority, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - j) Cal EPA, when awarding grants under the Environmental Justice Small Grant Program, to prioritize the awarding of grant funding to socially disadvantaged organizations.
  - k) DWR, when awarding grants under the Dam Safety and Climate Resilience Local Assistance Program, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.
  - l) DWR, when awarding grants for watershed-based riverine and riparian stewardship improvements, to prioritize the awarding of grant funding to socially disadvantaged organizations, to the extent not in conflict with the terms and conditions of a federal grant program.

- 4) Requires eligible grant applications submitted by a socially disadvantaged organization to all of the state entities in (c) – (l) to be awarded additional points equal to 15% of the total points available for scoring.
- 5) Prohibits the state entities in (c) – (l) from requiring a socially disadvantaged organization from providing matching funds and prohibits those state entities from penalizing a socially disadvantaged organization that does not provide matching funds as part of the grant application.
- 6) Prohibits the state entities in (c) – (l) from requiring a socially disadvantaged organization to demonstrate experience implementing similar projects and from prohibits those state entities from penalizing a socially disadvantaged organization that does not demonstrate experience implementing similar projects as part of a grant application.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

AB 2465 would provide an imperative initiative of prioritization and financial assistance to socially disadvantaged groups, through incentivizing existing organizations to diversify their governing bodies and empower diverse-led organizations to be part of California's climate and green infrastructure workforce. There has been long-standing deficiencies and internal barriers to socially disadvantaged farmers and ranchers, especially those who are descendants of slaves because they have not been specified in the definition of a socially disadvantaged group. By the implementation of AB 2465, we are setting a precedent of investment towards these groups; uplifting them to the same opportunities and outcome as their socially advantaged counter-parts.

People of color are substantially underrepresented in the grants this bill addresses. Some state agencies have made some progress in addressing these gaps, but ultimately, there is plenty of work to be done. Additionally, preparation of grant applications for these grant programs can be very expensive and laborious, requiring the expense of tens of thousands of dollars without any certainty that the grant application will have a chance at funding. This is a substantial deterrent to diverse communities and organizations entering this sector.

- 2) **Prioritizing disadvantaged communities.** In recognition of the consequences of California's history of socially and economically inequitable policies, the state has prioritized funding for disadvantaged communities, defined differently across different state statutes, but predominantly defined by priority populations that represent economically disadvantaged individuals and communities that are also likely disproportionately exposed to and vulnerable to environmental pollutants.

Under California's climate law – the Global Warming Solutions Act – the Cap-and-Trade system generates billions of dollars annually for the Greenhouse Gas Reduction Fund (GGRF). Appropriation of those funds, known as California Climate Investments, are required to meet multiple objectives for providing benefits to priority populations.

Administering agencies must both (1) target investments to priority populations, including disadvantaged communities, and (2) maximize benefits to disadvantaged communities.

CalEnviroScreen was developed at CalEPA to identify disadvantaged communities that are the most vulnerable and pollution-burdened. The tool is used to help direct those Climate Investments targeted for disadvantaged communities, as well as to guide CalEPA in administering its Environmental Justice Small Grants Program and prioritizing resources for cleanup and abatement projects and outreach efforts by the agency.

Cumulatively, \$7.2 billion (74% of total California Climate Investments to-date), of project funding is benefiting priority populations, exceeding the statutory minimums.

While investments in disadvantaged and underrepresented communities are important, the author's intent with this bill is to build capacity for communities of color in implementing projects to further California's nature-based solutions.

- 3) **Reparations.** On June 29, 2023, the Task Force to Study and Develop Reparation Proposals for African Americans issued its final report to the California Legislature. The report surveys the ongoing and compounding harms experienced by African Americans as a result of slavery and its lingering effects on American society today, and proposes a comprehensive reparations plan pursuant to Assembly Bill 3121 (Weber), Chapter 319, Statutes of 2020.

While the Task Force does not have any recommendations related to prioritization for decedents of slavery via state environmental grant programs, it does recommend the Legislature "provide economic support to ameliorate the disparities through the development of climate resilience hubs, community-driven facilities that support residents, facilitate communication, distribute aid, and provide an opportunity for communities to become more self-sustaining during climate emergencies."

- 4) **Purpose behind the selected grant programs.** According to the author, this bill will implement three policy changes to increase equity in state governmental grant making for grant programs involving environmental justice, agriculture, urban forestry, land acquisition, and watershed improvement: 1) require state agencies to give preferential treatment to nonprofit organizations that have a majority of their board of directors comprised of members from a disadvantaged group, 2) prohibit state agencies from penalizing socially disadvantaged organizations who do not have matching funds in connection with grant requests, and 3) prohibit state agencies from requiring socially disadvantaged organizations, which are underrepresented in the myriad industries, to demonstrate experience implementing similar projects.

The author contends that these changes will reduce barriers-to-entry and unlock access to billions of dollars in state grants and level the playing field by helping organizations led by people of color qualify for more than \$1 billion in grant funding to implement California's environmental initiatives.

There are many environmental grant programs across the agencies included in the bill, and more across the other departments under NRA. The author chose the grant programs in the bill due to his and the sponsors' familiarity with how these programs function and how they are scored. The sponsors – California African American Water Education Foundation, 40 Acre Conservation League, and Environmental Justice League – are diverse-led

organizations that perform land acquisition, restoration, and education work with the goal of not only diversifying access to the outdoors, but “diversifying nature's workforce, and capacity building for people of color to be a part of implementing nature-based solutions in both rural and urban contexts.” These programs, the author contends, can help lower barriers to entry for all people of color who are afforded opportunities in 30x30. If this bill is enacted and successfully implemented, the author envisions this acting as a pilot for other programs in the future.

- 5) **Double referral.** This bill has also been referred to the Assembly Water, Parks & Wildlife Committee.
- 6) **Committee amendments.** The bill prohibits state agencies from requiring socially disadvantaged organizations from demonstrating prior experience implementing similar projects. Many grant guidelines require experience or give scoring prioritization to project experience. This reinforces ongoing inequities that the author feels are historically entrenched in many state policies.

Many diverse-led organizations are not long-time land owners like the Nature Conservancy or Trust for Public Land, but do rely on experienced contractors (biologists, registered professional foresters, archaeologists) to manage and implement a project.

While disadvantaged organizations are likely to have been impeded, or unsupported, from implementing comparable projects, some requisite experience may need to be required. Therefore, *the committee may wish to consider* rephrasing the requirement in FGC 1350.5 (c), PRC 614.5 (c), PRC 4799.05 (b)(4), PRC 5072.8 (g)(4), PRC 31121 (c), PRC 32379 (c), PRC 71116 (m)(4), PRC 33343.5 (c), WC 6700 (f)(4), and WC 7049 (f)(4) to read:

~~shall not require a socially disadvantaged organization to demonstrate experience implementing similar projects and shall not penalize a socially disadvantaged organization that does not demonstrate experience implementing similar projects as part of a grant application based upon its experience, but may consider the cumulative experiences of the socially disadvantaged organization implementing similar projects, including the cumulative experiences of any co-applicants and any contractor listed on the grant application that is planning or performing the work.~~

## REGISTERED SUPPORT / OPPOSITION:

### Support

40 Acre Conservation League  
 Black Leadership Council  
 Black Small Business Association of California  
 California African American Water Education Foundation  
 Courage Campaign  
 Environmental Justice League  
 Greenlining Institute; the  
 Outward Bound Adventures  
 PRC/Black Leadership Council

### Opposition

None on file

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



Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2503 (Lee) – As Amended April 1, 2024

**SUBJECT:** California Environmental Quality Act: exemption: rail projects

**SUMMARY:** Expands existing California Environmental Quality Act (CEQA) exemptions for transit projects to include zero- and near-zero-emission heavy rail projects within existing rights of way and projects to power zero-emission public transit buses, trains, or ferries.

**EXISTING LAW:**

- 1) 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. (Public Resources Code (PRC) 21000 *et seq.*)
- 2) CEQA exempts specified transportation project types, including the following:
  - a) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities. (PRC 21080(b)(10))
  - b) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities. (PRC 21080(b)(11))
  - c) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services. (PRC 21080(b)(12))
- 3) SB 288 (Wiener), Chapter 200, Statutes of 2020, as amended by SB 922 (Wiener), Chapter 987, Statutes of 2022, added PRC 21080.25, establishing temporary CEQA exemptions for the several “clean transportation” project types, including:
  - a) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the rehabilitation of stations, terminals, or existing operations facilities, as specified. Retroactively applies these changes to projects where lead agency filed a notice of exemption before January 1, 2023.
  - b) A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, trains, and ferries, as specified. Requires specified noticed public meetings for this exemption to apply
- 4) PRC 21080.25 requires exempt projects meet all of the following criteria:
  - a) A public agency is carrying out the project and is the lead agency for the project.
  - b) The project is located in an urbanized area, as defined.
  - c) The project is located on or within an existing public right-of-way.

- d) The project does not add physical infrastructure that increases new automobile capacity on existing rights-of-way except for minor modifications needed for the efficient and safe movement of transit vehicles, such as extended merging lanes. The project shall not include the addition of any auxiliary lanes.
  - e) The construction of the project does not require the demolition of affordable housing units, including rent-controlled units and units occupied by low-income tenants.
- 5) PRC 21080.25 requires a project exceeding \$100 million to also meet all of the following criteria:
- a) The project is incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review within 10 years of the approval of the project.
  - b) Construction impacts are fully mitigated.
  - c) The lead agency completes and considers the results of a project business case, a racial equity analysis, and an analysis of residential displacement.
  - d) The lead agency holds specified public meetings.
- 6) PRC 21080.25 requires the lead agency to certify that the project will be completed by a skilled and trained workforce, as specified.
- 7) PRC 21080.25 sunsets the section adding the exemptions above on 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 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.

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.

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. Generally, a petition must be filed within 30 to 35 days, depending on the type of decision. The courts are required to give CEQA actions preference over all other civil actions. 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.

CEQA includes statutory exemptions for certain transportation project types (listed above). In addition, the CEQA Guidelines include categorical exemptions that apply to some transportation projects, including: (1) work on existing facilities where there is negligible expansion of an existing use, specifically including "(e)xisting highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities" (Section 15301(c), CEQA Guidelines); and (2) minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry or agricultural purposes, specifically including the creation of bicycle lanes on existing rights-of-way (Section 15304 (h), CEQA Guidelines).

If a project is not exempt from CEQA, but the initial study shows that it would not result in a significant effect on the environment, the lead agency must prepare a negative declaration, and no EIR is required.

**2) Author's statement:**

To meet our pressing climate goals we need to more rapidly deliver green infrastructure projects. By exempting train electrification from CEQA, transportation agencies will be able to more rapidly electrify their fleets, improve rail service, and cut emissions while saving taxpayer money in legal costs.

- 3) Expanded exemption goes beyond electrified/zero-emission trains.** In expanding the exemption for light rail service to include any passenger rail service, this bill captures heavy rail service that is commonly driven by diesel locomotives (as compared to light rail, which is typically electrified). Conventional locomotives are electric drive, with the electricity generated by on-board diesel engines, but they are also highly polluting. Including expansion of fossil-fueled train service in the exemption seems contrary to the author's stated intent, as well as the original intent of SB 288 and SB 922. *The author and the committee may wish to consider* amending the bill to clarify that non-light rail (e.g., passenger commuter rail) projects are limited to zero-emission trains.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Associated General Contractors  
Bike LA  
Californians for Electric Rail  
East Bay for Everyone  
Everybody's Long Beach  
Marin County Bicycle Coalition  
Pedal Movement  
Railpac - Rail Passenger Association of California  
Streets for All  
Transbay Coalition  
YIMBY Action  
Youth Climate Strike Los Angeles

**Opposition**

California Association of Professional Scientists  
New Livable California

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2514 (Aguiar-Curry) – As Amended April 1, 2024

**SUBJECT:** Solid waste: organic waste

**SUMMARY:** Defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen and revises the definition of “combustion” to incorporate this definition of pyrolysis. Requires the Department of Resources Recycling and Recover (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.

**EXISTING LAW:**

- 1) Establishes the Integrated Waste Management Act (IWMA), which generally governs the management of solid waste and recycling in the state, and is implemented by CalRecycle. (Public Resources Code (PRC) 40000 *et seq.*)
- 2) Establishes the Warren-Alquist State Energy Resources Conservation and Development Act (Warren-Alquist Act), which generally governs energy policy and planning in the state, and is implemented by the California Energy Commission (CEC). (PRC 25000 *et seq.*)
- 3) 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)
- 4) 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)
- 5) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the state’s organic waste reduction requirements. Specifies that the regulations, in part, require local jurisdictions to procure specified quantities of recovered organic waste products. (PRC) 42652.5)
- 6) Specifies that the organic waste product procurement target may be met by procuring:
  - a) Compost from a compost facility or in-vessel digestion facility;
  - b) Renewable gas used for transportation, electricity, or heating applications;
  - c) Electricity from biomass conversion; and,
  - d) Mulch, as specified. (California Code of Regulations (CCR) 18993.1)

- 7) Establishes the Low-Carbon Fuel Standard (LCFS) regulations to encourage the innovation, use, and production of cleaner, low-carbon fuels in California in order to reduce greenhouse gas (GHG) emissions. (CCR 95480 - 95503)
- 8) Defines “conversion,” for purposes of the Warren-Alquist Act, to mean the processes by which residue is converted to a more usable energy form, including, but not limited to, combustion, anaerobic digestion, and pyrolysis, and is used for heating, process heat applications, and electric power generation. (PRC 25135)
- 9) Establishes the Hydrogen Program, which requires the CEC to provide financial incentives to eligible in-state hydrogen projects for the demonstration or scale-up of the production, processing, delivery, storage, or end use of hydrogen, as specified. (PRC 25664.1)
- 10) Defines “green electrolytic hydrogen” as hydrogen gas produced through electrolysis and does not include hydrogen gas manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock. Requires the California Public Utilities Commission (CPUC) to consider green electrolytic hydrogen as an eligible form of energy storage and consider its potential in their decarbonization strategies. (Public Utilities Code (PUC) 400.2 – 400.3.)
- 11) Defines “clean hydrogen” as hydrogen produced from eligible renewable energy resources, as specified. (Government Code 12100.161)
- 12) Defines “biomethane” for purposes of biomethane procurement requirements established by the CPUC, as methane produced from an organic waste feedstock that meets the standards adopted by the CEC for injection into a common carrier pipeline and that:
  - a) Is produced from the anaerobic decomposition of organic material, including codigestion; or,
  - b) Is produced from the noncombustion thermal conversion of specified organic materials, when separated from other waste. (PUC 650)

**THIS BILL:**

- 1) Defines “pyrolysis” in the IWMA to mean the thermal decomposition of organic material at elevated temperatures in the absence of gases such as air or oxygen.
- 2) Revises the definition of “conversion” in PRC 25135 to include pyrolysis, as defined by this bill.
- 3) Requires CalRecycle, no later than January 1, 2026, to revise the state’s organic materials procurement regulations to include procurement of “hydrogen converted from diverted organic waste and pipeline biomethane converted from diverted organic waste,” as specified.
- 4) When awarding incentives for projects to reduce SLCPs, requires CalRecycle, in coordination with ARB, to consider the life-cycle carbon intensity of different projects and prioritize incentives for landfill diversion projects with the lowest life-cycle carbon intensity.

- 5) States legislative findings relating to SLCPs and declares the intent of the Legislature to accelerate diversion and beneficial reuse of organic waste, meet the state's organic waste disposal reduction targets, and adopt policies and incentives to maximize climate, public health, environmental, economic, and community benefits of organic waste diversion and reuse.

**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.

SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB 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 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.

In order to ensure that there are adequate markets for the state's increasing quantities of products made from organic waste, like mulch, compost, and digestate, CalRecycle established procurement requirements for local jurisdictions. The procurement targets are based on the average amount of organic waste generated by Californians annually multiplied by the population of a jurisdiction. Jurisdictions can meet the target by procuring, giving away, or arranging for the use of the material through contracts with direct service providers. Eligible materials include compost, mulch, biomass electricity, or renewable gas, as specified.

- 2) **Pyrolysis.** Pyrolysis is generally defined as the chemical decomposition of organic materials (i.e., containing carbon) by heat in the absence of oxygen. In practice, the complete absence of oxygen is nearly impossible, and the systems are operated with some unavoidable oxygen. Pyrolysis is usually conducted temperatures above 500 degrees Celsius. Due to the lack of oxygen, the material does not combust, but is thermally decomposed into combustible gases and bio-char. The gases can be converted into bio-oil. Pyrolysis is widely used in the chemical industry to produce chemicals, such as ethylene from oil and coke from coal, and in the conversion of natural gas and methane into hydrogen.

Pyrolysis is one of the technologies that has gained attention in recent years as a form of “advanced recycling” (previously known as conversion technologies), which is a term widely used by the plastic and oil industries to describe technologies that convert plastic back into chemicals, fuel, or oil. These technologies have significant environmental impacts, particularly on the surrounding communities, including toxic air emissions, GHG emissions, and hazardous waste generation. According to a recent study by the National Renewable Energy Lab, pyrolysis and gasification require large amounts of energy and generate GHG emissions and pollutants.

In California, these technologies do not count as recycling for purposes of achieving the state’s solid waste recycling targets. However, when used to convert organic waste, they may count as organics recycling if they meet certain standards. Known as the Article 2 process, in reference to the article in regulations that creates the standard, a technology may qualify as organic waste diversion for purposes of meeting the state’s SLCP targets if the permanent life-cycle GHG emissions reductions are equal to or greater than the emissions reductions from composting organic waste (CCR 18983.2).

- 3) **Low Carbon Fuel Standard.** ARB identified the LCFS as one of the early action measures to reduce California’s GHG emissions. The LCFS has been used by the ARB since 2013 to reduce the carbon intensity of California’s transportation fuel options and provide an increasing range of low-carbon and renewable alternatives to reduce petroleum dependency and achieve air quality benefits. The LCFS standards are expressed in terms of the “carbon intensity” of gasoline and diesel fuels and their respective substitutes. The program is based on the principle that each fuel has life cycle GHG emissions. This life cycle assessment examines the GHG emissions associated with the production, transportation, and use of a given fuel. The life cycle assessment includes direct emissions associated with producing, transporting, and using the fuels, as well as significant indirect effects on GHG emissions, such as changes in land use for some biofuels. The carbon intensity scores assessed for each fuel are compared to a declining carbon intensity benchmark for each year. Low carbon fuels below the benchmark generate credits, while fuels above the benchmark generate deficits. Transportation fuels providers must demonstrate that the mix of fuels they supply for use in California meets the LCFS carbon intensity standards.
- 4) **Federal regulatory action.** Federally, the United States Environmental Protection Agency (USEPA) categorizes pyrolysis as small waste combustion units and institutional waste incinerators under the Clean Air Act, as the facilities consist of “two chamber incinerators with a starved air primary chamber followed by an afterburner to complete combustion.” The USEPA considered removing the technology from Clean Air Act rules in 2020 in response to pressure from the plastics, oil, and waste industries. According to a Plastics Industry Association comment, regulating pyrolysis and gasification under the Clean Air Act

would discourage the use of the technologies, which they argue are necessary to meet the country's recycling needs. The USPEA reversed course in 2023 after receiving public comments (and a change in Administration). In response to the proposal, Earthjustice submitted a public comment noting that Clean Air Act rules should apply to all combustion associated with waste processing, including the various forms of pyrolysis and gasification.

- 5) **This bill.** This bill defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen and revises the definition of “combustion” to incorporate this definition of pyrolysis. 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.

This bill's stated intent is to “accelerate the diversion and beneficial reuse of organic waste” and to “support the adoption of policies and incentives that maximize the climate, public health, environmental, economic, and community benefits of organic waste diversion and reuse.” In practice, the bill establishes a definition of pyrolysis that implies that it is only used to convert organic waste, expands markets for hydrogen and pipeline biomethane, and increases the funding priority for fuel-generating technologies within the IWMA.

The author and sponsors of this bill indicate that establishing a definition will give clarity to regulatory agencies regarding pyrolysis technologies; however, it also restricts their ability to interpret the term as technologies advance or change, or tailor the definition for use in specific programs. For example, the legislature codified a definition for the term “gasification” in 2009 in a bill sponsored by the gasification industry. Instead of providing clarity, this definition has arguably hindered the deployment of gasification in California, as the definition is not considered technically accurate. The definition of pyrolysis used in this bill is consistent with the definition generally used by industry; however, the definition is not technologically accurate, as pyrolysis does involve some amount of oxygen. Additionally, “organic” as used in this definition refers to organic matter that contains carbon, including plastic and other solid waste. However, in the IWMA, “organic waste” and “organic material” refer to compostable materials, like yard waste, tree trimmings, and food waste and the recycled materials produced from them, like compost and mulch. As this definition is being added to the IWMA, it creates confusion and make the definition difficult to interpret legally.

Requiring CalRecycle to include hydrogen and pipeline biomethane in the list of organic waste products that local jurisdictions may purchase to meet their organic waste procurement targets potentially increases the markets for these materials. The bill specifies that the hydrogen or pipeline biomethane must be “converted from diverted organic waste,” but does not limit the feedstock to solely source separated organic waste. This may allow the procurement of those materials even if the source material includes solid waste or recyclables or if the technology is classified as disposal under the IWMA.

Finally, as drafted, this bill has the potential to redirect SLCP funding administered by CalRecycle away from composting and other traditional organics recycling to fuels generation technologies like pyrolysis, as life-cycle carbon intensity is used as to compare the carbon intensity of alternative fuels with conventional fuels for purposes of the LCFS. Additionally, considering only the carbon intensity does not provide an accurate indication of

a project's overall environmental benefits and impacts. Finally, focusing solely on life-cycle carbon intensity or environmental impacts for funding may defund many smaller, community-scale projects that offer significant benefits to communities and individual jurisdictions, especially smaller and more rural jurisdictions that don't generate sufficient organic waste to support a large-scale project. Smaller scale projects that provide benefits to the environment and reduce methane emissions, but also have significant community benefits, may be unable to compete for funds, such as community compost operations and projects that connect recovered food with food banks and shelters.

6) **Author's statement:**

Climate scientists agree that reducing methane and other [SLCPs] is the most urgent step to address climate change. SLCP reductions benefit the climate immediately, and reducing methane emissions also provides immediate benefits to public health because methane leads to smog formation and air pollution. SB 1383 required communities to divert organic waste from landfills because organic waste contributes almost 90% of California's methane emissions, but the state has fallen behind on meeting these goals and organic waste diversion projects have faced many obstacles in the permitting process. AB 2514 aims to accelerate progress in meeting the state's methane reduction requirements by providing more certainty to organic waste diversion projects. Further, this bill optimizes the use of California's financial resources by prioritizing incentive funding for projects that are most effective at helping the state meet its climate goals. This prioritization is technology-neutral to make sure that California invests in projects that most efficiently and effectively reduce emissions.

7) **Suggested amendments.** The *committee may wish to make the following amendments* to this bill:

- Remove the revised definition of "conversion" from the bill. According to the author's office, the inclusion of this definition within the Warren-Alquist Act was unintentional. Given the strong potential for unintended consequences, the definition should be removed from the bill.
- Strike the word "organic" from the definition of pyrolysis and clarify that the conversion of the material occurs in the absence *or near absence* of oxygen, as pyrolysis generally does have some oxygen present in the process. While the term organic material is scientifically accurate, it is not appropriate for use in this definition as part of the IWMA.
- Clarify that the regulations adopted by CalRecycle to allow hydrogen and pipeline biomethane to be credited as organic materials procurement specify that hydrogen and biomethane be converted from *exclusively source-separated* organic materials diverted from landfill and produced by technologies that are not considered disposal for purposes of the IWMA.
- Remove reference to life-cycle carbon intensity and instead require CalRecycle to consider the life-cycle effects of projects and prioritize funding for those with the greatest life cycle benefits. Life-cycle carbon intensity is used in the LCFS to compare the emissions that occur from the use of an alternative fuel per megajoule of conventional

fuel it displaces. While this analysis works for comparing fuels, it is not appropriate for comparing recycling technologies like composting and mulching with energy production technologies like pyrolysis and gasification.

- 8) **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 2311 (Bennett) 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). This bill has been referred to the Assembly Appropriations Committee.

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 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 has been referred to the Assembly Appropriations 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 1045 (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 Local Government 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 Appropriations 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 Appropriations Committee.

SB 1232 (Grove) exempts a portion of a county from the state's organic waste collection requirements if the county proposed a fee for the collection and it was rejected by property owners. This bill has been referred to the Senate Local Government Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Anaergia Services, LLC  
Bioenergy Association of California  
California Association of Sanitation Agencies  
California Hydrogen Business Council  
California Hydrogen Coalition  
Electrochaea Corporation  
Green Hydrogen Coalition  
H Cycle LLC  
Northeast-Western Energy Systems  
Raven SR  
Resource Recovery Coalition of California  
SeaHold  
Sempra Energy Utilities  
TSS Consultants  
USA Water and Power

### **Opposition**

350 Sacramento  
California Environmental Voters  
Californians Against Waste (unless amended)  
CleanEarth4Kids.org  
Clean Water Action  
Climate Action California  
Natural Resources Defense Council  
Santa Cruz Climate Action Network

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES  
Isaac G. Bryan, Chair  
AB 2522 (Wendy Carrillo) – As Introduced February 13, 2024

**SUBJECT:** South Coast Air Quality Management District: district board: compensation

**SUMMARY:** Doubles per diem compensation of South Coast Air Quality Management District (SCAQMD) board members, from \$100/day up to \$1000/month to \$200/day up to \$2000/month, and authorizes the SCAQMD board to increase these amounts going forward up to the greater of 5% per year or the rate of inflation, not exceeding 10%.

**EXISTING LAW** requires each member of the SCAQMD board to receive compensation of \$100/day, not to exceed \$1,000/month, while attending meetings of the board or any committee thereof or, upon authorization of the board, while on official business of the district, and the actual and necessary expenses incurred in performing the member's official duties. (Health and Safety Code 40426)

**FISCAL EFFECT:** Non-fiscal

**COMMENTS:**

- 1) **Background.** The SCAQMD board consists of 13 members. Under current law, maximum total per diem compensation is \$156,000/year. The current \$100/day limit was established in 1987. This bill doubles the maximum per diem compensation, equaling a total of \$312,000/year in 2025, and permits increases of 5-10% each year thereafter.

The author intends to broaden the bill to include some or all of the other 35 air districts in California, which will increase the bill's costs by an unknown amount. These per diem payments come from local air district funds, so the bill is non-fiscal.

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

Local air district board members are pivotal in protecting California's air quality and public health, yet their compensation has dramatically diminished since the 1980s due to inflation. This lack of financial recognition undermines the significance of their work and poses a barrier to diverse candidates who might serve. AB 2522 aims to modernize this compensation, recognizing today's economic reality and the invaluable public service these members provide. By doing so, we will lower the barriers to participation from underrepresented communities, ensuring our air quality boards mirror the diversity of California itself. This step towards equitable compensation is crucial for fostering inclusive environmental governance and ensuring all communities have a voice in shaping the policies that affect their air and health.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

South Coast Air Quality Management District (sponsor)

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2600 (Calderon) – As Amended March 18, 2024

**SUBJECT:** Urban forestry: school greening projects: grants.

**SUMMARY:** Requires the Department of Forestry and Fire Protection (CAL FIRE) to provide grants to qualified entities to support school greening.

**EXISTING LAW,** pursuant to the California Urban Forestry Act of 1978 (Public Resources Code 4799.06-4799.12):

- 1) Finds and declares that trees are a vital resource in the urban environment and as an important psychological link with nature for the urban dweller; trees are a valuable economic asset in our cities; trees provide shade and humidity; trees help reduce noise, provide habitat for songbirds and other wildlife; and, trees planted in urban settings play a significant role in meeting the state’s greenhouse gas emission reduction targets by sequestering carbon as well as reducing energy consumption.
- 2) Requires CAL FIRE to implement a program in urban forestry to encourage better tree management and planting in urban areas to increase integrated, multiple benefit projects by assisting urban areas.
- 3) Requires CAL FIRE to encourage demonstration projects that maximize the benefits of urban forests in conjunction with state and local agency programs to improve carbon sequestration, water conservation, energy conservation, stormwater capture and reuse, urban forest maintenance, urban parks and river parkways, school construction and improvements, school greening or sun-safe schoolyards, air quality, water quality, flood management, urban revitalization, solid waste prevention, and other projects.
- 4) Requires CAL FIRE to establish local or regional targets for urban tree canopy, with emphasis on disadvantaged communities that tend to be most vulnerable to the urban heat island effect. These targets shall include urban forest diversity, tree species’ adaptability to anticipated climate change impacts, and other relevant factors.
- 5) Authorizes the director of CAL FIRE to enter into agreements and contracts with a public or private organization, including a local agency that has urban forestry-related jurisdictional responsibilities and an established and operating urban forestry program.
- 6) Authorizes the director of CAL FIRE to make grants to provide assistance of 25 - 90% of costs for projects meeting guidelines upon recommendation by the director.

**THIS BILL:**

- 1) Defines the following terms:
  - a) “Eligible project” means any project that includes, but it not limited to, development of urban tree plans, provision of seedling and tree stock, tree planting projects, and training

and education on tree care that can feasibly be completed on the schoolsite of a local educational agency (LEA).

- b) “In-need education facility” means a schoolsite of a LEA in which either of the following apply:
    - i) A schoolsite located in a disadvantaged community or a low-income community.
    - ii) A schoolsite in which 70% or more of the pupils are eligible for free or reduced-price meals.
  - c) “LEA” means a school district, county office of education, or charter school that maintains a kindergarten or any of the grades 1 to 12, inclusive.
  - d) “School greening” means any eligible project located within the property boundaries of a schoolsite of an LEA that reduces the ambient temperature, including by supporting the urban forest.
- 2) Requires funds appropriated or allocated for purposes of this bill to be administered to support school greening by providing grants to eligible LEAs, nonprofit organizations, cities, counties, and districts, including special districts, through a competitive grant process.
  - 3) Prohibits no less than 60% of the school greening features supported by a grant received to occur within areas on a schoolsite of an LEA used by pupils, including, but not limited to, for recreation, recess, lunch, or instruction outdoors.
  - 4) Requires, on or before July 1, 2025, CAL FIRE to develop a competitive grant process to include guidelines and selection criteria.
  - 5) Requires the guidelines to include all of the following:
    - a) Application requirements that specify the exact project to be completed;
    - b) Applicants to obtain a memorandum of understanding, resolution, or certified letter from the respective LEA supporting the project before being awarded a grant for work to be completed on that LEA’s property;
    - c) Awarded grants to be subject to state auditing and reporting requirements.
    - d) Grantee requirements to maintain and operate the project developed pursuant to the grant for a period of no less than five years;
    - e) Grant funds to be used to support costs related to the project that include, but are not limited to, planning, permitting, design, and soil testing;
    - f) Grant funds to be available to support indirect costs up to 20% of the total grant awarded by CAL FIRE;
    - g) Awarded projects to comply with the most recent state guidance from CAL FIRE on water-efficient irrigation or the local agency landscape water ordinance and shall use drought- and storm-tolerant plantings, as appropriate; and,
    - h) Priority for grant funds to be given to projects that convert paved areas to green spaces; and,
    - i) A charter school that has received a grant from the Charter Schools Facilities Program can be eligible for a grant pursuant to this section.

- 6) Prohibits no less than 80% of funds made available for grants to be designated for in-need education facilities if sufficient applications for in-need education facilities are received and qualify for the grants.
- 7) Requires CAL FIRE to hold at least two public hearings to gather public input on the grant process development.
- 8) Establishes the School Greening and Resiliency Fund in the State Treasury and requires, upon appropriation in the annual Budget Act, funding for these purposes to be transferred to that fund.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

In 2022, I was proud to secure \$150 million in the state budget for K-12 school greening grants. This funding prioritized greening efforts at public schools and childcare facilities in disadvantaged communities. AB 2600 seeks to codify this program within CAL FIRE to ensure its longevity beyond what was allocated in the state budget. This bill will reaffirm the state's ongoing commitment to protecting students and faculty from the detrimental impacts of climate change.

- 2) **The California Urban Forestry Act of 1978.** The CAL FIRE Urban & Community Forestry Program (Program), pursuant to the California Urban Forestry Act, works to optimize the benefits of trees and related vegetation through multiple objective projects. CAL FIRE has seven regional urban foresters throughout the state to provide expert urban forestry support to communities, non-profit groups, and other municipal governments to create and maintain sustainable urban forests. These specialists also administer and provide technical support for grants that are offered for activities such as tree planting, municipal tree inventories and management plans, urban forest educational efforts, and innovative urban forestry projects. California currently has 1,256 square miles of urban forest canopy.

Under the Program, CAL FIRE provides urban forestry grants to help communities to advance their urban forestry efforts. Eligible applicants for the urban forestry grants include cities, counties and qualifying districts, which includes, but is not limited to school, park, recreation, water, and local taxing districts.

- 3) **School greening.** California has about 10,000 public schools of which the majority have less than 5% canopy cover and a high degree of impervious surfaces. This leaves children, who are already disproportionately impacted by extreme urban heat, in even healthier environments than the surrounding urban areas. The lack of nature, exposure to extreme heat, and associated number of indoor-only days to avoid the heat don't just affect children's physical activity and health, but their mental health and overall wellbeing as well.

In the fall of 2022, in response to a heatwave and overheated kids, Reclaim Our Schools LA — an association of parents, educators, students and community members — demanded more green space and shade on playgrounds in the Los Angeles Unified

School District. Schoolyards are often the hottest locations in communities due to the large swaths of asphalt. Research has shown that heat and lack of green space can affect children's attendance and educational performance. The coalition called for, among other things, making all schools 50% green space.

The Climate Ready Schools Coalition, a coordinated effort between doctors, medical and environmental health researchers, educators, youth and community groups, released the report, *Climate-Resilient California Schools: A Call to Action*, that looks at the impact of climate change on California's children and makes 14 evidence-based recommendations to center climate resilience in California's schools. The report explains that two out of five public school buildings in California are at least 50 years old — built long before the impacts of climate change began to affect school kids. The recommendations, to protect students and teachers from climate-related harms and to move schools closer to our carbon neutral goals, recommends, among other things:

- Creating green schoolyards that increase shade and reducing the presence of asphalt and other impervious surfaces; and,
- Growing food in regenerative schoolyard gardens.

While CAL FIRE has not excluded schools and school districts from applying for grant funding, the complex and time-consuming grant application process is one of the reasons that California public schools, which are historically understaffed and underfunded, have not invested resources in grant applications with uncertain outcomes to improve their campuses.

CAL FIRE is receiving funding for Green Schoolyards Grants, provided under the Program, which will include planting of trees and other vegetation on California public school campuses to help alleviate extreme heat, improve the immediate environment for students as well as improve accessibility to nature and nature-based learning, while also reducing greenhouse gas emissions, improving functionality of urban forests, arresting the decline of urban forest resources, addressing climate change resilience, improving the quality of the environment in urban areas, and optimizing co-benefits to school children and surrounding urban residents.

The CAL FIRE school greening grants will be included in the 2022/2023 grant cycle; however, the complex and time-consuming process of grant writing and application submission remains an obstacle for schools in disadvantaged communities or serving disadvantaged populations. To address that, CAL FIRE is providing grant writing assistance, stakeholder engagement, cost estimation, benefits estimation, and proposal/application submission assistance to school greening applicants with the greatest need to ensure that high quality yet feasible school greening projects are implemented.

- 4) **This bill.** AB 2600 would require CAL FIRE to administer a competitive grant process to support school greening by providing grants to eligible LEAs, nonprofit organizations, cities, counties, and districts, including special districts, through a competitive grant process. It would require no less than 60% of the school greening features supported by a grant to occur within areas on a schoolsite of an LEA used by students. Furthermore, the bill would require no less than 80% of funds made available for grants to be designated for in-need education facilities if sufficient applications for in-need education facilities are received and qualify for the grants.

In 2021, the Legislature approved AB 2566 (Calderon), which was virtually identical to this bill, but it was vetoed by the Governor. Last year, AB 527 (Calderon), which is also identical to this bill, was held on the Senate Appropriations suspense file. The goal of AB 2600 is to create a program for school greening that is distinct from the existing urban greening and urban forestry programs.

- 5) **State fiscal crisis.** Last year's budget for fiscal year (FY) 2023/2024 included funding reductions of \$175 million from the Urban Greening program, \$40 million from the Extreme Heat and Community Resilience program, and \$30 million from the Urban Forestry program. The fund shifts in the budget from General Fund to Greenhouse Gas Reduction Fund included \$33 million for the Green Schoolyards program.

The Governor's January 10 proposed budget for FY 2024/2025 reflects a \$40 billion (and growing) deficit. To address the projected budget shortfall, the proposed budget recommends maintaining \$75 million over four years for the Urban Greening Program – a 70% funding reduction.

According to the Legislative Analyst's Office's February 14, 2024, report *Crafting Climate, Resources, and Environmental Budget Solutions*, the administration has paused evaluation of grant requests for this program.

AB 1567 (E. Garcia) is proposing a \$15.1 billion bond, the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2023, for the next ballot. That bill currently proposes \$100 million to the Natural Resources Agency for urban greening projects that benefit vulnerable populations, among other potential investments in both urban greening and urban forestry.

6) **Related legislation:**

- a) AB 527 (Calderon) 2023 was identical to this bill. It was held in the Senate Appropriations Committee.
- b) AB 57 (Kalra) 2023 proposed to establish the California Pocket Forest Initiative at CAL FIRE. This bill was vetoed by the Governor.
- c) AB 2256 (Calderon) 2022 was identical to this bill. It was vetoed by Governor Newsom.
- d) AB 2251 (Calderon) Chapter 186, Statutes of 2022, requires CAL FIRE to complete a statewide strategic plan to achieve a 10% increase of tree canopy cover in urban areas by 2035.
- e) AB 2114 (Kalra) 2022 was substantially similar to AB 57. This bill is was held in the Senate Appropriations Committee.
- f) AB 347 (Caballero) Chapter 104, Statutes of 2021 requires moneys transferred to the California Community and Neighborhood Tree Voluntary Tax Contribution Fund to be continuously appropriated and allocated to CAL FIRE to the grant program for urban forest management activities under the California Urban Forestry Act of 1978.

- g) AB 1530 (Gonzalez Fletcher) Chapter 720, Statutes of 2017 requires CAL FIRE to update the California Urban Forestry Act to reflect its current funding mix, establish local or regional targets for urban tree canopy, and provide more focus on the maintenance of urban forests.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Treepeople

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2639 (Joe Patterson) – As Amended March 18, 2024

**SUBJECT:** Forestry: timber operations: maintenance of timberlands for fuels reduction

**SUMMARY:** Expands the definition of “timber operations” to include the maintenance of timberlands for fuels reduction, and provides that timber operations for the maintenance of timberland, paid in part or in whole with public funds, may comply with the requirements of the California Environmental Quality Act (CEQA) in lieu of preparing a timber harvesting plan (THP).

**EXISTING LAW:**

Pursuant to CEQA (Public Resources Code (PRC) 21000-21189.70.10):

- 1) Requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.
- 2) Requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.
- 3) Defines “project” as an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:
  - a) An activity directly undertaken by any public agency;
  - b) An activity undertaken by a person that is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; and,
  - c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

Pursuant to the Z'berg-Nejedly Forest Practices Act (PRC 4511-4630):

- 1) Prohibits a person from conducting timber operations unless a THP prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection (CAL FIRE).
- 2) Authorizes a THP prepared by a registered professional forester to rely upon a Program Timberland Environmental Impact Report (PTEIR) for CEQA compliance. Requires the THP to be within the scope of the PTEIR, the rules of the Board of Forestry, and other applicable state laws.

**THIS BILL:**

- 1) Amends the definition of “timber operations” to additionally include the maintenance of timberlands for fuels reduction, paid in part or in whole with public funds, and site preparation that involves disturbance of soil or burning of vegetation, slash, or woody debris following timber harvesting activities or maintenance of timberland.
- 2) Authorizes timber operations for the maintenance of timberland, paid in part or in whole with public funds, to comply with CEQA in lieu of preparing a THP.
- 3) Provides that no reimbursement is required by this bill.

**FISCAL EFFECT:** Unknown

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

Wildfires are continually providing challenges to the state of California. Over the past decade we have seen the magnitude of mega fires continue to grow. In order to stop this we need to focus on prevention which includes cutting red tape to help public agencies responsibly manage their assets. In my district, a local irrigation district submitted a 500 page mitigated negative declaration after an 18 month study period so it could simply manage approximately 500 acres. Assembly Bill 2639 leaves in place CEQA compliance but also offers a limited alternative option for agencies to manage their land.

- 2) **California forests.** California possesses vast and valuable forest resources. It has a wide range of climates, topographies, habitats, geological features, vegetation conditions, and is home to thousands of species of trees, plants, fish, and wildlife, all making the state’s forest resources incredibly diverse, ecologically rich, and important to protect and manage carefully.

Almost a third of California is forest. More than 47% of these lands are administered by the federal government, 39% are under private ownership, and approximately 13% managed by the state and include commercial timberland, the urban-rural interface, parks, wilderness, chaparral, and oak woodland.

- 3) **Forest management.** The state’s Forest Practice Act requires preparation of a THP for any timber subject to commercial harvesting in the state, regeneration of forest resources, old growth timber protection, fire control protocols, logging stipulations, and more. THPs are CEQA functional equivalent environmental documents and operational plans that detail how timber operations (e.g., felling and harvest of trees, related road construction and maintenance, and preparing ground for planting of seedlings) are to occur. Under those Forest Practice Rules, a modified THP specifically for fuel load reduction may be submitted for a project area that meets specified conditions, including acreage limits, maintenance of at least 40% of the existing overstory tree canopy, no listed species will be directly or indirectly adversely impacted by the fuel load reduction, among more prescriptive conditions.

CAL FIRE enforces the Forest Practice Rules for timber landowners on non-federal, state, and private lands through a variety of THPs and ministerial notices submitted by Registered Professional Foresters, timberland owners, and Licensed Timber Operators. All harvesting documents specify the method of harvesting and measures to avoid and minimize the potential for adverse environmental impacts. Approval is dependent on conformance with the Forest Practice Rules. THP approval also includes an extensive multi-agency and public review process.

- 4) **CEQA.** CEQA generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible.

The process is intended to: (1) inform government decision-makers and the public about the potential environmental effects of proposed activities; (2) identify the ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and, (4) disclose to the public why a project was approved if that project has significant environmental impacts that cannot be mitigated to a less than significant level.

In approving projects, public agencies typically rely on the project specific analyses and mitigation measures found in the environmental document for each individual project. However, when a public agency is considering the approval of numerous, similar projects, the project-by-project analysis and mitigation measure development can become repetitive and inefficient. The state's CEQA Guidelines provide the opportunity for public agencies to prepare program EIRs that analyze programmatically the potential impacts of a series of actions that can be characterized as one large, ongoing project. Program EIRs are frequently prepared for development projects with multiple phases, ongoing programs (i.e., CAL FIRE's Vegetation Management Program) or implementing long-term management plans (i.e., State Forest Management Plans).

In 1996, the Board of Forestry adopted regulations that provided for the programmatic review and tiering of timber harvesting activities. The rules authorized the director of CAL FIRE to approve Program Timberland Harvesting Plans (PTHP) where a PTEIR had been certified for the ownership (or multiple ownerships). PTHPs undergo a more limited and expedited review and approval process, tiering to the analysis and mitigations found in the PTEIR, as compared with the review of a typical THP.

PTEIRs and PTHPs were originally envisioned as a means to efficiently comply with the environmental analysis required under the Forest Practice Act, primarily for timber management purposes. PTEIRs are developed under the direction of CAL FIRE and must be certified by the director. Draft PTEIRs are carefully reviewed and analyzed by CAL FIRE prior to release for public review in order to ensure such documents reflect CAL FIRE's independent judgment.

- 5) **This bill.** This bill would modify the definition of "timber operations" to additionally cover the burning of slash or woody debris following timber harvesting activities or maintenance of timberland paid for, in part or in whole, with public funds. These amendments are intended to cover non-commercial activities under the definition of timber harvesting.

Secondly, the bill would authorize maintenance of timberland, paid in part or in whole with public funds, to comply with CEQA in lieu of preparing a THP. That is confusing because certified regulatory programs like the THP process are, as mentioned, a way to comply with Division 13 (CEQA). According to the author, the purpose is to allow an entity that has a CEQA EIR or PTEIR to do routine, non-commercial timber harvesting activities without having to complete a full THP. The change to the definition removes the commercial nexus, facilitating use of CEQA compliance to be applied in lieu of a THP.

For example, a Land Trust, which is a local entity dedicated to conserving natural resources, may work with a public agency to certify a project under the California Vegetation Treatment Program (CalVTP), a statewide program by which public agencies perform or analyze vegetation treatment activities for the purposes of wildfire prevention. That Land Trust can use the Final Program Environmental Impact Report (FPEIR) prepared pursuant to CEQA by the Board of Forestry. The FPEIR is intended to provide one pathway for broad CEQA coverage for individual projects consistent with the analysis and mitigation strategies set forth in the program EIR. Other pathways may include the preparation of an EIR, a Negative Declaration, a Mitigated Negative Declaration, or filing a Categorical Exemption, if appropriate. This bill would allow a project proponent to rely upon a THP to comply with CEQA under the standards of functional equivalency for certain publicly funded fuels reduction work conducted upon timberland, but also preclude the additional work to complete the THP if the Land Trust is using and complying with the FPEIR or other CEQA pathways.

- 6) **Public funds.** The author's intent is to allow forest health projects that will be funded by local agencies, like the Placer County Water Agency (sponsor of the bill) using public money to advance those projects with CEQA in lieu of a THP.

Reference to 'public funds,' however, is quite broad; it could mean a project funded in part or in whole with local, state, or federal funds; conservancy funds, resource conservation district funds, or other local agency funds; or, any of those funds that have been filtered through an NGO or other fund administering entity. The amendments to "timber operations" in the bill would impact the 850 other times "timber operations" are referenced across the Forest Practice Act and Forest Practice Rules. Therefore, the reference to use of public funds needs to be refined to prevent any unintended consequences for the rest of the Forest Practice Act.

- 7) **Committee amendments.** The *committee may wish to consider* amending the bill to narrow the scope which funds can use in part or in whole of a covered project, and tailor the applicability of activities in the bill that would be covered by the regulatory streamlining.

## REGISTERED SUPPORT / OPPOSITION:

### Support

Placer County Water Agency

### Opposition

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2716 (Bryan) – As Amended March 21, 2024

**SUBJECT:** Oil and gas: low-production wells: sensitive receptors.

**SUMMARY:** Prohibits, commencing July 1, 2026, a well located within 3,200 feet of a sensitive receptor from being a low-production well for more than 24 months. Requires the State Oil and Gas Supervisor (supervisor) to charge an administrative penalty of \$10,000 per day to a low-production well owner in violation, until the low-production well is plugged and abandoned, as provided.

**EXISTING LAW:**

- 1) Establishes the Geologic Energy Management Division (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. (Public Resources Code (PRC) 3000 *et seq.*)
- 2) Defines “idle well” as any well that for a period of 24 consecutive months has not 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. Defines “long-term idle well” (LTIW) as any well that has been an idle well for eight or more years. (PRC 3008)
- 3) 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)
- 4) 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)
- 5) 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)
- 6) 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. Requires the supervisor or district deputy to determine from credible evidence whether a well or production facility is deserted. (PRC 3237)

- 7) 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 3280-3281)

**THIS BILL:**

- 1) Defines “low-production well” as an oil and/or gas production well that produces, on average, fewer than 15 barrels of oil a day (BOE/D) during any 12-month consecutive time period, or a natural gas well whose maximum daily average gas production does not exceed 60 thousand cubic feet of gas (Mcf), per day, during any 12-month consecutive time period. Excludes a natural gas storage, dedicated injection wells, monitoring wells, or fully plugged and abandoned wells.
- 2) Requires, on or before July 1, 2025, CalGEM to identify all low-production wells that are located within 3,200 feet of a sensitive receptor and to determine the length of time the well has continuously been a low-production well. Requires CalGEM to consider whether and for how long a well was shut-in for maintenance and subtract that from the calculation of the length of time a well meets the definition of low-production.
- 3) Requires, on or before July 1, 2026, CalGEM to notify the owners of low-production wells of the prohibition on operating a low-production well for more than 24 months.
- 4) Prohibits, commencing July 1, 2026, a well located within 3,200 feet of a sensitive receptor from being a low-production well for more than 24 months.
- 5) Requires the supervisor to charge an administrative penalty of \$10,000 per day to a low-production well owner in violation of the 2-year time limit, until the low-production well is plugged and abandoned pursuant to current requirements. The low-production well site shall not be required to be remediated until oil and gas operations cease.
- 6) Requires CalGEM to waive the penalty on a low-production well when the owner submits a request for a notice of intention (NOI) to plug and abandon the well. If work to plug and abandon the well does not start before the notice of intention expires, CalGEM shall resume assessing the penalty on the well owner.
- 7) Requires all funds collected pursuant to this bill to be deposited into the Oil and Gas Environmental Remediation Account.
- 8) Provides that “sensitive receptor” has the same meaning as that term is defined in Section 3281, as that section read on January 1, 2023.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Oil production in CA.** Oil production began in earnest in California in the late 1800s. 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 2.2% annually 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.

CalGEM oversees and regulates the drilling, operation, and eventual permanent closure of oil, gas, and geothermal wells, and currently has jurisdiction over more than 242,000 wells, including nearly 101,300 defined as active or idle oil producers.

About 112,000 people are employed in California's fossil fuel-based industries, amounting to about 0.6% the state's total workforce in 2019. The total job figure includes oil and gas extraction operations, as well as support activities for all oil and gas projects, and other ancillary sectors, such as fossil fuel-based power generation.

California's oil industry has been in decline over the past several decades due to a decline in resources. Furthermore, the state has goals to achieve carbon neutrality by 2045 that includes phasing out fossil fuels and requiring all new cars to be zero-emission by 2035.

- 2) **Low-production wells.** CalGEM data show that there are about 40,000 active wells (producing oil and gas) in the state. Of those, about 83% are colloquially known as "stripper wells" – wells whose maximum daily average oil production does not exceed 15 BOE/D or any natural gas well whose maximum daily average gas production does not exceed 90 Mcf, per day, during any 12-month consecutive time period.

According to FracTrackerAlliance, a nonprofit that provides data and analyses on hydrocarbon extraction, the total count of oil and gas production wells producing less than 15 BOE/D and less than 90 Mcf is about 76,000 wells, not considering idle wells.

Less than 3% of California operators produced an average of 10 or more BOE/D per well. Those operators – 14 in total – manage just 43 oil wells in total. Most operators need to produce at least 2 BOE/D per well to cover operational costs at current oil prices. The most productive operators in the state produce an average of up to 55 barrels a day per well.

While low-production wells can be reworked to drill deeper for more oil, or reworked for enhanced oil recovery, like hydraulic fracturing, many active wells may be nearing the end of their productive lifespans and sit on the cusp of needing to be plugged.

In Colorado, Chevron has already divested from operations producing just 14 barrels per day, according to FracTracker Alliance

The Western States Petroleum Association (WSPA) states that it is overly simplistic to assume that a low-volume producer cannot be profitable for many years, especially where there are economies of scale. WSPA contends that California producers have a long history of operating low-production wells at a profit for prolonged time periods. This is partly due to the efficiency of oil operations in this state. Relative to other oil-producing regions, oil fields in California are more compact, with wells spaced tightly together, and thus able to share common power sources and other field infrastructure, which keep costs down.

According to Consumer Watchdog, sponsor of this bill, it can be more cost effective for an oil operator to maintain an active well in low production than pay for the cost to plug and remediate the well, which is, on average, \$95,000 per well.

- 3) **Idle wells.** 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/operators 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.

An idle well is any well that hasn't produced oil or gas for two years. Under current law, an owner of an idle well must either pay an annual fee or file a plan with the supervisor to provide for the management and elimination of all long-term idle wells.

An idle well can be reclassified as active if it has maintained production of oil or gas, maintained production of water used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection for a continuous six-month period.

When idle wells commence production of oil and gas, they typically produce low volumes. According to current data from CalGEM's Well Statewide Tracking and Reporting System (WellSTAR), there are approximately 8,000 producing idle wells that would be covered under this bill.

This bill defines a low-production well as a well that produces less than specified amounts of oil and gas based on a 12-month average, which means some "idle" wells can be simultaneously covered under this bill and CalGEM's Idle Well Program.

- 4) **Health protection zones.** 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 substances that cause congenital disorders, and which have other adverse health effects.

According to a 2023 research article, *Temporal Trends of Racial and Socioeconomic Disparities in Population Exposures to Upstream Oil and Gas Development in California* (David J. X. González, et al), approximately 1.1 million Californians (3.0%) lived within one kilometer of active wells between 2005 and 2019. The proportion of Black residents living near active wells was 42%–49% higher than the proportion of Black residents across California, and the proportion of Latino residents near active wells was 4%–13% higher than their statewide proportion. Other reports show that upwards of 2.7 million Californians currently live within 3,200 feet of an oil well.

About 95% of the wells on CalGEM's list of 5,300 orphan wells are "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 or an airport runway and 100 feet of a street or highway, body of water, and public recreational facility, or wildlife preserve.

SB 1137 (Gonzales) Chapter 365, Statutes of 2022, prohibits 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.

This bill would cover all low-production wells within 3,200 feet of a sensitive receptor, as SB 1137 defined it when it was enacted.

According to 2022 data, there are 26,452 total unplugged wells in a health protection zone, 83% of which would be low-production wells, as defined by this bill.

The oil industry qualified a referendum, the California Oil and Gas Well Regulations Referendum, for the November 5, 2024, ballot to overturn the provisions of SB 1137. Until the election, the law pursuant to SB 1137 is effectively on hold.

While this bill cross references the definition of sensitive receptor as it was enacted by SB 1137, there is no provision of the California Constitution that expressly prohibits or restrains the Legislature from passing a bill that relates to a statute being challenged by a pending referendum.

- 5) **Notices of Intention.** Approvals for drilling operations in California are a two-step process. An oil and gas operator must secure approval from local authorities, and then must apply to CalGEM for permits before constructing or operating a new well or modifying an existing one. CalGEM approves permits for: well abandonment (to permanently cease production); re-abandonment (to re-plug and abandon a well); rework (well repair); well deepening (to extend the length of an existing well); new drill (a new well); and, sidetrack (cement a portion of the original well path and re-drill). Well permits are good indefinitely, unless the operations have not commenced within 24 months of receipt of the NOI, in which case the notice is canceled.

This bill would require CalGEM to cease imposing the penalty on an operator who receives an NOI to plug & abandon the well. The current turn-around time for CalGEM to approve an NOI for plugging and abandoning a well, based on WellSTAR data, is relatively quick – about one week.

As for NOIs to rework a well (to drill deeper, increase production), there were 1,272 were issued to wells that produce oil and gas. Of those, 1,094 wells (86%) produced less than an average 15 BOE/D and less than 90 Mcf/day.

- 6) **Does this create an incentive to drill?** Arguably, one way to escape the \$10,000 daily penalty is to increase oil production.

Today, only one quarter of annual oil supply to California refineries comes from in state production because so many wells are spent, according to the California Energy Commission (CEC). The CEC reports that regardless of permit activity, new wells aren’t being drilled at accelerated rates, and those new permits are tapping into fields that have little resources left

to give under normal economic situation. Dangerous drilling tactics, like fracking, that could spur more oil production have been restricted in California due to health concerns.

Should SB 1137 be upheld, operators would not be eligible for an NOI to rework a well in the 3,200 foot health protection zone.

7) **Author's statement:**

The egregious environmental impacts of low-producing oil wells is no different from that of their high-producing counterparts. These wells extract a heavy toll from our communities, stripping them from their health and well-being without even extracting a meaningful amount of oil. In California alone, millions of people and whole communities reside within 3,200 feet of an oil well - 70% of them are communities of Color. This bill seeks to hold oil drillers accountable for continuing to operate low producing wells at the expense of communities.

Asthma rates soar, birthing rates plummet, and life expectancies dwindle for those living in the shadow of these wells. AB 2716 aims to rectify this injustice. It calls for oil wells producing less than 15 barrels per day, situated within the health setback zone next to communities, be capped if they have been low producing for more than 2 years or assessed a daily penalty for their continued harm.

- 8) **Committee amendments.** This bill creates a two-year time limit for wells to be operationally in low-production, compelling operators to plug and abandon the well in lieu of paying a \$10,000 daily penalty. To avoid conflict with the schedule for eliminating idle wells and LTIWs under the IWMP, the *committee may wish to consider* amending the bill in 3206.1.5 (a) to read: Notwithstanding the provisions of section 3206 of this chapter, on or before July 1, 2025, the division ...

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

1000 Grandmothers for Future Generations  
 350 Bay Area Action  
 350 Conejo  
 350 Sacramento  
 350 South Bay LA  
 Breast Cancer Action  
 California Climate Voters  
 California Nurses for Environmental Health and Justice  
 CCAEJ  
 Center for Biological Diversity  
 Central California Environmental Justice Network  
 Cleaneearth4kids.org  
 Climate Action California  
 Climate First: Replacing Oil & Gas  
 Climate Hawks Vote  
 Climate Health Now

Communities for A Better Environment  
Consumer Watchdog  
Elders Climate Action Norcal Chapter  
Elders Climate Action Socal Chapter  
Elected Officials to Protect America - Code Blue  
Environmental Working Group  
Extinction Rebellion San Francisco Bay Area  
Food & Water Watch  
Fossil Free California  
Fractracker Alliance  
Friends of The Earth  
Glendale Environmental Coalition  
Greenpeace USA  
Indivisible California Green Team  
Manhattan Beach Huddle  
Oil & Gas Action Network  
Presente.org  
Physicians for Social Responsibility, Los Angeles  
Resource Renewal Institute  
Rootsaction  
San Diego 350  
San Fernando Valley Chapter of The Climate Reality Project  
San Francisco Baykeeper  
San Joaquin Valley Democratic Club  
Santa Barbara Standing Rock Coalition  
Santa Cruz Climate Action Network  
Sierra Club California  
Socal 350 Climate Action  
StandEarth  
Sunflower Alliance  
Sustainable Mill Valley  
The Climate Center  
The Climate Reality Project California  
The Climate Reality Project Los Angeles Chapter  
Transformative Wealth Management LLC  
Vote Solar  
West LA Democratic Club

**Opposition**

Western States Petroleum Association

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



Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES  
Isaac G. Bryan, Chair  
AB 2731 (Wendy Carrillo) – As Introduced February 15, 2024

**SUBJECT:** California Pollution Control Financing Authority: eligible projects

**SUMMARY:** Adds “qualified carbon dioxide capture facilities” to the non-exclusive list of projects eligible for tax-exempt bond financing via the California Pollution Control Financing Authority (CPCFA).

**EXISTING LAW:**

- 1) Establishes the CPCFA, with specified powers and duties, including authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution. Existing law identifies specified types of facilities as eligible projects for these purposes. (Health and Safety Code (HSC) 44500, *et seq.*)
- 2) Defines “project” and “pollution control facility,” respectively, to mean any land, building, structure, improvement thereto, work, real or personal property, vehicle, or equipment providing or designed to provide for the control, reduction, abatement, elimination, remediation, or prevention of pollution, improvement of air, water, or soil quality, ensure the safe handling, recycling, or disposal of materials that might otherwise be improperly disposed of, or provide for environmental restoration, cleanup, or enhancement. Eligible projects include, but are not limited to, any type of project described in this section that is authorized pursuant to federal law for tax-exempt or tax credit financing. Eligible projects may also include any facility described in specified in federal law, such as water, sewage, solid waste, hazardous waste, and energy facilities. (HSC 44508)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** The CPCFA Act broadly defines “project” and “pollution control facility.” As long as one considers carbon dioxide “pollution” or the atmosphere “air,” legitimate carbon dioxide capture facilities would be eligible under current law.

The U.S. Congress authorized qualified carbon dioxide capture facilities as a tax-exempt private-activity bond (PAB) category in November 2021. This bill explicitly authorizes the CPCFA to issue financing for these facilities.

- 2) **Author’s statement:**

AB 2731 maximizes California's opportunities to use federal tax-exemption allocation by adding carbon dioxide capture facilities to the categories of tax-exempt PABs, which the CPCFA can issue on behalf of private businesses. This bill will facilitate mitigation efforts in California through the private financing of carbon dioxide capture facilities. By promoting the development of these facilities, California would combat rising carbon dioxide levels and protect public health.

CPCFA only authorizes private activity bonds once the applicant has obtained discretionary permits and approvals from local, regional, and state authorities. This standard ensures that projects are approved and shovel-ready before CPCFA even considers approving federal tax-exempt PABs.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

State Treasurer Fiona Ma (sponsor)  
Bay Area Council

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2787 (Joe Patterson) – As Introduced February 15, 2024

**SUBJECT:** Energy: building standards: photovoltaic requirements

**SUMMARY:** Specifies that residential construction to repair, restore, or replace homes damaged or destroyed during a disaster shall comply with the solar photovoltaic (PV) requirements that were in existence at the time the home was originally constructed.

**EXISTING LAW:**

- 1) Requires the Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes 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. AB 32 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 38500-38599.11)
- 2) Requires the California Energy Commission (CEC) to establish energy efficiency standards for new residential and new nonresidential buildings. (Public Resources Code (PRC) 25402 *et seq.*)
- 3) Pursuant to the California Residential Building Code, specifies that any work, addition to, remodel, repair, renovation, or alteration of any building or structure may be defined as “new construction” when 50% or more of the exterior weight bearing walls are removed or demolished. (Part 2.5 of Title 24 of the California Code of Regulations)
- 4) Requires CEC to establish regulations to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. The program is targeted at buildings that "fall significantly below" the current Title 24 energy efficiency standards. Requires the program to minimize the overall costs of establishing and implementing the energy efficiency program requirements. For residential buildings, specifies that the regulations ensure that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. (PRC 25943)
- 5) Requires CEC to establish annual targets for statewide energy efficiency savings and demand reduction that will achieve a cumulative doubling of statewide energy efficiency savings in electricity and natural gas final end uses by January 1, 2030. (PRC 25310)
- 6) Exempted, until January 1, 2023, residential construction intended to “repair, restore, or replace” a residential building that was damaged or destroyed as a result of a disaster in an area in which the Governor has declared a state of emergency before 2020 from the state’s

requirement for PV systems, if:

- a) The income of the owner of the residential building is at or below the median income for the county in which the building is located;
- b) The construction does not exceed the square footage of the property at the time it was damaged;
- c) The new construction is located at the site of the home that was damaged; or,
- d) The owner of the residential building did not have code upgrade insurance at the time the property was damaged. (PRC 25402.13)

**THIS BILL:**

- 1) Specifies that residential construction intended to repair, restore, or replace a residential building damaged or destroyed as a result of a disaster in an area for which a state of emergency has been proclaimed shall comply with requirements for PV systems that were in effect when the building was originally constructed and are not required to comply with any PV requirements in effect at the time of the repair, restoration, or replacement.
- 2) Specifies that this bill only applies when:
  - a) The income of the owner of the residential building is at or below the median income for the county in which the residential building is located, as determined by Housing and Community Development (HCD) state income limits;
  - b) The square footage of the residential building after the new construction will not exceed the square footage of the residential building at the time it was damaged or destroyed; and,
  - c) The new construction is located on the site of the residential building that was damaged or destroyed.
- 3) Sunsets the bill's provisions on January 1, 2028.
- 4) Specifies that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the bill.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **California's solar standards.** The 2019 Building Energy Efficiency Standards went into effect on January 1, 2020. The standards were the first in the nation to require PV systems for new construction. The standards also include improved thermal building envelope standards (i.e., insulating the interior), residential and nonresidential ventilation requirements, and nonresidential lighting requirements. For residential buildings, the

standards are expected to result in about 53% less energy use than under the 2016 standards. The CEC further estimates that the new standards will reduce GHG emissions by 700,000 metric tons over three years.

Statute requires that CEC's standards must be "cost-effective." Moreover, unlike other building standards, solar earns money for homeowners as their homes generate electricity. CEC estimates that based on a 30-year mortgage, the new standards will add about \$40 per month in costs and result in about \$80 per month in reduced energy costs. On average, a solar system adds about \$9,500 to the cost of a new home and will result in a savings of \$19,000 in energy costs over 30 years. The up-front costs for solar are expected to continue to decrease.

CEC established a few exemptions to the new solar requirement. Primarily, homes that are shaded by trees, hills, other structures, etc. are not required to install solar. This may exclude a number of homes impacted by fires in wooded areas. Homeowners in areas with community solar programs are also exempt from the requirement. Additionally, reduced system size is permitted for low-rise residential with two stories and for low-rise multifamily or single-family homes with three or more stories.

- 2) **Emergency declarations.** Unfortunately, California has had a large number of emergency declarations over the last several years, primarily due to fires. In recent years, California has faced an alarming increase in destructive wildfires. Some of the largest and most devastating fires have taken place within the last decade. For example, the 2017 Tubbs Fire, at the time the most destructive wildfire in California history, killed 22 people and destroyed 5,000 homes. In 2018, the Camp Fire replaced the Tubbs Fire as the most destructive fires in state history, with nearly 19,000 structures destroyed and 85 deaths, including the near total destruction of the town of Paradise. While less destructive, the 2021 Caldor Fire burned more than 200,000 acres and destroyed 782 homes. This bill would allow any home damaged or destroyed in a disaster in an area in which the Governor has declared a state of emergency to comply with the PV requirements in effect at the time the home was constructed, rather than those in place at the time of the repair, restoration, or rebuild.

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

In 2021, Governor Gavin Newsom declared a state of emergency in four counties impacted by the destructive Caldor Fire located in the Sierra Foothills of California. The wildfire burned a total of 221,835 acres and destroyed 782 homes. While some Californians were fortunate enough to restore or rebuild their homes, others could not afford the exorbitant construction costs, forcing them to relocate or live in trailers for months or years. Individuals without code upgrade coverage on their homeowners insurance are stuck adding solar when rebuilding despite not having solar on their homes in the first place. By waiving solar home-building requirements for those who did not have solar prior to losing their home, and subject to income limitations, wildfire victims would be presented with the opportunity to rebuild their home.

- 4) **Previous legislation:**

AB 704 (Jim Patterson, 2023) was substantially similar to this bill. AB 704 was held in the Assembly Appropriations Committee.

AB 1078 (Patterson, 2022) would have extended the exemption established by AB 178 for one year, until January 1, 2024. This bill was vetoed by the Governor.

AB 178 (Dahle) Chapter 259, Statutes of 2019, exempted, until January 1, 2023, residential construction from complying with the solar requirements in the recently adopted building standards when the construction is in response to a disaster in an area in which a state of emergency has been proclaimed by the Governor.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Pioneer Community Energy

**Opposition**

None on file

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2902 (Wood) – As Introduced February 15, 2024

**SUBJECT:** Organic waste: reduction regulations: exemptions

**SUMMARY:** Makes permanent the exemption for small rural counties with a population below 70,000 from the state's organic waste reduction requirements, as specified. Provides additional compliance flexibility for small counties that produce less than 200,000 tons of solid waste annually. Establishes a process by which jurisdictions located at higher altitudes may receive an exemption from the Department of Resources Recycling and Recovery (CalRecycle) where food waste collection bins pose a threat to public health or animal safety due to bears.

**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 that the regulations adopted by CalRecycle include requirements intended to meet the goal that not less than 20% of edible food that is currently disposed is recovered for human consumption by 2025, among other things. (Public Resources Code (PRC) 42652.5)
- 4) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the state's organic waste reduction requirements. Specifies that the regulations, in part:
  - a) May require jurisdictions to impose requirements on generators or other relevant entities within their jurisdiction and may authorize local jurisdictions to impose penalties on generators for noncompliance.
  - b) Include requirements intended to meet the goal that not less than 20% of edible food is recovered for human consumption by 2025.
  - c) May include penalties for noncompliance, as specified.
  - d) Specify that penalties for the organic waste procurement target established by CalRecycle shall be imposed on the following schedule:
    - i) On or after January 1, 2023, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 30% of its recovered organic waste procurement target;

- ii) On or after January 1, 2024, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 65% of its recovered organic waste procurement target; and,
  - iii) On and after January 1, 2025, each jurisdiction shall procure a quantity of recovered organic waste products that meet or exceed 100% of its recovered organic waste procurement target.
- e) Exempt rural jurisdictions in possession of a rural exemption from the organic procurement targets until January 1, 2026, and authorize CalRecycle to provide rural counties an extended organic procurement schedule on and after January 1, 2027. (PRC 42652.5)
- 5) Authorizes CalRecycle to grant waivers to a jurisdiction, and some or all generators located within the jurisdiction, from the requirement to separate and recover food waste and food-soiled paper for recycling if they entire jurisdiction is located at or above 4,500 feet. (California Code of Regulations (CCR) 18984.12
- 6) Beginning January 1, 2022, requires jurisdictions to annually procure a specified quantity of recovered organic waste products that meets or exceeds its annual organic waste procurement target. Specifies that the organic waste procurement target is calculated by multiplying the per capita procurement target (0.8 tons per resident per year) by the jurisdiction’s population. (CCR 18993.1)
- 7) Specifies that the organic waste procurement target may be met by procuring:
- a) Compost from a compost facility or in-vessel digestion facility;
  - b) Renewable gas used for transportation, electricity, or hearing applications;
  - c) Electricity from biomass conversion; or,
  - d) Mulch, as specified. (CCR 18993.1)
- 8) Defines “rural jurisdiction” as a jurisdiction that is located entirely within one or more rural counties, or a regional agency comprised of jurisdictions located within one or more rural counties. Defines “rural county” as a county that has a total population of less than 70,000 persons. (PRC 42649.8)
- 9) Prohibits the state and local governments from making gifts of public funds to private parties. (Article XVI, Section 6 of the California Constitution)

**THIS BILL:**

- 1) Requires CalRecycle, as part of the requirements adopted to achieve a 20% reduction in edible food disposal, to evaluate ways to incentivize local carbon farming efforts, maximize local benefits of edible food recovery programs, and explore circumstances in which recovered food may be more suitable for use in local animal feed operations.

- 2) Specifies that, for purposes of determining a jurisdiction's organic waste procurement target, a jurisdiction's population does not include the number of residents included in a low population or high elevation waiver granted by CalRecycle.
- 3) Makes permanent rural exemptions granted by CalRecycle for rural jurisdictions, as specified.
- 4) Requires rural jurisdictions to develop and provide green waste collection and self-haul opportunities commensurate with the jurisdictions needs and capabilities.
- 5) Beginning January 1, 2027, requires rural jurisdictions to:
  - a) Work with representatives of state, regional, and local governments to identify opportunities where the exempt jurisdiction may be able to help nonexempt jurisdictions achieve the state's organic waste diversion and recycling goals, including through facilitating the application of compost or mulch in appropriate areas within the rural jurisdiction.
  - b) Facilitate independent backyard and community composting programs to increase the use of small-scale composting in order to reduce organic waste. Specifies that this collaboration may include representatives from solid waste management organizations, the Department of Food and Agriculture (CDFA), the University of California Cooperative Extension farm advisors, master gardener programs, Future Farmers of America, and schools.
  - c) Identify opportunities to sustain and increase the diversion of organic materials for animal feed, including opportunities for collaboration with CDFA, the University of California Cooperative Extension farm advisors, a cattlemen's association, agricultural organizations, Future Farmers of America, and 4-H programs.
  - d) Work with other local jurisdictions and joint powers authorities to explore shared opportunities for new or expanded existing regional organic waste facilities and markets.
  - e) Continue public education and outreach to reduce organic waste generation and disposal, increase onsite organic waste recycling, facilitate community and backyard composting opportunities, and increase edible food recovery.
- 6) Specifies that a jurisdiction that no longer qualifies for a rural exemption due to an increase in population has three years from the date the jurisdiction's population exceeded the limit to comply with organic waste collection requirements.
- 7) Authorizes a county that does not qualify for a rural exemption, but generates less than 200,000 tons of solid waste annually, to request CalRecycle's approval for an alternate or modified organic waste diversion and recycling program that offers increased flexibility to the jurisdiction for diverting and recycling organic waste. Specifies that the alternative or modified program would apply to unincorporated areas of the county, excluding census designated places with a population of 10,000 or more. Requires CalRecycle to give consideration to the extent to which the jurisdiction diverts organic waste generated from agricultural and wildfire risk reduction projects from landfill disposal.

- 8) Authorizes CalRecycle to issue waivers to jurisdictions that do not qualify for the high elevation waiver if there are significant public safety issues associated with food waste collection as a result of local bear populations, as specified.
- 9) Requires CalRecycle to develop training and technical assistance materials to assist local governments in promoting the expansion of community composting operations, including a model ordinance and franchise provisions that exempt small-scale community composting operations from the regulatory and exclusivity provisions applied by the local jurisdiction to other solid waste haulers and establish a specialized local regulatory framework for these operations.
- 10) Authorizes CalRecycle, in conjunction with the California Pollution Control Financing Authority and the California Infrastructure and Economic Development Bank, to provide information to the owners and operators of solid waste facilities about financing that may be available to fund facility improvements and to reduce methane emissions.
- 11) Specifies that, consistent with the decisions in *Scott v. Board of Equalization* (1996) 50 Cal.App.4<sup>th</sup> 1597 and *Schettler v. County of Santa Clara* (1977) 74 Cal.App.3d 990, the free provision, or granting of incentive payments for use, of compost or mulch by a jurisdiction constitutes a public purpose resulting in the public benefits of reducing greenhouse gas emissions, increasing soil productivity and water retention, and facilitating diversion of organic waste and so shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

**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.

SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB 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 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.

In order to ensure that there are adequate markets for the state's increasing quantities of products made from organic waste, like mulch, compost, and digestate, CalRecycle established procurement requirements for local jurisdictions. The procurement targets are based on the average amount of organic waste generated by Californians annually multiplied by the population of a jurisdiction. Jurisdictions can meet the target by procuring, giving away, or arranging for the use of the material through contracts with direct service providers. Eligible materials include compost, mulch, biomass electricity, or renewable gas, as specified.

Compliance with SB 1383 requirements is particularly challenging for less-populous areas of the state. Implementing the kinds of collection and recycling systems that work well in urban areas is infeasible in more rural areas. Altogether, the 19 counties that are currently eligible for the rural exemption have fewer than 600,000 residents; in some areas the population density drops below 10 per square mile. In higher elevations, roads can become impassable for collection trucks due to snow. These challenges make compliance disproportionately high for these communities.

- 2) **Waivers and exemptions.** CalRecycle's SB 1383 regulations establish various waivers and exemptions for local jurisdictions from SB 1383 requirements:
  - Low population waivers: Jurisdictions with a total population less than 7,500 or that disposed less than 5,000 tons of solid waste in 2014 may apply for a waiver from some or all of the regulations for up to five years.
  - Rural exemptions: Jurisdictions that meet the statutory definition of a rural jurisdiction are eligible for an exemption from the regulations if the governing body adopts a resolution, as specified. The exemption is valid until December 31, 2026, or until five years after CalRecycle makes a determination that the statewide disposal of organic waste has not been reduced to 50% of the level of disposal during the 2014 calendar year, whichever is later.
  - High elevation waivers: A jurisdiction may apply to CalRecycle for a waiver from the requirement to separate and recover food waste and food-soiled paper if the entire jurisdiction is, or in census tracts located in unincorporated portions of a county that are, located at or above 4,500 feet elevation.
- 3) **Gifts of public funds.** Some local jurisdictions have expressed concern that the constitutional ban on providing gifts of public funds to private parties precludes them from participating in public giveaways and rebates for compost and mulch. These giveaways provide a market for the compost and mulch generated by the local jurisdiction's organic recycling programs, which is critical to achieving the state's organic waste recycling goals. The use of these materials by private citizens provides additional benefits associated with the

use of compost and mulch, such as conserving water, improving soil health, and sequestering carbon in soils. Two court cases have affirmed that activities that benefit private citizens do not amount to an unconstitutional gift of public funds where they serve a public purpose. As Schettler states, the bar on gifts of public funds is not violated even if there are incidental benefits to private persons. In Scott, the court states “We have no quarrel with the validity of the public purpose, and therefore conclude that the legislation does not amount to an unconstitutional gift of public funds.” This bill’s restatement of existing law is intended to provide clarity and resolve any lingering doubts about whether these activities constitute a gift of public funds.

4) **Author’s statement:**

California has made great strides in diverting organic waste from landfill disposal. While the existing regulatory framework is readily adaptable to denser, urban communities, it sometimes fails to accommodate for California’s regional diversity and provides very little flexibility to deal with the implementation challenges in smaller and rural communities. As a result, the greatest implementation challenges and highest anticipated rate increases will occur in rural and sparsely populated areas of the state. AB 2902 provides CalRecycle and local governments with additional flexibility to manage and divert organic waste, facilitates innovation, and seeks to increase the local benefits of edible food recovery.

- 5) **This bill.** This bill is intended to ease compliance with the state’s organic waste recycling laws and regulations for local jurisdictions. It does so by extending and expanding current waivers and exemptions granted to rural and high elevation jurisdictions. Additionally, it creates a new exemption for jurisdictions where there are “significant public safety issues” associated with food waste collection due to local bear populations. Given how extensive bear habitat is in the state, this provision may result in a significant increase in the number of jurisdictions exempted from the state’s food waste collection requirements. The author should continue to engage in discussions with CalRecycle and the Department of Fish and Wildlife to ensure that food waste collection systems are safe for humans and bears, rather than granting new, and potentially broad, exemptions.

This bill establishes scaled-back, alternative requirements for those local jurisdictions beginning January 1, 2027, and creates a three-year compliance onramp for local jurisdictions that lose their rural exemption due to an increase in population. Counties that do not meet the definition of a rural county would be authorized to request alternate or modified requirements for low-population areas within the county.

This bill makes additional changes to the program to expand smaller-scale organics recycling programs that are more appropriate for rural and less-populous jurisdictions, such as community composting. Finally, the bill authorizes CalRecycle, in conjunction with the California Pollution Control Financing Authority and the Infrastructure and Economic Development Bank, to provide information to owners and operators of solid waste facilities about financing available to fund improvements that reduce methane emissions.

- 6) **Suggested amendments.** The *committee may wish to amend the bill* as follows:

- Move carbon farming efforts from the paragraph that requires CalRecycle regulations to maximize food recovery efforts to a new paragraph.
- Extend the rural exemption for 10 years, through January 1, 2037 (10 years), and require CalRecycle to establish a process to renew the exemptions for increments up to 10 years going forward.
- Make related technical and clarifying amendments.

7) **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 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 (infrastructure grant program). This bill has been referred to the Assembly Appropriations Committee.

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 less than 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 has been referred to the Assembly Appropriations 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.

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 1045 (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 Local Government 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 Appropriations 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 Appropriations Committee.

SB 1232 (Grove) exempts a portion of a county from the state's organic waste collection requirements if the county proposed a fee for the collection and it was rejected by property owners. This bill has been referred to the Senate Local Government Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Alpine County Supervisor, David Griffith (District 5)  
 Board of Supervisors County of Tuolumne  
 California Compost Coalition  
 County of El Dorado  
 County of Humboldt  
 County of Lassen  
 County of Mono  
 County of Monterey  
 Del Norte County Board of Supervisors  
 Del Norte Solid Waste Management Authority  
 Madera County Board of Supervisors  
 Modoc County  
 Republic Services - Western Region  
 Rural County Representatives of California  
 Sierra County Board of Supervisors  
 Siskiyou County Board of Supervisors  
 Trinity County Board of Supervisors

### **Opposition**

None on file

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

Date of Hearing: April 8, 2024

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Isaac G. Bryan, Chair

AB 2958 (Calderon) – As Amended March 21, 2024

**SUBJECT:** State Air Resources Board: board members: compensation

**SUMMARY:** Requires the six part-time members of the Air Resources Board (ARB) representing air districts receive an annual salary, currently set at \$55,738/year.

**EXISTING LAW:**

- 1) Provides for appointment of 14 voting ARB members, as follows:
  - a) Twelve members appointed by the Governor on the basis of interest and ability in the field of air pollution control, understanding of the needs of the general public in connection with air pollution problems, and additional specific qualifications. These members serve at the pleasure of the Governor and are subject to confirmation by the Senate.
  - b) Two members, one each appointed by the Senate Committee on Rules and the Speaker of the Assembly. These two “environmental justice” members must work directly with communities in the state that are most significantly burdened by, and vulnerable to, high levels of pollution, including communities with diverse racial and ethnic populations and low-income populations.
  - c) Members serve part-time, with the exception of the Chair, who is appointed by the Governor and serves full-time.
- 2) Establishes the following specific qualifications for the 12 Governor-appointed board members:
  - a) One with training and experience in automotive engineering or a closely related field.
  - b) One with training and experience in science, agriculture, or law.
  - c) One who is a physician and surgeon, or health effects expert.
  - d) One with experience in air pollution control, or meeting the qualifications of one of the three categories listed above.
  - e) Two public members.
  - f) One board member from each of the following air districts:
    - i) South Coast Air Quality Management District (SCAQMD);
    - ii) Bay Area Quality Management District (BAAQMD);
    - iii) San Joaquin Valley Air Pollution Control District (SJVAPCD);

- iv) San Diego County Air Pollution Control District (SDAPCD);
- v) A district in the Sacramento federal nonattainment area; and,
- vi) Any other district.

(Health and Safety Code (HSC) 39510)

- 3) Requires each member to receive a salary established for the position in Section 11564 of the Government Code (currently \$55,738/year). (HSC 39512)
- 4) Requires the six air district members to serve without compensation but provides reimbursement for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for expenses is not otherwise provided or payable by another public agency or agencies. Requires each elected public official member to receive \$100/day, not to exceed \$1,000/month, for attending ARB meetings or while on ARB-authorized official business. (HSC 39512.5)

**THIS BILL:**

- 1) Repeals the prohibition on compensation for the six air district board members.
- 2) Repeals the \$100 per day, up to \$1000 per month, per diem for board members who are elected officials.
- 3) Requires each member of the six air district board members to receive the salary specified in Section 11564 of the Government Code (currently set at \$55,738 per year), to be paid by ARB.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** According to ARB, the current board member salary is \$55,738. This bill would require that salary be paid to the six air district board members, at a total annual cost of \$334,428. In the past, the justification for not paying a salary to the air district members has been that they are government officials receiving compensation from the agency they primarily work for.

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

Excluding the Chair, voting members on ARB receive compensation, generally as a yearly salary. However, voting members of the governing board that represent local air districts are prohibited from receiving a salary, despite having similar duties and obligations. Local air districts are ARB's primary partners in ensuring that all Californians breathe clean air. Limiting these board members' compensation discredits their unique local perspective when evaluating ARB's regulations, programs, and future policies. To remedy this, AB 2958 seeks to establish pay parity among all board members by authorizing local air district representatives to receive a salary for their service.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

South Coast Air Quality Management District (sponsor)  
California Air Pollution Control Officers Association  
California Special Districts Association

**Opposition**

None on file

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



Date of Hearing: April 8, 2024

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Isaac G. Bryan, Chair

AB 3150 (Quirk-Silva) – As Amended April 1, 2024

**SUBJECT:** Fire safety: fire hazard severity zones: defensible space: State Fire Marshal.

**SUMMARY:** Transfers authorities related to designation of fire hazards from the State Board of Forestry and Fire Protection (Board) to the State Fire Marshal (SFM).

**EXISTING LAW:**

- 1) Establishes the SFM as a component of the Department of Forestry and Fire Protection (CAL FIRE) to foster, promote, and develop ways and means of protecting life and property against fire and panic. (Health & Safety Code 13100 – 13100.1)
- 2) Requires the SFM to identify areas in the state as moderate, high, and very high fire hazard severity zones (FHSZs) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Requires FHSZs to be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the SFM as a major cause of wildfire spread. (Government Code (GC) 51178)
- 3) Requires the SFM, by regulation, to designate FHSZs and assign to each zone a rating reflecting the degree of severity of fire hazard that is expected to prevail in the zone. Provides that no designation of a zone and assignment of a rating shall be adopted by the SFM until the proposed regulation has been transmitted to the board of supervisors of the county in which the zone is located at least 45 days before the adoption of the proposed regulation and a public hearing has been held in that county during that 45-day period. (Public Resources Code (PRC) 4203)
- 4) Requires the SFM to periodically review zones designated and rated pursuant to current law and, as necessary, revise FHSZs or their ratings or repeal the designation of FHSZs. (PRC 4204)
- 5) Establishes the Board to determine, establish, and maintain an adequate forest policy for the state, and protect all wildland forest resources in California that are not under federal jurisdiction. (PRC 740)
- 6) Defines the State Responsibility Area (SRA) as areas of the state in which the financial responsibility of preventing and suppressing fires has been determined by the Board to be primarily the responsibility of the state. (PRC 4102)
- 7) Requires the Board to establish standards, based upon its determination of conditions which create an unreasonable hazard to life or property from fire, for what constitutes a hazardous condition in those instances not covered by state law. Such standards shall be established for each of CAL FIRE’s administrative districts after public hearing for which ample publicity is given. (PRC 4173)

- 8) Authorizes the Board, upon the written petition of the owners or authorized agents of more than 50% of the land, including public land, within the exterior boundaries of any area of not less than 10,000 acres in size, upon which a fire hazard exists due to the presence of flammable material or cover, to designate such area as a hazardous fire area, and requires the Board to declare the period of time during which the area shall be so designated. (PRC 4251)
- 9) Requires the Board to adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to SRA lands under the authority of CAL FIRE, and to lands classified and designated as very high fire hazard severity zones (VHFHSZs). (PRC 4290)
- 10) Requires the Board to develop and maintain a “Fire Risk Reduction Community” list of agencies, communities, and neighborhoods located in the SRA or a VHFHSZ that meet best practices for fire hazard planning. (PRC 4290.1)
- 11) Requires a person who owns or operates a building or structure in specified lands with flammable materials to maintain defensible space of 100 feet from each side of the structure. Requires the Board to develop and update guidance for fuels management for defensible space compliance. Requires the SFM to make recommendations to the Board on vegetation management, and make reasonable efforts to provide notice to affected residents. (PRC 4291)
- 12) Requires CAL FIRE to establish a local assistance grant program for fire prevention and home hardening education activities in California, requires the local assistance grant program to establish a robust year-round fire prevention effort in and near fire-threatened communities that focuses on increasing the protection of people, structures, and communities. (PRC 4124.5)

**THIS BILL:**

- 1) Requires the SFM provide an opportunity for the public to review and comment on the FHSZ maps before submission to the local agency.
- 2) Requires the SFM to allow for the petition for a review and potential redesignation of an area greater than 50 acres, or a large area of a different size as determined by the SFM, that has undergone a significant change in conditions that would likely result in a decrease in fire hazard severity based on substantial evidence.
- 3) Authorizes applicants representing an area greater than 50 acres in size, or representing a large area of a different size as determined by the SFM, to seek a preliminary determination from the SFM on fire safety standards and project design measures that may result in a decrease in fire hazard severity following development, such as site grading, defensible space, fire hardening of homes and commercial buildings, fuel breaks, fuel management zones, fuel management plans, community wildfire protection plans, and other measures identified by the SFM.
- 4) Authorizes the SFM to provide a preliminary determination that those measures would likely result in a decrease in fire hazard severity following development if supported by substantial evidence.

- 5) Authorizes the SFM to require a fee from the applicant to cover all of the SFM's costs in evaluating and responding to an application. Authorizes the SFM to develop regulations to further define the process for submitting and reviewing an application, including minimum information, data, and modeling requirements.
- 6) Requires a local agency to transmit a copy of an ordinance adopted to designate FHSZs to the SFM within 30 days of adoption.
- 7) Sunsets the Board's authority to adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to SRA lands under the authority of CAL FIRE, and to lands classified and designated as VHFHSZ on January 1, 2025.
- 8) Requires the regulations, which apply to the perimeters and access to all residential, commercial, and industrial building construction within the SRA, to remain valid until the SFM adopts or amends regulations implementing minimum fire safety standards related to defensible space that are applicable to SRA lands under the authority of CAL FIRE, and to lands classified and designated as VHFHSZs.
- 9) Transfers authority from the Board to the SFM to update regulations for fuel breaks and greenbelts near communities to provide greater fire safety for the perimeters to all residential, commercial, and industrial building construction within the SRA and lands classified and designated as very high fire hazard severity zones.
- 10) Transfers authority from the Board to the SFM to develop criteria for and maintain a "Fire Risk reduction Community" list.
- 11) Maintains the "Fire Risk reduction Community" list adopted by the Board until the SFM adopts or amends the list.
- 12) Provides that regulations adopted for the ember-resistant zone adopted by the Board before January 1, 2025, shall inform implementation of the defensible space requirements for that zone, and amendments adopted by the SFM after January 1, 2025, shall inform implementation of the defensible space requirements for that zone. Provides that regulations adopted by the Board before January 1, 2025, shall remain valid until the SFM adopts or amends regulations.
- 13) Transfers authority from the Board to the SFM to develop and update a guidance document on fuels management.
- 14) Provides that the requirement for an ember-resistant zone shall not take effect for new structures until either the Board updates the regulations and the guidance document, as those provisions read on January 1, 2024, or the SFM updates the regulations and the guidance document.
- 15) Provides that the requirement for an ember-resistant zone shall take effect for existing structures one year after the effective date for new structures.
- 16) Deletes requirements for the SFM to make recommendations to the Board on vegetation or fuel to be excluded from an ember-resistant zone.

- 17) Deletes requirements for the SFM to make reasonable efforts to provide notice to affected residents about implementation of the ember-resistant zone before the imposition of penalties for violating those requirements.
- 18) Amends the definition of “person” to include a public agency.
- 19) Provides that reimbursement is not required for costs incurred by this bill pursuant to the California Constitution, but requires reimbursement to local agencies and school districts if the Commission on State Mandates determines this bill contains state mandated costs.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author’s statement.**

As a state, California faces significant challenges in meeting the demand for “Housing for All.” To address the housing shortage, reduce disparities in home ownership rates, and protect homeowners from the impacts of climate change, California needs to expand housing opportunities across all levels of affordability.

Updating and streamlining critical information and processes, such as the Fire Hazard Severity Zone maps addressed by AB 3150, supports the state's goal of increasing housing stock and meeting affordability needs. AB 3150 not only advances housing accessibility and affordability, but moves California toward a safer, more resilient future, where everyone can live, work, and thrive with confidence and security.

- 2) **Board of Forestry.** The Board is a government-appointed body within CAL FIRE and is responsible for developing the general forest policy of the state, determining the guidance policies of CAL FIRE, and representing the state's interest in federal forestland in California.

The Board is required to adopt regulations implementing minimum fire safety standards related to defensible space that are applicable to SRA lands under the authority of CAL FIRE, and to lands classified and designated as VHFHSZs in the LRA. The Board also maintains a “Fire Risk Reduction Community” list of agencies, communities, and neighborhoods located in the SRA or a VHFHSZ that meet best practices for fire hazard planning.

- 3) **State Fire Marshal.** The Office of the SFM was established by the Legislature in 1923 as an independent state entity; it was consolidated within CAL FIRE in 1995.

Today, the SFM supports the mission of CAL FIRE by focusing on fire prevention through a variety of fire safety responsibilities, including: regulating buildings in which people live, work, and congregate; providing statewide direction for fire prevention within wildland areas; developing and reviewing regulations and building standards; and, providing training and education in fire protection methods and responsibilities.

The SFM classifies lands within the SRA into FHSZs. Each zone is based on fuel loading, slope, fire weather, and other relevant factors present, including areas where winds have been identified by CAL FIRE as a major cause of wildfire spread.

In 2009, the Legislature enacted AB 9 (Wood), Chapter 225, Statutes of 2021, establishing the Deputy Director of Community Wildfire Preparedness and Mitigation in the Office of the SFM to be responsible for overseeing defensible space requirements, establishment of FHSZs, and implementation of the minimum fire safety standards, among other responsibilities. SB 9 also augmented the SFM's responsibilities by transferring and delegating certain duties related to fire safety and wildfire prevention from CAL FIRE to the SFM, including CAL FIRE's local assistance grant program for fire prevention and home hardening education activities.

- 4) **FHSZs.** As of 2010, about one-third of California's housing units were located within an area known as the wildlife-urban interface (WUI). Residential developments in the WUI and other wildfire prone areas can significantly increase the risks of wildfires and the risk to public safety. The WUI and the FHSZs have a lot of overlap; the WUI is a strong consideration for designation of a FHSZ.

FHSZs fall into the following classifications: moderate, high, and very high based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. FHSZ maps evaluate "hazard" based on the physical conditions that create a likelihood and expected fire behavior over a 30 to 50-year period without considering mitigation measures such as home hardening, defensible space, vegetation management, or fuel reduction efforts.

Regulations were approved on January 31, 2024, for revised SRA FHSZs, which will become effective April 1, 2024. This current revision only updates areas in California's unincorporated, rural areas where wildfires tend to be frequent (SRA).

Before those updated FHSZ regulations were approved, the FHSZ maps were last updated in 2007 when CAL FIRE updated the FHSZs for the entire SRA. Lands are removed from the SRA when they become incorporated by a city, change in ownership to the federal government, become more densely populated, or are converted to intensive agriculture that minimizes the risk of wildfire. While some lands are removed from SRA automatically, the Board typically reviews changes every five years.

Between 2008 and 2011, CAL FIRE worked with local governments to make recommendations of the VHFSZ within the LRA, which includes incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. This is typically provided by city fire departments, fire protection districts, counties, and by CAL FIRE under contract.

SB 63 (Stern), Chapter 382, Statutes of 2021, requires CAL FIRE to adopt of all three FHSZs in the LRA. Previously, only VHFHSZs were required for adoption in the LRA.

CAL FIRE announced in February that the state is working to develop an internal work plan for updates to the LRA maps. CAL FIRE uses the same modeling data that are used to map the SRA to develop the FHSZs in the LRA. CAL FIRE works with local jurisdictions for

validation of the mapping. The map, along with a model ordinance, are then sent to the governing body for adoption. Then, a local agency is required to make the identified FHSZs available for public review and comment within 30 days of being notified by the SFM of the FHSZs.

FHSZ maps for the LRA, as required by SB 63, have not yet been developed. They are going to be contentious as they will require new home construction to meet Chapter 7A building standards for new construction (including ignition-resistant roofs, under eaves, siding, windows, and decking) and defensible space requirements. These standards will make new construction significantly more costly. However, home hardening standards, which are periodically updated, have been shown to work. An analysis by the Sacramento Bee showed that approximately 51% of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged. By contrast, only 18% of the 12,100 homes built prior to 2008 escaped damage. Factors that can cause post-2008 homes to combust include not having adequate defensible space and proximity to neighboring non-fire hardened homes.

- 5) **Transfer of authority.** It is the author's intent with the bill is to consolidate and streamline authority at one state entity for determining FHSZs across California. The move will have impacts on the forthcoming FHSZs for the LRA and the subsequent updated maps for the SRA and LRA.

Millions of Californians, businesses, homeowners, tenants, and landlords are affected by California's FHSZ map designations. Outdated and inaccurate map designations can impact the availability and affordability of insurance; information provided to property owners of the relative hazard they may have and ways to reduce those hazards; and, the cost of housing.

The author argues that ensuring the accuracy of FHSZ maps in between the cycle updates is very important because inaccuracies in the maps lead the public to mistrust the maps and can lead to misuse by decision-makers. For example, the state and many jurisdictions develop mitigation measures on new and existing development based on the hazard severity zone delineated on the map. In other words, other agencies "tier off" CAL FIRE's maps by linking regulatory requirements to properties located within certain hazard areas.

CAL FIRE indicates that many of the changes expanding FHSZs in the LRA have been supported by the building industry, and states, "CAL FIRE works closely with the building industry when setting various building codes and defensible space requirements, so we are working together to not affect development itself but to make sure development matches the hazards of that area."

Recent legislative changes to the Office of the SFM per SB 9 should equip it with the authorities and expertise to manage the shifted responsibilities under this bill. SB 9 required the SFM to report to the Legislature on any resource or personnel pitfalls implementing programs overseen by the Deputy Director of Community Wildfire Preparedness and Mitigation. That report, which was due January 1, 2023, is pending final approval; when it is available, the author may wish to consider the report to appropriately assess the capacity of the SFM to take on the new responsibilities under this bill.

Furthermore, in addition to moving FHSZ authority to the SFM, the bill would create an additional layer of public review of the FHSZ maps for the LRA by requiring the SFM to

provide an opportunity for the public to review and comment on a proposed map before submission to the local agency. Current law already requires a local agency to make the information available about a proposed FHSZ map for public review and comment within 30 days of receipt from the SFM. Public review and input is critical to a functional government, and deadlines for that input are important to prevent any unnecessary delays on progress on the FHSZ maps for the LRA.

- 6) **Defensible space ‘herd immunity’.** Defensible space is the buffer created between a building on a property and the grass, trees, shrubs, or any wildland area that surrounds it. This space is needed to slow or stop the spread of wildfire and it helps protect structures from catching fire—either from embers, direct flame contact or radiant heat. The defensible space for all structures within the SRA and VHFHSZ is 100 feet, and more intense fuel management is required within 30 feet of the structure. CAL FIRE requires the removal of all dead plants, grass, and weeds, and the removal of dry leaves and pine needles within 30 feet of a structure. In addition, tree branches must be 10 feet away from a chimney and other trees within that same 30 feet surrounding a structure. These existing requirements still permit most vegetation within five feet of the house or structure.

Defensible space, in combination with home hardening, makes a home “ignition resistant” from embers, radiant heat, and flame impingement – otherwise common ignition sources for homes in the path of a wildfire. Implementation of defensible space requirements works best, however, when they are applied to all structures in the areas where the requirements are intended to be applied. For instance, a resident in a rural, mountainous area may comply with all of the applicable defensible space requirements, but those clearances will only keep so much fire at bay if the adjacent plots of lands are not managed and have vegetation that feeds a burning fire.

There are no definitive data or research studies measuring the success of defensible space requirements based on landowner participation. In other words, it isn’t known how many structures in FHSZs need to implement and maintain defensible space in order for it to be effective. A September 2019 article, *Factors Associated with Structure Loss in the 2013–2018 California Wildfires* (Alexandra D. Syphard and Jon E. Keeley), analyzed an extensive dataset of building inspectors’ reports documenting homeowner mitigation practices for more than 40,000 wildfire-exposed structures from 2013–2018. The authors found that, overall, structural characteristics (home hardening) explained more of a difference between survived and destroyed structures than defensible space distance.

This bill requires the SFM to allow for a community to petition for a review and potential redesignation of the FHSZ of an area greater than 50 acres that has significantly reduced fire risk via defensible space, homes hardening, fuel breaks, fuel management, and other measures. This will compel the SFM to create a better understanding of the efficacy of defensible space and home hardening on fire risk management across communities.

This effort for the SFM will be significant. To accurately assess areas with potentially reduced fire hazard risk based on land owner fire risk efforts will necessitate ongoing inspections and thorough scientific assessment. To that end, the bill would allow the SFM to assess a fee on an applicant requesting a FHSZ reevaluation to cover the SFM’s costs.

- 7) **Committee amendments.** The *committee may wish to consider* the following amendments:

a) Clarify who the applicant is in PRC 51178 (d) and PRC 4204 (c) as follows:

(d) Applicants, as determined by the SFM, representing an area greater than 50 acres in size ...

b) Clarify in PRC 51178 (b) that public review and comment are subject to the Administrative Procedures Act, which includes specified times lines for soliciting public comment.

(b) The State Fire Marshal shall provide an opportunity, pursuant to Article 5 of the Administrative Procedures Act, for the public to review and comment on the map proposed pursuant to subdivision (a) before submission to the local agency.

c) PRC 51178 (e) and PRC 4204 (d) should also be amended to clarify the fee is a regulatory fee.

8) **Double referral.** This bill is also referred to the Emergency Management Committee.

9) **Prior legislation:**

AB 9 (Wood), Chapter 225, Statutes of 2021, established the Deputy Director of Community Wildfire Preparedness and Mitigation in the Office of the SFM to be responsible for fire preparedness and mitigation missions of CAL FIRE.

SB 63 (Stern), Chapter 382, Statutes of 2021, made multiple changes in state law to enhance fire prevention efforts by CAL FIRE, including, among other things, improved vegetation management and expanding the area where fire safety building standards apply.

AB 3074 (Friedman), Chapter 259, Statutes of 2020, establishes, upon appropriation, an ember-resistant zone within five feet of a structure as part of the defensible space requirements for structures located in specified high fire hazard areas. This bill requires removal of material from the ember-resistant zone based on the probability that vegetation and fuel will lead to ignition of the structure by ember.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Boma California  
 Building Industry Association of Fresno and Madera Counties  
 Building Industry Association of San Diego County  
 Building Industry Association of Southern California, INC.  
 Building Industry Association of The Bay Area  
 Building Industry Association of The Greater Valley  
 California Apartment Association  
 California Building Industry Association

California Business Properties Association  
California Business Roundtable  
California Chamber of Commerce  
California Hotel & Lodging Association  
California Manufacturers & Technology Association  
Family Winemakers of California  
Home Builders Association of Kern County  
Home Builders Association of The Central Coast  
Naiop of California, the Commercial Real Estate Development Association  
North State Building Industry Association  
Southern California Leadership Council

**Opposition**

None on file

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



Date of Hearing: April 8, 2024

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Isaac G. Bryan, Chair

AB 3192 (Muratsuchi) – As Introduced February 16, 2024

**SUBJECT:** Major coastal resorts: coastal development permits: audits: waste

**SUMMARY:** Establishes environmental standards and auditing for environmental compliance and waste reduction and recycling requirements for major coastal resorts (resorts).

**EXISTING LAW:**

- 1) Establishes the California Coastal Commission (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, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency. (Public Resources Code (PRC) 30004)
- 2) Requires any person wishing to perform or undertake any development in the coastal zone, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, to obtain a coastal development permit. (PRC 30600)
- 3) Pursuant to 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 for the action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (PRC 21000 *et seq.*)
- 4) Authorizes the state's pesticide regulatory program and mandates the Department of Pesticide Regulation (DPR) to, among other things, provide for the proper, safe, and efficient use of pesticides essential for the production of food and fiber, for the protection of public health and safety, for the protection of the environment from environmentally harmful pesticides, and to assure agricultural and pest control workers safe working conditions where pesticides are present by prohibiting, regulating, or otherwise ensuring proper stewardship of those pesticides. (Food and Agriculture Code 11401 *et seq.*)
- 5) Prohibits lodging establishments with more than 50 rooms from providing small plastic bottles containing personal care products to guests. Expands this prohibition to apply to lodging establishment with 50 or fewer rooms beginning January 1, 2024. (PRC 42372)
- 6) Requires 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)

- 7) Requires the state to reduce the disposal of (i.e., divert) 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)
- 8) Requires businesses that generate more than four cubic yards of waste per week (approximately one dumpster) to arrange for recycling services. Requires the business to source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements to pick up the materials, or subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation. (PRC 42649.2)
- 9) Requires businesses that generate more than four cubic yards of waste per week, as specified, to arrange for recycling services for organic waste. Requires the business to take one of the following actions:
  - a) Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste;
  - b) Recycle its organic waste or self-haul its own organic waste for recycling;
  - c) Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste; or
  - d) Make other arrangements that meet specified requirements. (PRC 42649.81)

**THIS BILL** establishes the Major Coastal Resorts Environmental Accountability Act, which:

- 1) States legislative findings relating to the environmental impacts of resorts and the need for additional state monitoring and oversight.
- 2) Defines terms used in the bill:
  - a) "Major coastal resort" as a resort or hotel that:
    - i) Is composed of more than 250 guest rooms or suites;
    - ii) Includes or operates a golf course on the premises;
    - iii) Is located in whole or in part in the coastal zone; and,
    - iv) Is located within 100 meters of the mean high tide line of the sea or that includes is adjacent to, or is within 400 meters of any part of an environmentally sensitive area, a sensitive coastal resource area, an area otherwise protected or preserved, or the habitat of a protected species.
  - b) "Pesticide" as a conventional pesticide with all active ingredients other than biological pesticides and antimicrobial pesticides, with conventional active ingredients generally produced synthetically, including synthetic chemicals that prevent, mitigate, destroy, or repel any pest or that act as a plant growth regulator, desiccant, defoliant, or nitrogen stabilizer, and includes insecticides, rodenticides, herbicides, fungicides, and growth regulators.

- c) “Organic waste” as food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed with food waste.
- 3) Every two years, requires the Commission, with the assistance of a qualified consultant, as specified, to prepare an audit of each resort’s compliance with the following:
    - a) The resort’s coastal development permit;
    - b) Any applicable local government permit conditions that implement a certified local coastal program;
    - c) Any applicable mitigation measures and reporting or monitoring program under CEQA relating to coastal zone resources; and,
    - d) The recycling requirements established by this bill.
  - 4) Requires the Commission to compile and keep updated a list of consultants qualified to assist with auditing major coastal resorts’ compliance, as specified.
  - 5) Requires the Commission to provide notice to the public and invite public comment at the time it commences an audit.
  - 6) Requires the Commission to document the audit’s investigation and findings regarding a resort’s compliance in a public report posted to the Commission’s website. Requires the report to include a summary of the implementation of the resort’s turf, landscape, and pest management plan, if any, and disclosure of the types, quantity, and frequency of pesticides used.
  - 7) Requires the Commission to decide whether to pursue enforcement under the Coastal Act of any violations identified in the audit.
  - 8) Amends the Coastal Act to require that any coastal development permit pertaining to a resort approved after January 1, 2025, to include the following:
    - a) A plan for complying with any coastal development permit conditions or mitigation measures regarding biological resources and for continued monitoring of relevant biological resources to ensure that the conditions and mitigation measures are satisfactorily protecting those resources, as specified.
    - b) Ongoing monitoring and reporting of the resort’s stormwater discharges in the coastal zone, if any, sufficient to evaluate the contents of the discharges for pollutants or waste and ensure the quality of waters of the state is not being degraded. Requires this monitoring and reporting be in coordination with the State Water Resources Control Board.
    - c) Verification from the resort that either:
      - i) The resort has been issued, or is in the process of being issued, a waste discharge permit or a waiver under the Porter-Cologne Water Quality Control Act or a national pollutant discharge elimination system permit under the federal Clean Water Act; or,

- ii) Waste discharge requirements or a national pollutant discharge elimination system permit are not required for the resort's stormwater discharges in the coastal zone under federal or state law.
  - d) A turf, landscape, and pest management plan that follows state-of-the-art environmental methods.
- 9) Requires any coastal development permit for a resort in existence as of January 1, 2025, to be amended when the permit is renewed or updated to include the requirements for coastal development permits established by the bill.
- 10) Specifies that legitimate local government costs associated with the amending or updating a coastal development permit pursuant to the bill are eligible for reimbursement by the Commission, as specified.
- 11) Prohibits the use of any nonorganic pesticide at, or on any part of, any resort.
- 12) Prohibits a resort, or any person acting on a resort's behalf, from discriminating or retaliating against any employee or applicant for employment for:
- a) Participating in an audit, investigation, or report pursuant to the bill; or,
  - b) Disclosing information, or because the resort believes an employee disclosed or may disclose information, to the Commission, a consultant, another government or law enforcement agency, a person with authority over the employee, a person with specified authority, the media, a nonprofit organization, or a state or local government, if the employee or applicant for employment has reasonable cause to believe that the information discloses a violation or noncompliance.
- 13) Establishes that violations of the protections against retaliation are punishable pursuant to Labor Code 1102.5 (up to \$10,000 for each violation). Additionally, establishes administrative civil penalties for violations of the protections against retaliation up to \$500 per day for each violation.
- 14) Prohibits resorts from providing single-use plastic bottled beverages, nonrecyclable single-use coffee pods, plastic straws, single-use plastic retail bags, and expanded polystyrene (EPS) products to guests.
- 15) Requires resorts to:
- a) Provide at least one recycling bin or container in each guest room, and in each individual unit of other lodging. Requires the bin or container to be in the same area as trash receptacles, be visible and easily accessible, and be clearly marked;
  - b) Source separate recyclable materials, organic waste, and other solid waste;
  - c) Subscribe to a recycling service that includes collection and recycling of the recyclable materials, and subscribe to either an organic recycling service or recycle the organic waste onsite; and,

- d) Maintain records of its operations to comply with the waste handling requirements for three years.
- 16) Establishes penalties for violations of the waste management requirements of civil penalties up to \$500 for each day a violation occurs. Authorizes the Attorney General, district attorney, county counsel, or city attorney to bring an action under this provision.
- 17) Specifies that if the bill contains costs mandated by the state, reimbursement shall be made pursuant to Part 7 of Title 2 of the Government Code.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **California Coastal Commission.** The California Coastal Commission was established in 1972 by Proposition 20 to make land use decisions in the coastal zone, while additional planning occurred. In 1976, the Legislature passed the Coastal Act (Act), which codified the Commission and granted it with broad authority to regulate coastal development. The Act guides how the land along the coast of California is developed, or protected from development. The Act emphasizes the importance public access the coast, and the preservation of sensitive coastal and marine habitat and biodiversity. Development is limited to preserve open space and coastal agricultural lands. The Act calls for orderly, balanced development, consistent with state coastal priorities and taking into account the rights of property owners.

The coastal zone extends three miles seaward, including offshore islands. The inland boundary varies depending on land uses and habitat values, but generally extends inland 1,000 yards from the mean high tide line of the sea, but is wider in areas with significant estuarine, habitat, and recreational values, and narrower in developed urban areas.

The Commission's enforcement authority was expanded by SB 433 (Allen), Chapter 643, Statutes of 2021, to authorize the Commission to issue administrative civil penalties for all violations of the Act. Penalties for violations range from \$500 per day to \$15,000 per day, depending on the type and severity of the violation. The increased authority has increased the number of violations, but the Commission's budget allocations only fund one enforcement staffer in each of its six district offices, and two staff at the state level who work on "elevated" cases. The staffing levels have resulted in a backlog of over 3,000 violations. For this reason, the enforcement unit focuses on the most egregious violations and those that prevent public access to the coast.

- 2) **Pesticides.** Pesticide use in California is controlled by federal, state, and local governmental entities. The United States Environmental Protection Agency sets minimum pesticide use standards and delegates pesticide enforcement regulatory authority to the states. State law designates DPR as the agency responsible for delivering an effective statewide pesticide regulatory program in California. The Legislature has also delegated local pesticide use enforcement to County Agricultural Commissioners (CACs). DPR works in partnership with the CACs by planning and developing adequate county programs; evaluating the effectiveness of the local programs; and, ensuring that corrective actions are taken in areas

needing improvement. CACs enforce state pesticide laws and regulations in agricultural, structural, and nonagricultural use settings in all 58 counties.

- 3) **Waste disposal in California.** More than 40 million tons of waste are disposed of in California's landfills annually, of which 28.4% is organic materials, 13% is plastic, and 15.5% is paper. The Department of Resources Recycling and Recovery (CalRecycle) is charged with diverting at least 75% of solid waste from landfills statewide by 2020. Local governments have been required to divert 50% of the waste generated within the jurisdiction from landfill disposal since 2000. AB 341 (Chesbro), Chapter 476, Statutes of 2011, requires commercial waste generators, including multi-family dwellings, to arrange for recycling services for the material they generate and requires local governments to implement commercial solid waste recycling programs designed to divert solid waste generated by businesses out of the landfill. A follow up bill, AB 1826 (Chesbro), Chapter 727, Statutes of 2014, requires generators of organic waste (i.e., food waste and yard waste) to arrange for recycling services for that material to keep it out of the landfill.

SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB 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 bill specified that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level.

AB 1162 (Kalra), Chapter 687, Statutes of 2019, prohibits lodging establishments from distributing personal care products to guests in small plastic bottles. The bill's requirements are phasing in, applying to lodging establishments with more than 50 rooms on January 1 of this year, and expanding to include smaller lodging establishments beginning January 1, 2024.

- 4) **This bill.** This bill establishes a broad range of environmental requirements and review for resorts. The author states that this bill applies to six resorts in California: the Terranea Resort in Rancho Palos Verdes, the Paradise Point Resort and Spa in San Diego, the Park Hyatt Aviara Resort, Golf Club and Spa, the Hyatt Regency Newport Beach, the Ritz Carlton Bacara in Santa Barbara, and the Waldorf Astoria Monarch Beach in Dana Point. According to the sponsor, Unite Here Local 11, there are environmental conditions and mitigation measures for resorts in their coastal development permits and CEQA documents, but there is a need for coordinated and focused oversight to ensure compliance with those requirements.

This bill requires a biannual audit, conducted by a contract auditor selected from a list of approved auditors developed by the Commission, of whether or not the resorts are complying with coastal development permits, certified local coastal program permit conditions, mitigation measures and reporting or monitoring programs required by CEQA, and specified waste reduction and recycling requirements. Additionally, this bill establishes new requirements for new and renewed coastal development permits, including a plan for complying with conditions or mitigation measures regarding biological resources, monitoring of stormwater discharges, permit verifications, and turf, landscape, and pest management plans. This bill also establishes whistleblower protections for resort employees who participate in enforcement actions or disclose information regarding a potential violation or noncompliance by the resort. These new requirements place significant new responsibility

on the Commission, which may result in an increase in the current enforcement backlog. Additionally, this bill would require the Commission to provide oversight for matters outside its current jurisdiction, such as ensuring that major coastal resorts comply with CEQA requirements.

Additionally, this bill prohibits resorts from distributing beverages in plastic bottles, coffee pods, plastic straws, plastic bags, and EPS products to guests and requires recycling receptacles to be located in guest rooms. The bill requires resorts to source separate and recycle recyclable materials and organic waste.

The sponsors indicate that this bill is intended to address environmental violations like those described in the report, *How Green is Terranea? Examining Terranea Resort's Record on the Environment*. According to the report, Terranea's operations have resulted in negative impacts to wildlife; significant pesticide use, including those that are toxic to aquatic life; the disposal of recyclable materials with solid waste; and, impacts to water quality, including high fecal coliform levels. This bill is intended to identify issues such as those listed above so enforcement actions can be taken and prevent future violations.

- 5) **Previous legislation.** AB 1590 (Friedman) is nearly identical to this bill. It was held in this committee on April 17, 2023 with a vote of 3-1.
- 6) **Double referral.** This bill has also been referred to the Judiciary Committee.
- 7) **Suggested amendments.** The committee may wish to make the following amendments to the bill:
  - Require the audit to be conducted by major coastal resorts, rather than the Commission, using an auditor selected from the list maintained by the Commission.
  - Expand the scope of the audit to include information regarding fertilizer and pesticide use, plans for complying with coastal development permit conditions or mitigation measures, plans for ongoing monitoring of stormwater discharges, monitoring or surveys of species and habitat, turf, landscape, and pest management plans, and, waste discharge permit information.
  - Remove the requirement for the Commission to report on the results of the audit.
  - Remove the revisions to coastal development permits approved on or after January 1, 2025.
  - Authorize the use of nonorganic pesticides and fertilizer material only on the areas of a golf course dedicated for use as the green, and where no organic alternative exists. Require that when used, the major coastal resort must use the least toxic alternative in the smallest quantities possible.
  - Clarify that the ban on expanded polystyrene products includes packaging.
  - Remove a duplicative provision.
  - Make related technical and clarifying amendments.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

A Voice for Choice Advocacy  
Cleaneearth4kids.org  
Unite Here Local 11

**Opposition**

American Chemistry Council  
Anaheim / Orange County Hotel & Lodging Association  
Building Owners and Managers Association of California  
California Alliance for Golf  
California Association of Boutique and Breakfast Inns  
California Automatic Vendor's Council  
California Automatic Vendors  
California Business Properties Association  
California Business Roundtable  
California Chamber of Commerce  
California Golf Course Superintendents Association  
California Hospitality United Coalition  
California Hotel & Lodging Association  
California Manufacturers & Technology Association  
California Travel Association  
Croplife America (unless amended)  
Hotel Association of Los Angeles  
Hotel Council of San Francisco  
Household and Commercial Products Association  
International Bottled Water Association  
NAIOP California  
Pest Control Operators of California  
Plastics Industry Association  
Responsible Industry for A Sound Environment  
San Diego County Lodging Association  
Western Plant Health Association

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 3233 (Addis) – As Amended March 21, 2024

**SUBJECT:** Oil and gas: operations: restrictions: local authority.

**SUMMARY:** Authorizes a local entity, by ordinance, to limit or prohibit oil and gas operations or development in its jurisdiction, as provided, notwithstanding any other law or any notice of intention, supplemental notice, well stimulation permit, or similar authorization issued by the supervisor or district deputy.

**EXISTING LAW:**

- 1) Establishes the Geologic Energy Management Division (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. (Public Resources Code (PRC) 3000 *et seq.*)
- 2) Requires the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production. (PRC 3106)
- 3) Requires CalGEM to make all public information collected or maintained by CalGEM, including well records, well logs, notices of intention (NOI), notice of violation, supplementary notices, field reports, inspection reports, and correspondence, and requires CalGEM to develop and implement an education and outreach program to provide training to local governmental entities on materials collected and maintained by CalGEM related to oil and gas operations. (PRC 3115)
- 4) Requires the owner of any well to file a monthly statement with the supervisor that provides certain information relating to the well, including the source, volume, treatment, and disposition of water produced in oil and gas activities. (PRC 3227)
- 5) Authorizes the state to obtain primary enforcement responsibility for regulating the underground injection of fluids associated with oil and gas production through the state's own state underground injection control program. (Federal Safe Drinking Water Act 1425)
- 6) Requires the State Water Resources Control Board to develop model groundwater monitoring criteria, to be implemented either on a well-by-well basis for a well subject to well stimulation treatment or on a regional scale. Provides that the model criteria for either a well-by-well basis for a well subject to well stimulation treatment, or for a regional groundwater monitoring program, shall be used to satisfy the permitting requirements for well stimulation treatments (WST) on oil and gas wells pursuant to PRC 3160. (Water Code 10783)

- 7) Pursuant to Governor Newsom's direction, requires the State Air Resources Board (ARB) to evaluate how to phase out oil extraction by 2045 through the climate change scoping plan, the state's comprehensive, multi-year regulatory and programmatic plan to achieve required reductions in greenhouse gas (GHG) emissions. (Executive Order N-79-20)
- 8) Authorizes a county or city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (Article XI, section 7 of the California Constitution)

**THIS BILL:**

- 1) Revises the stated purposes of the Division of Oil and Gas operation regulation to include preserving California's air, water, environment, natural resources, and advancing the state's climate goals, and requires CalGEM to minimize harm from oil and gas operation activities.
- 2) Authorizes, notwithstanding any other law, and notwithstanding any NOI, supplemental notice, well stimulation permit, or similar authorization issued by the supervisor or district deputy, a local entity to, by ordinance, prohibit oil and gas operations in its jurisdiction or impose regulations, limits, or prohibitions on oil and gas development that are more protective of public health, the climate, or the environment than those prescribed by a state law, regulation, or order.
- 3) Authorizes these limitations or prohibitions to include, but not be limited to, limitations or prohibitions related to the methods of oil and gas operations and the locations of oil and gas operations.
- 4) Requires, if a local entity limits or prohibits oil and gas operations of an owner or operator, the owner or operator to be responsible for plugging and abandoning its wells, decommissioning attendant production facilities, and related measures, pursuant to the rules of the oil and gas statutory division.
- 5) Defines, for purposes of this bill, "local entity" as a city, county, or city and county.
- 6) Provides that the provisions of this bill are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**FISCAL EFFECT:** Unknown

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

Pollution from oil and gas production causes grave harm to our health, climate, and environment. For more than a century, cities and counties have protected their residents' health and safety by deciding whether, where, and under what conditions to allow oil and gas projects to operate. As California transitions away from its dependency on fossil fuels, more cities and counties have introduced ordinances to ban oil and gas operations. Assembly Bill 3233 uplifts the voices of our local communities by codifying their right to enact these policies.

- 2) **Oil production in CA.** Oil production began in earnest in California in the late 1800s. 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 2.2% annually 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.

CalGEM has jurisdiction over more than 242,000 wells, including nearly 101,300 defined as active or idle oil producers. CalGEM's authority extends from onshore to three miles offshore.

About 112,000 people are employed in California's fossil fuel-based industries, amounting to about 0.6% the state's total workforce in 2019. The total job figure includes oil and gas extraction operations, as well as support activities for all oil and gas projects, and other ancillary sectors, such as fossil fuel-based power generation. According to the Western States Petroleum Association, the petroleum industry paid \$26 billion in wages and benefits in California to employees doing research, exploration, production and shipping, refining, delivery, sales, and company operations.

- 3) **State oversight of oil & gas production.** In 1915, the Legislature created what is now CalGEM to ensure the safe development and recovery of energy resources. CalGEM is charged with protecting public health, safety, and the environment as it oversees and regulates the drilling, operation, and eventual permanent closure of oil, gas, and geothermal wells. The supervisor has broad authority to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production. The supervisor is also equipped with authority to oversee the operation of wells and the methods to increase oil and gas extraction.

Further, CalGEM administers state regulations for the permitting, drilling, inspecting, testing, and sealing of underground injection wells, which covers two types of wells: 1) those that inject water or steam for enhanced oil recovery and 2) those that return the briny groundwater that comes up from oil formations during production—typically unusable for drinking or agriculture—back into the underground source from which it came.

- 4) **Local oversight.** Depending on the well location and other factors, the jurisdictional powers of a local government vary. Some jurisdictions have taken action to confirm their authority through ordinances or local ballot measures.

In 2014, San Benito County voters approved Measure J with 58.9% of the vote to prohibit hydraulic fracturing and related gas and oil extraction activities, as well as other "high-intensity petroleum operations," including acid well stimulation and cyclic steam injection. Measure J also banned any new gas or oil drilling activity - even conventional, low-intensity activity - in areas of the county zoned for residential or rural land use.

Citadel Exploration's plan to drill up to 1,000 steam-injection wells at its Bitterwater oilfield, was prevented by Measure J. Citadel filed a lawsuit against the county almost immediately after Measure J was approved, claiming that local governments in California do not have the authority to ban fracking. Ultimately, Citadel dropped the lawsuit.

In 2021, Culver City adopted an ordinance to prohibit the drilling of any new or re-drilling of any existing oil wells within the Culver City portion of the Inglewood Oil Field and require the phasing out, plugging and restoration of all existing oil and gas wells by no later than November 24, 2026. Sentinel Peak Resources California LLC challenged the ordinance, and on December 7, 2023, Culver City and Sentinel 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 over the five-year period between 2023-2027.

Also in 2021, in response to the September 15, 2021, motion by the Los Angeles (LA) County Board of Supervisors, LA County Planning prepared an ordinance to amend Title 22 – Planning and Zoning of the Los Angeles County Code. For the unincorporated areas of LA County, the proposed ordinance prohibits new oil wells and production facilities in all zones, designates existing oil wells and production facilities as nonconforming uses in all zones, and establishes regulations for existing oil wells and production facilities.

In 2015, after Monterey County Supervisors rejected a fracking moratorium in 2015, local residents drafted an initiative to ban fracking and limit certain oil operations. The resultant Measure Z sought to do several things: ban fracking, acidizing, and other WSTs; ban new wastewater injection wells and wastewater ponds and phase out existing wastewater injection wells and ponds; and, ban new oil and gas wells within Monterey County. The initiative did not cover Monterey County's 1,500+ existing oil and gas wells. Measure Z won with 56% of the votes on November 8, 2016.

While there is no fracking in Monterey County, Measure Z's other two provisions, banning wastewater injection and impoundment and drilling new wells, would have dramatically reduced oil production in Monterey County.

On December 14, 2016, Chevron filed a petition for writ of mandate and complaint, alleging, among other things, that Measure Z is preempted by state and federal law and would result in an unconstitutional taking of their property.

On January 25, 2018, the superior court filed its statement of decision. (31:AA.7545–7593.) In relevant part, the superior court concluded Policies LU-1.22 and LU-1.23 are each preempted by state and federal law.

In particular, the Superior Court found that Measure Z was contrary to the express state policy set forth in PRC 3106, which mandates that the supervisor to permit the owners or operators of the wells to utilize all methods and practices known to the oil and gas industry for the purpose of increasing the ultimate recovery of underground hydrocarbons.

The Supreme Court granted review to decide whether PRC 3106 preempts Measure Z and concluded it does because Measure Z is contradictory to, and therefore conflicts with, PRC 3106.

- 5) **This bill.** AB 3233 affirms local control over oil and gas operations by authorizing a local entity to, by ordinance, prohibit oil and gas operations or development in its jurisdiction or impose regulations, limits, or prohibitions on oil and gas operations or development that are more protective of public health, the climate, or the environment than those prescribed by a

state law, regulation, or order. It authorizes those limitations or prohibitions to cover methods of oil and gas operations or development and the locations of oil and gas operations or development.

Notably, this bill is permissive, not mandatory. It extends authority to local jurisdictions to regulate oil and gas operations in accordance with the public health and environmental needs of their communities, and maintains state regulatory oversight where local control is not enacted.

6) **Double referral.** This bill is also referred to the Utilities and Energy Committee.

## REGISTERED SUPPORT / OPPOSITION:

### Support

1000 Grandmothers for Future Generations	Climate Action California
350 Bay Area Action	Climate Breakthrough
350 Conejo / San Fernando Valley	Climate First: Replacing Oil & Gas
350 Humboldt	Climate Hawks Vote
350 Petaluma	Climate Health Now
350 Sacramento	Climate Reality Bay Area
350 Santa Barbara	Climate Reality Project Riverside County Chapter
Acterra: Action for A Healthy Planet	Climate Reality Project, California Coalition
Asian Pacific Environmental Network	Climate Reality Project, Monterey Bay Chapter
Azul	Climate Reality Project, San Fernando Valley
Bay Area-system Change Not Climate Change	Climatebrunch
Bicycling Monterey	Coalition for Clean Air
Black Women for Wellness Action Project	Communities for A Better Environment
California Climate Voters	Consumer Watchdog
California Environmental Voters	Corporate Ethics International
California Nurses for Environmental Health & Justice	Earthjustice
California Youth Versus Big Oil	Earthworks
Californians for Disability Rights INC	Eco Equity
Center for Biological Diversity	Eco Team
Center for Community Action and Environmental Justice	Ecology Center
Center for Food Safety; the	Elders Climate Action Northern California Chapter
Center on Race, Poverty & the Environment	Elders Climate Action Southern California Chapter
Central California Environmental Justice Network	Elected Officials to Protect America - Code Blue
Central Coast Alliance United for A Sustainable Economy	Endangered Habitats League
Central Coast Environmental Voters	Environmental Defense Center
Central Valley Air Quality Coalition	Environmental Protection Information Center
Central Valley Partnership	Environmental Working Group
CERBAT	
Cleanearth4kids.org	

Esperanza Community Housing  
 Extinction Rebellion San Francisco Bay Area  
 Food & Water Watch  
 Fossil Free California  
 Fracktracker Alliance  
 Fresnans Against Fracking  
 Fridays for Future Fresno  
 Fridays for Future Sacramento  
 Friends of The Earth  
 Glendale Environmental Coalition  
 Good Neighbor Steering Committee of Benicia  
 Greenaction for Health and Environmental Justice  
 Greenpeace USA  
 Harvey Milk LGBTQ Democratic Club  
 Holman United Methodist Church  
 Idle No More Sf Bay  
 Indivisible Marin  
 Indivisible San Francisco  
 Indivisible San Jose  
 Indivisible South Bay LA  
 LA Jolla Environmental Action  
 Local Clean Energy Alliance  
 Los Padres Forestwatch  
 Manhattan Beach Huddle  
 Methane Action  
 MLK Coalition of Greater Los Angeles  
 Mothers Out Front  
 Natural Resources Defense Council  
 Nextgen California  
 Oil & Gas Action Network  
 Oil Change International  
 Pacific Environment  
 Physicians for Social Responsibility - Los Angeles  
 Physicians for Social Responsibility - Sacramento Chapter

**Opposition**

Western States Petroleum Association

Planning and Conservation League  
 Protect Monterey County  
 Protect Playa Now!  
 Queers X Climate  
 Redeemer Community Partnership  
 Rising Communities  
 Rootsaction.org  
 San Diego350  
 San Francisco Bay Physicians for Social Responsibility  
 San Francisco Baykeeper  
 San Joaquin Valley Democratic Club  
 Santa Barbara Standing Rock Coalition  
 Santa Cruz Climate Action Network  
 Sequoia Forestkeeper  
 Sierra Club California  
 Society of Fearless Grandmothers - Santa Barbara  
 Stand Together Against Neighborhood Drilling  
 Stand.Earth  
 Sunrise Movement LA  
 Sunrise Santa Barbara  
 Sustainable Mill Valley  
 The Climate Alliance of Santa Cruz County  
 The Climate Center  
 The Climate Reality Project Los Angeles Chapter  
 The Climate Reality Project Orange County Chapter  
 The Climate Reality Project: Silicon Valley  
 The Phoenix Group  
 Voting 4 Climate & Health  
 West Berkeley Alliance for Clean Air and Safe Jobs  
 Women's Earth and Climate Action Network  
 Youth for Earth  
 Youth Vs. Oil

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

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

ACA 16 (Bryan) – As Introduced January 25, 2024

**SUBJECT:** Environmental rights

**SUMMARY:** Amends the California Constitution to declare that the people shall have a right to clean air and water and a healthy environment.

**EXISTING LAW** establishes Article 1 of the California Constitution, Declaration of Rights, which declares:

- 1) All people are by nature free and independent and have unalienable rights, including enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.
- 2) The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, as specified.
- 3) Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right, and that a law may not restrain or abridge liberty of speech or press, as specified.
- 4) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. People have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 5) Free exercise and enjoyment of religion without discrimination or preference are guaranteed. Specifies that this liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion. A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.
- 6) The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, and in peacetime without the owner's consent.
- 7) Slavery is prohibited. Involuntary servitude is prohibited except to punish crime.
- 8) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained in the Constitution imposes upon the State or any public entity, board, or official any obligations or responsibilities that exceed those imposed by the Equal Protection Clause of the 14<sup>th</sup> Amendment of the United States Constitution with respect to the use of pupil school assignment or pupil transportation, as specified. A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.

- 9) Only marriage between a man and woman is valid or recognized in California. (Ruled unconstitutional per *Petty v. Schwarzenegger* (N.D.Cal. 2010) 704 F.Supp.2d 921.)
- 10) A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed color, or ethnic origin.
- 11) A bill of attainder, ex post factor law, or law impairing the obligation of contracts may not be passed.
- 12) Witnesses may not be unreasonably detained.
- 13) Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion.
- 14) A person shall be released on bail by sufficient sureties, except for specified crimes.
- 15) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, as specified.
- 16) The defendant in a criminal case has the right to a speedy public trial, to compel witnesses on the defendant's behalf, to have the assistance of counsel, to be personally present with counsel, and to be confronted with the witnesses against the defendant.
- 17) Trial by jury is an inviolate right and shall be secured to all, but may be waived under specified circumstances.
- 18) Establishes numerous related declarations about criminal and civil proceedings.
- 19) Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court.
- 20) Noncitizens have the same property rights as citizens.
- 21) Property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property.
- 22) The right to vote or hold office may not be conditioned by a property qualification.
- 23) Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.
- 24) The people shall have the right to fish upon and from the public lands of the State and the waters thereof, except as provided.
- 25) The provisions of the Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

- 26) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **The California Constitution.** California's first constitution was adopted at the Constitutional Convention of 1849, and was published in English and Spanish. It was revised in 1879 and published in English in the California Statutes of 1880. It has been amended numerous times by the Legislature and ballot propositions. The first major revision occurred after the Legislature created the Constitutional Revision Commission (Commission) in the early 1960s. The Commission's recommendations were placed on the ballot in 1974, when voters approved Proposition 7, Rights of Citizens Amendment, with more than 70% of the vote. The revision included granting noncitizens the same property rights as citizens; established the right to religion, equal protection, and life, liberty, and property in the California Constitution; expanded protections for those accused of crimes; and, expanded eminent domain protections, among other changes. Many of the California Constitution's protections are broader than the United States Constitution, such as the right to free speech and protection from cruel or unusual punishment for crimes. The California Constitution is one of the longest in the world, in part due to California's unique initiative system that allows citizens to pursue amendments to the constitution by initiative rather than through a legislative process.
- 2) **Green amendments.** Some states have begun to incorporate environmental rights amendments to their state constitutions. Known as "green amendments," these proposals attempt to protect the right to clean air and water the way more traditional rights like religious freedom and free speech are protected. Pennsylvania and Montana are the only states that have adopted green amendments.

Section 27 of Article 1 of the Pennsylvania Constitution, added in 1971, declares that the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. The amendment further states that the state's public natural resources are the common property of all its people, including generations yet to come. Courts established limitations to the interpretation of the amendment in 1973 by imposing a three part test to determine whether or not a state agency violated Section 27. Known as the "Payne test," it requires the courts to consider a state agency's compliance with other statutes, whether the agency made a reasonable effort to reduce environmental harm, and if the environmental harm outweighs the benefits of the action.

Section 1 of Article IX of Part IX of the Montana Constitution, added in 1972, declares that the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations. The provision requires the Legislature to provide for the administration and enforcement of this duty and to provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

Several other states have introduced green amendments this year:

- House Joint Resolution 4210 in Washington amends the constitution to provide that the people of the state have the right to a clean and healthy environment, and that the state shall serve as a trustee of its natural resources and climate, and that the state shall equitably protect these rights for all people.
- House Bill 302 in Kentucky proposes to create a new section in the Kentucky Constitution to establish the right of the people to have a healthy environment, including the right to clean air, pure water, and ecologically healthy habitats; declare that natural resources are the common property of all people, including generations to come; and, establish that as trustee of the environment, the state shall conserve and maintain them for the benefit of all people.
- Proposal 5 in Vermont would amend the constitution to declare the right of the people to clean air and water and the preservation of the natural, scenic, and cultural values of the environment; declares that the state's natural resources are the common property of the people; and, requires the state to conserve and maintain the natural resources of Vermont for the benefit of all people.
- Senate Concurrent Resolution 1031 in Arizona amends the constitution to declare that each person, including those in future generations, has the right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, a stable climate, and the preservation of the natural, cultural, scenic, and healthful qualities of the environment; the state's public natural resources are the common property of all the people; and, requires the state to serve as trustee of these natural resources and to conserve and protect natural resources for the benefit of all people.
- House Joint Resolution 23 in West Virginia amends the constitution to declare that all people have a right to a clean and healthy environment, including clean air, pure water, a stable climate, and the preservation of the natural, scenic, recreational, and healthful qualities of the environment; the state shall protect these rights equitably for all people; that the public natural resources are the common property of all people, including generations to come, and; that the state as trustee of these resources, shall conserve, protect, and maintain them for the benefit of all people.
- Senate Concurrent Resolution 43 and Assembly Concurrent Resolution 119 in New Jersey amends the constitution to declare that every person has the right to a clean and healthy environment; the state's public natural resources are the common property of all people, including present and future generations; and that the state shall serve as the trustee of these resources and conserve and maintain them for the benefit of all people.
- House Bill 1528 in Hawaii amends the constitution to declare that each person has the right to a clean and healthy environment, including clean air, clean and pure waters, fertile soils, healthy ecosystems, living reefs, and a stable climate; the control of pollution; and, the conservation, protection, and enhancement of the natural, native, cultural, scenic, and healthful qualities of the environment.
- Senate Bill 2933 in Hawaii amends the constitution to declare that the inherent and inalienable rights of the people, including present and future generations, to clean water

and air, a healthful environment and climate, healthy native ecosystems and beaches, shall be protected and shall not be infringed.

- Senate Joint Resolution 193 in Connecticut amends the constitution to declare that each person shall have the right to clean and healthy air, water, soil, ecosystems, and environment and a safe and stable climate for the benefit of public health, safety, and the general welfare; that the state shall not infringe upon these rights and shall protect these rights equally for all people regardless of race, ethnicity, tribal affiliation, gender, socioeconomic status, or geography; and, requires the state to serve as trustee of the natural resources of the state.

3) **California's environmental policies.** California has a history of leading the nation on environmental policies. California has among the strongest water quality standards, air quality laws, efforts to ameliorate climate change, and actions to reduce plastic pollution in the country. However, the state has not amended the Constitution to guarantee its citizens the right to a healthy environment.

4) **Author's statement:**

California leads – here in the U.S. and across the globe. Still, the 40 million people who call our state home may be surprised to realize that we are one of the remaining states that does not have clear environmental rights articulated in our constitution. Without clear and enshrined constitutional rights, all of the hard-won progress we have made remains vulnerable to potential rollbacks. It also leaves California increasingly subject to worrisome changes in federal policy. If our state is to continue making equitable environmental progress, it is imperative that we join the growing list of states who have moved to enshrine environmental rights in their constitutions.

ACA 16 will provide a permanent guidepost for our sustainability and long term environmental and climate goals. It will also ensure that 1 in 8 Americans have the fundamental right to clean air, water, and a healthy environment.

5) **This measure.** ACA 16 amends Section 1 of the California Constitution to declare the right of the people of California to have clean air and water and a healthy environment.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

1000 Grandmothers, Bay Area  
 350 Bay Area Action  
 350 Conejo  
 350 Sacramento  
 350 South Bay LA  
 350 Ventura County Climate Hub  
 Active San Gabriel Valley  
 Asian Pacific Environmental Network  
 Azul  
 Bay Area Youth Lobbying Initiative

CA Coalition for Clean Air  
California Association of Local Conservation Corps  
California Coastal Protection Network  
California Coastkeeper Alliance  
California Environmental Justice Alliance  
California Environmental Voters  
California Green Business Network  
California Nurses for Environmental Health & Justice  
California Trout  
Californians for Pesticide Reform  
Center on Race, Poverty, and the Environment  
Central Valley Air Quality Coalition  
Citizens Climate Lobby Sacramento / Roseville Chapter  
Clean Earth 4 Kids  
Clean Water Action  
Climate Action California  
Climate Reality Project, California Coalition  
Climate Reality Project, Los Angeles Chapter  
Climate Reality Project, San Fernando Valley  
Climate Resolve  
ClimatePlan  
Councilwoman Katy Yaroslavsky, City of Los Angeles  
Culver City Democratic Club  
Defenders of Wildlife  
Dietrick Institute for Applied Insect Ecology  
East Area Progressive Democrats  
Environmental Defense Center  
Environmental Defense Fund  
Environmental Working Group  
Facts Families Advocating for Chemical and Toxics Safety  
Families for a Future  
Fossil Free California  
Friends Committee on Legislation of California  
Friends of the River  
Glendale Environmental Coalition  
Green Amendments for the Generations  
Human Impact Partners  
Jaide Conservation Collective, LLC  
LA Ballona Creek Renaissance  
LA Waterkeeper  
Leadership Counsel for Justice and Accountability  
Los Angeles Unified School Board District 2, Office of Boardmember Dr. Rocio Rivas  
Lutheran Office of Public Policy - California  
Mono Lake Committee  
Move LA  
Natural Resources Defense Council  
NextGen California  
Pacifica Climate Committee  
Peninsula Interfaith Climate Action

Pesticide Action Network North America  
Physicians for Social Responsibility - Los Angeles  
Planning and Conservation League  
Project Green Home  
Public Health Institute  
Santa Cruz Climate Action Network  
Sierra Nevada Alliance  
Solar Rights Alliance  
Sonoma County Democratic Party  
South Los Angeles Transit Empowerment Zone  
Stand Together Against Neighborhood Drilling  
Streets for All  
Sunrise Movement LA  
Sunrise Movement Long Beach  
Sunrise Movement Sacramento  
Sunrise San Diego  
The Climate Center  
The Nature Conservancy  
Third ACT SoCal  
Transformation Wealth Management  
US Green Building Council - Los Angeles  
Union of Concerned Scientists  
Urban Environmentalists  
Valley Improvement Projects  
Vista Hermosa Heights Community Group  
Vote Solar  
West LA Democratic Club

**Opposition**

CalChamber  
Desert Water Agency  
El Dorado Irrigation District  
Palmdale Water District

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