California State Assembly

NATURAL RESOURCES

ISAAC G BRYAN
CHAIR

AGENDA

Monday, April 22, 2024
Upon adjournment of Session -- State Capitol, Room 447

SPECIAL ORDER

1.	AB 3192	Muratsuchi	Major coastal resorts: audits: waste.

BILLS HEARD IN SIGN-IN ORDER

** = Bills Proposed for Consent

2.	AB 2085	Bauer-Kahan	Planning and zoning: permitted use: community clinic.
3.	AB 2212	Lowenthal	Energy: offshore wind workforce safety training facilities.
4.	**AB 2276	Wood	Forestry: timber harvesting plans: exemptions.
5.	AB 2320	Irwin	Wildlife Connectivity and Climate Adaptation Act of 2024: wildlife corridors.
6.	AB 2329	Muratsuchi	Energy: California Affordable Decarbonization Authority.
7.	**AB 2401	Ting	Clean Cars 4 All Program.
8.	AB 2537	Addis	Energy: offshore wind energy development: Offshore Wind Community Capacity Building Fund Grant Program.
9.	AB 2560	Alvarez	Density Bonus Law: California Coastal Act of 1976.
10.	**AB 2572	Muratsuchi	Ocean carbon dioxide removal projects.
11.	AB 2661	Soria	Electricity: transmission facility planning: water districts.
12.	**AB 2760	Muratsuchi	Lower Emissions Equipment at Seaports and Intermodal Yards Program.
13.	AB 2762	Friedman	Recycling: reusable beverage containers.
14.	AB 2776	Rodriguez	Recovery from major federal disasters: funding priority.
15.	**AB 2815	Petrie-Norris	Clean Transportation Program: electric vehicle charging stations.
16.	AB 2851	Bonta	Metal shredding facilities: fence-line air quality monitoring.
17.	AB 2870	Muratsuchi	Low Carbon Fuel Standard regulations: carbon intensity calculation: avoided methane emissions from livestock manure: prohibition.
18.	**AB 2968	Connolly	School safety and fire prevention: fire hazard severity zones: comprehensive school safety plans: communication and evacuation plans.
19.	AB 3019	Bains	Idle wells: Hazardous and Idle-Deserted Well Abatement Fund: legacy oil and gas wells: skilled and trained workforce.

20.	****AB 3023**	Papan	Wildfire and Forest Resilience Task Force: interagency funding strategy: state watershed restoration plans: forest resilience plans: grant program guidelines.
21.	****AB 3057**	Wilson	California Environmental Quality Act: exemption: junior accessory dwelling units ordinances.
22.	AB 3155	Friedman	Oil and gas wells: health protection zones: civil liability.
23.	AB 3227	Alvarez	California Environmental Quality Act: exemption: stormwater facilities: routine maintenance.
24.	AB 3238	Garcia	Electrical infrastructure projects: endangered species: natural community conservation plans.

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3192 (Muratsuchi) – As Amended April 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 300 guest rooms or units, all of which are located within the same contiguous resort complex. Specifies that rooms or units located in separate and distinct resort complexes cannot be aggregated for purposes of the bill.

        ii) Includes or operates a golf course on the premises.

        iii) Is located in whole or in part in the coastal zone.

        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 a major coastal resort, with the assistance of a qualified consultant, 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.

d) The recycling requirements established by this bill.

e) Disclosure of the types, quantity, and frequency of the pesticides and fertilizing material used during the previous two years.

f) Whether the major coastal resort has developed 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.

g) Whether the major coastal resort conducts ongoing monitoring of the resort's stormwater discharges in the coastal zone, as specified.

h) Whether the major coastal resort has adopted a turf, landscape, and pest management plan that follows state-of-the-art environmental methods, as specified.

i) Whether either of the following apply to the major coastal resort:

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.

4) Requires a major coastal resort to post the audit on its website and provide copies to the Commission and relevant local governments.

5) Requires the Commission to compile and keep updated a list of consultants qualified to assist with auditing major coastal resorts' compliance, as specified. Authorizes the major coastal resort to select a consultant from the list to prepare its audit.

6) Requires a major coastal resort to provide notice to the public and invite public comment at the time it commences an audit.

7) Authorizes the Commission to charge a major coastal resort fee for compiling and updating the list of qualified consultants and receiving copies of the audits in an amount not to exceed the reasonable costs of those duties, not to exceed $5,000 for each major coastal resort.

8) Authorizes the use of any nonorganic pesticide at a major coastal resort on areas of a golf course only when applied in a manner consistent with established integrated pest management principles and where no organic alternative fit for the intended use and proven effectiveness is available. Where nonorganic pesticide or fertilizer is used, requires the major coastal resort to use the least toxic alternative in the smallest quantity possible.

9) 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 or investigation 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.

10) 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.

11) 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 or packaging to guests.

12) 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; and,

   c) Maintain records of its operations to comply with the waste handling requirements for three years.

13) 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.

FISCAL EFFECT: Unknown

COMMENTS:

1) **California Coastal Commission**. The 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 of public access to 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. 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.

   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) was nearly identical to the introduced version of this bill. It was held in this committee on April 17, 2023, with a vote of 3-1.

6) **Reconsideration**. The introduced version of this bill was heard by this committee on April 8th, and failed passage with a vote of 5-3.

7) **Double referral**. This bill has also been referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy
California Environmental Voters
Californians Against Waste
Clean Earth 4 Kids
Climate Resolve
East Area Progressive Democrats
Indivisible California Green Team
PDA-CA
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Progressive Democrats of America- San Francisco
SF Bay Physicians for Social Responsibility
San Joaquin Valley Democratic Club
Sunrise Movement LA
Unite Here Local 11
USC Environmental Student Assembly
William Monroe, Region 1 Director, California Democratic Party

Opposition

American Chemistry Council
Anaheim / Orange County Hotel & Lodging Association
Building Owners and Managers Association of California
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
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
Southern California PGA
Western Plant Health Association

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2085 (Bauer-Kahan) – As Amended April 9, 2024

SUBJECT: Planning and zoning: permitted use: community clinic

SUMMARY: Requires a reproductive health clinic that meets specified objective planning standards to be a permitted use subject to ministerial review (i.e., not a discretionary project subject to review under the California Environmental Quality Act (CEQA)).

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. (Public Resources Code (PRC) 21000 *et seq.*)

2) CEQA applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps, unless the project is exempt from CEQA. CEQA does not apply to ministerial projects proposed to be carried out or approved by public agencies. (PRC 21080)

THIS BILL:

1) Requires, notwithstanding any law affecting local permitting, a development to be a permitted use, reviewed on an administrative, nondiscretionary basis if it meets all of the following objective planning standards:

    a) The development is on a parcel that is within a zone where office, retail, health care, or parking are a principally permitted use.

    b) The development is for a licensed community clinic that provides reproductive health services, as defined.

    c) The development complies with the applicable minimum construction standards in the latest edition of the California Building Standards Code.

    d) The development meets all of the local agency's objective design review standards in effect at the time that the development application is submitted.

    e) The development would not require the demolition of a historic structure that was placed on a national, state, or local historic register.

    f) The development would not require the demolition of housing.

2) Requires a local agency to approve or deny the application within 60 days of submission of the application, subject to all of the following:

    a) If the local agency determines that the development is in conflict with any of the objective planning standards specified above, then:

        i) The local agency shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards.

        ii) The development proponent may submit materials to the local agency to address and resolve the conflict identified by the local agency.

        iii) Within 60 calendar days after the local agency has received the materials submitted by the proponent, the local agency shall determine whether the development as supplemented or amended is consistent with the objective planning standards.

    b) Requires the local agency, if it denies the application, to provide a process for the development proponent to appeal that decision in writing to the governing body of the local agency, and to provide a final written determination on the appeal no later than 60 calendar days after receipt of the development proponent's written appeal.

3) Authorizes the development proponent, and the Attorney General, to bring an action to enforce this section. Requires the court to grant a prevailing plaintiff reasonable attorneys' fees and costs, unless the court finds that awarding reasonable attorneys' fees would not further the purposes of the bill.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

    Reproductive healthcare is desperately needed, especially in healthcare deserts. It is challenging enough to build them, and we are seeing local opposition delay and block clinic construction without justification. To effectively protect reproductive care, we must ensure our legal protections are accompanied by physical access. AB 2085 creates streamlining for development of community clinics in areas already zoned for commercial or medical facilities. This care is desperately needed, and these providers will deliver a range of medical services outside of normal business hours and primarily to medical patients. This is an equity issue and a reproductive rights issue. Our state cannot promise abortion rights on the one hand but deny access on the other. AB 2085 will make our values a reality.

2) **Double referral**. This bill was approved by the Local Government Committee on April 17 by a vote of 8-1.

REGISTERED SUPPORT / OPPOSITION:

Support

Planned Parenthood Affiliates of California (co-sponsor)
Reproductive Freedom for All California (co-sponsor)
Training in Early Abortion for Comprehensive Healthcare (co-sponsor)
American College of Obstetricians and Gynecologists District IX
American Nurses Association\California
Associated General Contractors
Essential Access Health
National Health Law Program
San Francisco Black and Jewish Unity Coalition
Women's Foundation of California

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2212 (Lowenthal) – As Amended April 16, 2024

SUBJECT: Energy: offshore wind workforce safety training facilities

SUMMARY: Enacts the Offshore Wind Workforce Safety Training Facility Development Act and requires the State Energy Resources Conservation and Development Commission (CEC) to oversee the allocation and use of funds allocated for the development of training facilities and to develop standardized training curricula tailored to the specific needs of the offshore wind industry.

EXISTING LAW:

1) Requires the CEC to develop a strategic plan for offshore wind energy developments installed off the California coast in federal waters. Requires the development of the strategic plan regarding workforce development to include consultation with representatives of key labor organizations and apprenticeship programs that would be involved in dispatching and training the construction workforce. (Public Resources Code (PRC) 25991)

2) Requires the CEC to establish specified goals for offshore wind planning, and in establishing those goals, requires the CEC to consider the need to develop a skilled and trained offshore wind workforce. (PRC 25991.1)

3) Requires the CEC, in coordination with relevant state and local agencies, to develop a plan to improve waterfront facilities that could support a range of floating offshore wind energy development activities. Requires the plan to include, among other things:

    a) An analysis of the workforce development needs of the California offshore wind energy industry, including occupational safety requirements, the need to require the use of a skilled and trained workforce to perform all work, and the need for the Division of Apprenticeship Standards to develop curriculum for in-person classroom and laboratory advanced safety training for workers.

    b) Recommendations for workforce standards for offshore wind energy facilities and associated infrastructure, including, but not limited to, prevailing wage, skilled and trained workforce, apprenticeship, local hiring, and targeted hiring standards, that ensure sustained and equitable economic development benefits. (PRC 25991.3)

THIS BILL:

1) Establishes the Offshore Wind Workforce Safety Training Facility Development Act.

2) Defines the following terms:

    a) "Large-scale facility" as a facility located within reasonable commuting distance from the areas of the state where offshore wind leases are approved by the federal Bureau of Ocean Energy Management.

b) "Offshore wind workforce safety training facility" means an accredited facility that offers educational and practical workforce safety training to meet offshore wind industry safety standards.

c) "Small-scale facility" means a satellite location of a large-scale facility that offers similar workforce safety training, but is located in an area that is not as close to ports as a large-scale facility.

3) Requires the CEC, in collaboration with relevant state agencies, including, but not limited to, the Natural Resources Agency, the California Workforce Development Board, the Public Utilities Commission, the Department of General Services, and the State Department of Education, to oversee the allocation and use of funds allocated for the development of offshore wind workforce safety training facilities.

4) Provides that, for purposes of this bill, funds include bond proceeds, community benefit agreement funds, or matching private funds.

5) Requires offshore wind workforce safety training facilities to be strategically located near ports engaged in offshore wind development activities to facilitate convenient access for trainees and to support the workforce safety training needs of the industry.

6) Requires smaller offshore wind workforce safety training centers to be established near ports designated for operation and maintenance activities associated with offshore wind farms.

7) Requires that priority be provided to forming partnerships with community colleges, regional occupation centers, including repurposing former regional occupational centers that have been permanently closed, trade schools, and similar institutions with existing campuses or physical facilities that can offer offshore wind workforce safety training and meet the specific needs for offshore wind development.

8) Requires the CEC, in consultation with industry workforce safety experts and educational institutions, including, but not limited to, community colleges, to develop standardized training curricula tailored to the specific needs of the offshore wind industry. Requires the training curricula to include, but not be limited to, all of the following:

a) Safety training, to enable participants to support and care for themselves and others working in the industry, including first aid, working at heights, manual handling, fire awareness, sea survival, and, in case of an emergency, the ability to evacuate, rescue, and provide appropriate first aid to casualties;

b) Advanced rescue training, to enable participants to perform entry-type injured person rescue operations in a wind turbine generator using industry-standard rescue equipment, rescue methods, and techniques;

c) Enhanced first aid knowledge and training, to enable participants to support and care for others working in the industry. Upon completion of training, participants will be able to administer safe, effective, and immediate lifesaving and enhanced first aid measures to save lives and give assistance in remote areas using advanced emergency equipment and medical teleconsultation;

d) First aid, to enable participants, through theoretical and practical training, to recognize signs and symptoms of life-threatening situations and administer safe and effective first aid in the wind turbine industry and wind turbine generator environment, in order to save lives and prevent further injury until the casualty can be handed over to the next level of care;

e) Manual handling, to reduce the risk of musculoskeletal injuries for wind technicians in the wind industry and enable participants to perform their tasks and activities in the safest possible way when working in a wind turbine environment;

f) Fire awareness, to enable participants to prevent fires, make appropriate judgements when evaluating a fire, manage evacuation of personnel, and ensure all participants are safely accounted for in the event of an unmanageable fire. If the incident is determined to be safe, the participants should be able to efficiently extinguish an initial fire by using basic handheld firefighting equipment;

g) Working at heights, to enable the participants, through theoretical and practical training, to use basic personal protective equipment, work safely at heights, and perform comprehensive basic rescues from heights in a remote wind turbine environment;

h) Sea survival, to enable the participants to act safely and responsibly and to take the correct preventive actions in all aspects of offshore operations, from shore to installation vessel or wind turbine generator, and the reverse, through theoretical and practical training, during normal operations and in an offshore wind energy environment emergency;

i) Hub rescue, to enable participants to perform rescue operations in a wind turbine generator hub, spinner, and inside the blade by using industry-standard rescue equipment, methods, and techniques, exceeding those of working at heights;

j) Nacelle, tower, and basement rescue, to enable participants to perform injured person rescue operations in a wind turbine generator nacelle, tower, and basement by using industry-standard rescue equipment, methods, and techniques, exceeding those of working at heights; and,

k) Single rescue in hub, spinner, and inside blade, to enable participants to perform single rescuer advanced rescue operations, in a wind turbine generator hub, spinner and inside the blade by using industry-standard rescue equipment, methods, and techniques, exceeding those of working at heights.

9) Requires offshore wind workforce safety training programs offered at the training facilities to meet established industry standards and receive accreditation from relevant accrediting bodies, including the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, and the State Department of Education for the accreditation of regional occupation and career technical education, to ensure the quality and effectiveness of the training provided.

10) Requires the CEC to annually submit a report to the Governor and the Legislature, in accordance with Section 9795 of the Government Code, summarizing the progress made in establishing and operating offshore wind workforce safety training facilities, including the use of funds, the number of trainees enrolled, and any recommendations for improvement.

11) Sunsets this bill on January 1, 2045.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Offshore wind is a unique, multi-benefit opportunity for our state that will help us meet our climate goals, support and improve our communities, create new jobs, and grow our economy. In order to achieve the ambitious goals we have set for ourselves, we must take immediate action, but our approach must be thoughtful and decisive in order to ensure that we bring this tremendous new energy resource online sustainably and responsibly. Fortunately, our state issued a strategic plan for offshore wind development earlier this year, so that we can deliver this new source of energy as efficiently as possible, in order to meet our renewable energy production goals for 2030 and 2045. In order to build these offshore wind farms, we will need a skilled workforce trained in various aspects of construction, maintenance, and operations specific to offshore wind energy. AB 2212 implements recommendations from the report focusing on the development of training facilities to ensure that workforce needs near ports can be met and facilitate convenient access for trainees. The bill also requires the commission, in consultation with industry experts and educational institutions to develop training curricula tailored to the specific needs of the offshore wind industry.

2) **Offshore wind planning.** 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, and provide an assessment of the economic benefits of offshore wind as they relate to seaport investments and workforce development needs and standards.

   Offshore wind energy presents an opportunity for California to attract investment capital and provide economic and workforce development benefits to communities. This can occur through the development and preservation of a skilled and trained workforce, the creation of long-term jobs, and support the development of an offshore wind energy supply chain.

   A new workforce will also assemble, manufacture, install, operate, and maintain offshore wind turbines and related components. These investments in the offshore wind supply chain could yield numerous types of economic benefits, where the effect of thousands of good-paying jobs will ripple throughout California's economy.

   A recent study estimated that total annual jobs associated with the offshore wind industry may be as great as 5,000 jobs by 2030 for 3 gigawatt (GW). By 2040 and beyond this could increase up to 13,000 jobs for 10 GW. California's planning goals include 2–5GWs of floating offshore wind technologies offshore California by 2030 and 25 GW by 2045.

The CEC's 2022 AB 525 report, *Preliminary Assessment of Economic Benefits of Offshore Wind*, states that "[n]ew training standards, curricula, and training facilities will be needed to create a trained and skilled offshore wind workforce that can grow to meet the pace of offshore wind development."

3) **Workforce development.** A wide range of skill sets and occupational types will be required for the offshore wind workforce. Manufacturing and supply chain will support plant-level workers, plant-level management, design and engineering, quality and safety, and facilities maintenance. Plant-level workers typically are highly skilled roles, such as welders, electricians, machine operators, and assemblers. Plant-level management oversees the plant-level workers and includes roles such as production engineers, manufacturing engineers, and plant and operations managers. Design and engineering roles support component design prior to production, such as design engineers, testing engineers, and supply chain analysts. Facilities maintenance workers are typically in supervisor and technician roles that ensure the plant is operating by performing preventative and corrective maintenance.

   A majority of the new offshore wind-related workforce will require training and/or certification that matches the pace of deployment for offshore wind, particularly the construction and supply chain workers. Since floating offshore wind will be a new industry in California, there will be a need for new training standards, curriculums, and facilities to create a trained and skilled offshore wind workforce that can match the pace of floating offshore wind development.

   This bill requires the CEC to develop standardized training curricula to help specifically meet the safety needs of the offshore wind industry. The curricula, developed with industry workforce safety experts and educational institutions, includes safety training, first aid, fire awareness, sea survival, working at great heights, hub rescue, and more.

4) **Training centers.** The three call areas for offshore wind in federal waters off the coast of California are the Humboldt area on the North Coast, and the Morro Bay and Diablo Canyon areas off the Central Coast.

   This bill requires offshore wind workforce safety training facilities to be strategically located near ports engaged in offshore wind development activities to facilitate convenient access for trainees and to support the workforce safety training needs of the industry.

   The bill requires the CEC, in collaboration with relevant state agencies, to oversee the allocation and use of funds from general obligation bonds, community benefit agreements, or private dollars for the development of these training facilities. Other funding sources will be available for workforce development.

   The federal Consolidated Appropriations Act of 2021 made $230 million available from the United States Department of Transportation's Port Infrastructure Development Program, with $205 million reserved for grants to coastal seaports and Great Lakes ports. The federal Inflation Reduction Act of 2022 included more than a billion dollars of tax incentives for investments in offshore wind production and manufacturing (including $426 million to Humboldt for construction of the onshore facilities to support the building and operation of offshore wind turbines off the Humboldt County Coast).

More recently, as a result of Bureau of Offshore Energy Management's December 6, 2022, California lease auction, the winning bidders all received a 20% bidding credit, totaling more than $117 million. This commitment of monetary contributions will fund programs or initiatives that support workforce training programs for the floating offshore wind industry, the development of a U.S. domestic supply chain for the floating offshore wind energy industry, or both.

The CEC and other agencies are exploring opportunities to leverage state funds to attract federal funding to support offshore wind development in California. The author may wish to consider amending the bill to include state and federal funds eligible for the purposes of the bill.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Harbor Association of Industry and Commerce
South Bay Association of Chambers of Commerce

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2276 (Wood) – As Amended April 17, 2024

SUBJECT: Forestry: timber harvesting plans: exemptions.

SUMMARY: Makes various changes to the Forest Practices Act to consolidate and update exemptions, and extends specified exemption sunset dates.

EXISTING LAW, pursuant to the Z'berg-Nejedly Forest Practice Act (Act) of 1973 (Public Resources Code 4511-4630.2):

1) Prohibits a person from conducting timber operations unless a timber harvesting plan (THP) prepared by a registered professional forester (RPF) has been submitted to, and approved by, the Department of Forestry and Fire Protection (CAL FIRE).

2) Authorizes the State Board of Forestry and Fire Protection (Board) to exempt from some or all of those provisions of the Act a person engaging in specified forest management activities, including, among others:

    a) For a period of 5 years following the adoption of emergency regulations, the cutting or removal of trees on the person's property that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break, known as the Small Timberland Owner Exemption.

    b) Until January 1, 2026, the harvesting of those trees that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for specified purposes, known as the Forest Fire Prevention Exemption (FPPE).

THIS BILL:

1) Deletes the Small Timberland Owner Exemption from the Act and its associated conditions.

2) Renames the FFPE the Forest Resilience Exemption and consolidates the new exemption with conditions from the Small Timberland Owner Exemption as follows:

    a) Requires the responsible RPF to identify the designated postharvest stocking within the notice of exemption. Requires the selected stocking to be applicable to, and consistent with, silviculture that would apply to the preharvest stand condition.

    b) Requires additional information on preharvest stand conditions.

    c) Requires, within the northern and southern districts, if the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 65 trees greater than 4 inches in diameter at breast height shall be retained.

d) Authorizes the Board to adopt specific regulations for the removal of dead and dying trees in amounts less than 10% of the average volume per acre for trees up to 36 inches in diameter at breast height. Requires the Board to consider specified factors if adopting regulations.

e) Requires all harvested trees to be marked by am RPF before felling.

f) Prohibits the six largest trees per acre within the boundaries of a notice of exemption from being harvested.

g) Prohibits any oak tree that is greater than 22 inches in diameter at breast height from being harvested under a notice of exemption, unless for safety.

h) Authorizes the Board to adopt regulations pertaining to canopy closure if determined appropriate and necessary.

i) Provides that slash and woody debris within 50 feet of a public road or critical infrastructure, as defined by the Board, shall be chipped, burned, or removed.

3) Deletes, under the exemption for the cutting or removal of trees to restore and conserve California black or Oregon white oak woodlands and associated grasslands, the requirement for the Board to adopt regulations.

4) Establishes a sunset date of January 1, 2031 for the newly developed Forest Resiliency Exemption and extends the sunset for an existing structure protection exemption under the Act from January 1, 2026, to January 1, 2031.

5) Makes technical, nonsubstantive changes.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> The wildfire hazard in California has grown exponentially over the past decade. In an effort to mitigate this hazard, the state has set a goal of treating 500,000 acres of state land a year by increasing the pace and scale of forest management, among other tools. AB 2276 will contribute to California's goal by extending and increasing the utility of timber harvest plan exemptions, making it more economically feasible to complete wildfire mitigation projects that provide for healthier and more resilient forests. With the budget challenges facing the state, it is important that we implement smart solutions that take advantage of existing partnerships and shared goals of private landowners, forest managers, environmental stewards, and state agencies.

2) **Forest Management.** Past logging and decades of fire suppression have left unnaturally dense forests that lack the large, old, fire-resilient trees that once characterized the forests of

the Sierra, Cascade, and North Coast. Those historic forests were shaped by frequent fires, both from lightning and Indigenous burning, that helped maintain the open characteristics where John Muir described being able to ride a horse through the forest without a branch knocking off his hat. Dense, young forests now extend mile after mile, providing the continuous fuel for large-scale fires burning with extremely damaging outcomes. Forest health is critical to managing wildfire prevention.

3) **THPs**. Timber harvesting operations on private lands in California must file THPs, which 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. THPs are rich in detail and nuance, and have long-standing requirements for forest management.

   According to Pacific Forest Trust, to create more fire-resilient forests, the state needs to focus on reducing density by removing small trees and surface fuels, while retaining the largest trees. This presents a challenge for the traditional THP permit because it typically costs tens of thousands of dollars, and landowners need to recoup that cost by cutting down the large, valuable trees. There needs to be a more cost-effective way to do ecological thinning where we can retain the largest, most important trees.

4) **THP exemption**s. SB 901 (Dodd), Chapter 626, Statutes of 2018, intended to addresses numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, wildfire mitigation plans by electric utilities, and cost recovery by electric corporations of wildfire-related damages.

   Among its provisions, the bill divided new timber harvest exemptions into two landownership categories: 1) small private landowners with of 60-acres or less within a single planning watershed along coastal forests and 100-acres or less within a single planning watershed inland, and 2) landowners with up to 300 acres within moderate, high, or very high severity fire zones. The intent with these exemptions was to provide regulatory relief to conduct fuel treatments on private forestlands by focusing the removal on small and mid-sized trees that are currently over-stocked.

   Both of the exemptions were set to sunset in five years in order to provide the Legislature an opportunity to evaluate and assess their effectiveness.

5) **Small Timberland Owner Exemption**. This exemption allows a person to engage in specified forest management activities without a THP, including the cutting or removal of trees on the person's property that eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuel break. The exemption is applicable to small forestland owners within the northern forest district or the southern forest district who own 100 acres or less of timberland within a single planning watershed. Property owners can use the exemption only once per any given acre within a 10-year period, and landowners are limited to 3 exemptions under the Act.

   According to the Board's 2021 Annual Report, in 2020/21, there were only 8 notices of exemption for a total of 165 acres. In fact, since its inception in 2019, the notification of exemption has only been used 19 times, treating only 481 acres over 5 years.

6) **Forest Fire Prevention Exemption**. SB 901 created the FFPE to allow two miles of temporary roads on slopes up to 30% per ownership in a single planning watershed for any five-year period, and sunset the exemption five years after the effective date of emergency regulations.

   Established in 2004 [AB 2420 (La Malfa) Chapter 713, Statutes of 2004], the FFPE provides limited exemptions from the THP process for projects aimed at reducing the risk of catastrophic wildfires. SB 901 made amendments that resulted in some increased utility of this exemption, with approximately 6,000 acres treated over the course of the last five years. While any increase in the number of acres treated helps reduce wildfire risk, the work done each year under the FFPE contributes a small fraction to the state's share of the cooperative federal and state million-acre treatment strategy and pales in comparison to recent catastrophic wildfires which have burned more than 4 million acres over the past several years.

   According to CAL FIRE, since the SB 901-revised FFPE became effective in February 2019, RFPs have submitted 186 notices of exemption. Based on the acreage provided in the notices of exemption, the use of this exemption since 2019 would have treated (or will treat) 15,867 acres. According to the Board, the average exemption project is about 95 acres, with projects ranging in size from two acres to 299 acres, distributed throughout the Coast, Cascade, Sierra, and Southern Areas.

   Since the FFPE was adopted, it has been implemented most in the Coast and Cascade areas, with 46% submitted on the Coast, and 47% in the Cascades (5% in the Sierras and 2% in the Southern Area). The exemption is effective for one year, which limits the feasibility of harvesting more than 300 acres under a single permit within the year, then treating (burning) the significant amount of slash within the allowed additional year.

7) **This bill**. To increase the utility of the new Forest Resiliency Exemption for private landowners and others, AB 2276 increases the maximum project size to 500 acres, revises maximum allowable diameter of trees that can be removed to allow field professionals to make more accurate determinations on tree size in the field, updates the stocking standards to better reflect geographic diversity, and allows the Board to determine necessary canopy closure metrics through rulemaking.

   To balance the expanded exemption with environmental protections, the bill also requires, under the Forest Resiliency Exemption, retention of the six largest trees on each acre treated under the exemption, provides for new protections for oak trees, prevents larger (older) trees from being removed for temporary road construction, and imposes new treatment standards for slash and woody debris within close proximity to public roads and critical infrastructure.

REGISTERED SUPPORT / OPPOSITION:

Support

American Forest Foundation
Auten Resource Consulting
California Forestry Association
California Licensed Foresters Association
California Native Plant Society

California State Association of Counties
California Wilderness Coalition
Central Sierra Environmental Resource Center
Defenders of Wildlife
Environmental Defense Fund
Forest Landowners of California
Humboldt County Prescribed Burn Association
Humboldt Redwood Company LLC
Mattole Restoration Council
Northcoast Regional Land Trust
Pacific Forest Trust
Rural County Representatives of California
Sierra Business Council
Sierra Cascade Logging Conference
Sierra Forest Legacy
Sierra Institute for Community and Environment
The Buckeye Conservancy
The Fire Restoration Group
University of California Cooperative Extension - Humboldt and Del Norte Counties

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2320 (Irwin) – As Amended April 10, 2024

SUBJECT: Wildlife Connectivity and Climate Adaptation Act of 2024: wildlife corridors

SUMMARY: Establishes the policy of the state to preserve, protect, and restore wildlife habitats and biodiversity by acquiring and restoring large blocks of habitat, natural lands and infrastructure to provide wildlife corridors.

EXISTING LAW:

1) Directs the California Natural Resources Agency (NRA) to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and establishing the goal of conserving at least 30% of the state's lands and coastal waters by 2030 (30x30). (Executive Order (EO) No. N-82-20)

2) Codifies the 30x30 goal. (Public Resources Code (PRC) 71450)

3) Requires NRA, in implementing actions to achieve the 30x30 goal, to prioritize specified actions. Requires the Secretary of NRA to prepare and submit, beginning on or before March 31, 2024, an annual report to the Legislature on the progress made during the prior calendar year toward achieving that goal, as provided. (PRC 71451-71452)

4) Establishes the Wildlife Conservation Board (WCB) to administer a capital outlay program for wildlife conservation and related public recreation. (Fish and Game Code (FGC) 1320)

5) Vests the California Department of Fish and Wildlife (CDFW) with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (FGC 700)

6) Authorizes CDFW to approve compensatory mitigation credits for wildlife connectivity actions taken under the Conservation Bank and Mitigation Bank Program or the regional conservation investment strategy. (FGC 1957)

7) Requires the California Department of Transportation (CalTrans) to consider wildlife connectivity areas identified by CDFW. (Streets and Highways Code 158)

THIS BILL:

1) Establishes the Wildlife Connectivity and Climate Adaptation Act of 2024.

2) Establishes the policy of the state to preserve, protect, and restore wildlife habitats and biodiversity through the acquisition and restoration of large blocks of habitat and natural lands that are connected by wildlife habitat corridors and that support wildlife corridors.

3) Defines "fish passage" as the ability of an anadromous fish to access appropriate habitat at all points in its life cycle, including spawning and rearing.

4) Defines "wildlife corridor" as a habitat linkage that joins two or more areas of wildlife habitat, allowing for fish passage or the movement of wildlife from one area to another.

5) Requires the WCB to identify priority projects for the acquisition, development, rehabilitation, restoration, protection, and expansion of wildlife corridors and open space, including projects to improve connectivity and reduce barriers between habitat areas. Requires the WCB to give priority to projects that protect wildlife corridors, including wildlife corridors threatened by urban development. Allows projects to include construction, repair, modification, or removal of transportation or water resources infrastructure to improve wildlife or fish passage.

6) Includes wildlife corridors in the 30x30 goal. Requires the NRA annual report to the Legislature on progress made to achieve the 30x30 goals to include the identification of key wildlife corridors in the state, connections between large blocks of natural areas and habitats, progress on protecting additional acres of wildlife corridors, and goals for wildlife corridor protection over the next five years.

7) Requires updates to the California Essential Habitat Connectivity Project report produced by CalTrans and CDFW in 2010.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

> Executive Order N-82-20 outlined 30 x 30 climate goals for the state. Under this initiative, California is striving to preserve 30 percent of its lands and coastal waters by 2030. In order to successfully conserve land, it is crucial that state recognizes biodiversity as a key component of land conservation. As habitats become increasingly fragmented by roads and large developments, many of California's flora and fauna are at risk of genetic isolation. Allowing wildlife to safely traverse terrain when seeking food, shelter, mates, and refuge from natural disaster creates safer habitats and promotes genetic diversity. This bill would require the Natural Resources Agency to identify wildlife corridors and include them in its annual 30 x 30 report to the Legislature. The bill would further require the Wildlife Conservation Board to prioritize projects that protect and create new wildlife corridors.

2) **Ecological protection.** Within the United States, about a football field worth of natural area is converted to human development every 30 seconds. Globally, human activity has altered three-quarters of the Earth's lands. Hundreds of scientists have warned that this rapid loss of natural space is resulting in a mass extinction, which is exacerbated by climate change.

   Many of California's natural systems have been damaged or destroyed. The Central California Coast alone has suffered a 92% loss of its tidal wetlands, including ecologically priceless estuaries. An estimated seven million acres of vernal pools existed at the time of Spanish contact; less than 13% remain today. The California Floristic Province, a region that extends from Santa Barbara to Northern Baja, has been identified as one of the 35 regions that present a high degree of endemism and biodiversity, and this region is seriously at risk.

An estimated 172 million trees have died in California's forests since 2010 due to multiple years of low moisture and drought conditions, high temperatures, and resulting bark beetle infestations. These dead trees provided fuel for and likely exacerbated the severe wildfires that have occurred over the past decade, which subsequently negatively impacted those forest habitats and the wildlife they contained. Climate change and habitat loss are also threatening our biological diversity and driving catastrophic wildfires, historic drought, flooding, extreme heat, coastal erosion, and sea level rise. Not surprisingly, the same forces that threaten plant and animal species also threaten human lives and livelihoods.

The state needs to build resilience to defend against biodiversity loss by reconnecting watersheds to the ocean and rivers to floodplains, restoring wetlands, protecting critical habitats, and more. NRA is prioritizing restoration projects that do all of these things, while also promoting multiple benefits such as flood control, wildlife habitat, and climate adaptation.

3) **Wildlife corridors**. California's wildlife is losing the ability to move and migrate as habitat conversion, built infrastructure, and climate changes disrupt or impede migration pathways. Wildlife must navigate thousands of miles of infrastructure that crisscross California's landscape as they go about their daily and seasonal movements to secure the resources they need, such as food, mates, and shelter. Wildlife connectivity can restore the linkage needed for migration, breeding, and other instinctual wildlife behaviors. As an example, connecting upland breeding habitat and ponds has allowed populations of California tiger salamander to expand their habitat and population by replacing a culvert with a full span bridge with riparian/upland habitat, allowing for movement under a two-lane highway.

   In 2020, CDFW conducted an initial assessment of priority barriers to wildlife movement throughout the state. Regional staff identified a total of 61 barriers that were considered high priorities for remediation. The highest priority segments represent barriers to migration of big game (per federal direction) as well as mountain lion, fox, bobcat, kit fox, fisher, badger, California tiger salamander, California red-legged frog, and arroyo toad, among others.

   Under CalTrans' and CDFW's California Essential Habitat Connectivity Project, the departments released the report *California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California* (Report) (February 2010). The Report was intended to make transportation and land-use planning more efficient and less costly, while helping reduce dangerous wildlife-vehicle collisions.

   The Report included an Essential Connectivity Map that depicts large, relatively natural habitat blocks more than 2,000 acres that support native biodiversity and areas essential for ecological connectivity between them. How well the Essential Connectivity Network actually accommodates wildlife movements is uncertain and will vary tremendously among species and locations. Consequently, the Report recommends that future work should focus on assessing functionality of the network for diverse wildlife species and refining the Essential Habitat Connectivity Map.

   According to CDFW, the Areas of Conservation Emphasis (ACE) is a CDFW effort to gather spatial data on wildlife, vegetation, and habitats from across the state, and then synthesize this information into thematic maps to help inform discussions on the conservation of biodiversity, habitat connectivity, and climate change resiliency. The ACE maps provide a

coarse level view of information for conservation planning purposes. The ACE project draws from multiple sources of vetted species occurrence data, as well as predictive species modelling efforts. Previous efforts related to wildlife corridors – such as the Essential Habitat Connectivity Project, are incorporated into ACE.

In 2022, CDFW released *Restoring California's Wildlife Connectivity* as an update to the 2020 priority wildlife mobility barrier dataset. Nearly all the known barriers are associated with the build environment – specifically, the State Highway System, and railroads, canals, high-speed rail alignments, and local roads are also represented. Listing priority wildlife barrier locations helps focus limited resources where the greatest needs to improve wildlife movement have been identified. The wildlife barriers dataset will be periodically updated to reflect new information and barrier removal successes.

4) **30x30.** In October 2020, Governor Newsom issued Executive Order N-82-20 which establishes a state goal of conserving 30% of California's lands and coastal waters by 2030 – known as 30x30. The 30x30 goal is intended to help conserve our lands and coastal waters through voluntary, collaborative action with partners across the state to meet three objectives: conserve and restore biodiversity, expand access to nature, and mitigate and build resilience to climate change. The 30x30 goal was codified by SB 337 (Min), Chapter 392, Statutes of 2023. California's 30x30 commitment is part of a global effort to increase biodiversity conservation, including in the United States.

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

   This bill includes wildlife corridors in the 30x30 goal and requires the NRA annual report to include the identification of key wildlife corridors in the state, connections between large blocks of natural areas and habitats, progress on protecting additional acres of wildlife corridors, and goals for wildlife corridor protection over the next five years.

5) **Wildlife Conservation Board**. The WCB is charged with allocating funds for the preservation, protection, and restoration of wildlife habitat. WCB's three main functions are land acquisition, habitat restoration, and development of wildlife oriented public access facilities. The Habitat Enhancement and Restoration Program supports habitat restoration, wildlife corridors, and fisheries enhancements. The bill requires the WCB to identify priority projects that protect wildlife corridors, including wildlife corridors threatened by urban development.

6) **Double referral**. This bill was heard in the Assembly Water, Parks & Wildlife Committee on April 9 and approved by a vote of 12-2.

7) **Committee amendments.** The *Committee may wish to consider* amending the bill to clarify the term "acquire" as follows:

"Acquire" and "acquisition" do not refer to the use of eminent domain for lands identified by the state as having mineral resources used in the construction of infrastructure that is funded in whole or in part by any government entity.

8) **Related legislation**:

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

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

REGISTERED SUPPORT / OPPOSITION:

Support

Amigos De Bolsa Chica
Arroyos & Foothills Conservancy
Bear Yuba Land Trust
California Building Industry Association
California Environmental Voters
California State Parks Foundation
Citizens for Los Angeles Wildlife
City of Thousand Oaks
Climate Reality Project, Los Angeles Chapter
Climate Reality San Fernando Valley, CA Chapter
Coastal Ranches Conservancy
County of Nevada
County of Placer
Creek Lands Conservation
Eastern Sierra Land Trust
Endangered Habitats League
Environmental Protection Information Center
Epic
Feather River Land Trust
Fly Fishers International
Friends of The Santa Clara River
Grassland Water District
Hills for Everyone
Laguna Greenbelt INC.
Land Trust of Santa Cruz County
League of California Cities
Los Cerritos Wetlands Land Trust
Los Padres Forest Watch
Los Padres Forestwatch
Midpeninsula Regional Open Space District
National Parks Conservation Association
Paula Lane Action Network
Peninsula Open Space Trust
Placer Land Trust
Resource Conservation District of The Santa Monica Mountains
San Diego Humane Society and SPCA
Santa Barbara Audubon Society
Santa Barbara Flyfishers
Santa Clara River Conservancy
Save Open Space & Agricultural Resources
Sempervirens Fund
Sierra Business Council
Sierra Club California
Sierra Club of California
Sierra Consortium
Sierra County Land Trust
Sierra Foothill Conservancy
Sierra Nevada Alliance
Solano County Water Agency
Southern Steelhead Coalition

Southwest Council, Fly Fishers International
Sustainable Rossmoor
The Big Wild
Truckee Donner Land Trust
Western Foundation of Vertebrate Zoology
WFVZ Bird Museum and Research Center
Wildlands Network
Wishtoyo Chumash Foundation
Wishtoyo Foundation

Opposition

California Construction & Industrial Materials Association

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2329 (Muratsuchi) – As Amended March 21, 2024

SUBJECT: Energy: California Affordable Decarbonization Authority

SUMMARY: Establishes a California Affordable Decarbonization Authority (Authority) as a nonprofit public benefit organization to act as a mechanism to help fund various electric utility-related programs and activities.

EXISTING LAW:

1) Establishes and vests the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations and gas corporations. (Article XII of the California Constitution)

2) Authorizes the CPUC to regulate public utilities, including electric and natural gas corporations and establish rates for these utilities. Directs the CPUC to develop a definition of energy affordability, establish metrics for energy affordability, and use the established metrics to assess the impact of proposed rate increases on different types of residential customers. (Public Utilities Code (PUC) 201 *et seq*.)

3) Establishes the California Alternate Rates for Energy (CARE) program, to provide assistance to low-income residential investor-owned utility (IOU) customers with annual household incomes no greater than 200% of federal poverty guidelines. CARE discounts cannot be less than 30% nor greater than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers, and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer. (PUC 739.1)

4) Establishes the Family Electric Rate Assistance (FERA) program, to provide assistance to low-income residential customers of the state's three largest IOUs whose household income ranges between 200% and 250% of the federal poverty guidelines, slightly exceeding the CARE allowance. Requires the FERA program discount to be an 18% line-item discount applied to an eligible customer's bill calculated at the applicable rate for the billing period. (PUC 739.12)

5) Establishes the California Energy Commission (CEC) as the state's primary energy policy and planning agency. (Public Resources Code (PRC) 25000 *et seq*.)

6) Establishes the Electric Program Investment Charge Program (EPIC), which uses ratepayer funds from the state's three largest investor-owned utilities (IOUs) to fund small grants for entrepreneurs and researchers and energy research and development. (PRC 25711.5)

7) Establishes the California Climate Credit, administered by the CPUC, which provides a biannual refund to ratepayers on their gas and electric bills funded by the state's cap-and-trade program. (Health and Safety Code (HSC) 385000 *et seq*.)

8) Establishes the Greenhouse Gas Reduction Fund (GGRF) and requires that all funds, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. Requires the Department of Finance, in consultation with the Air Resources Board and any other relevant state agency, to develop a three-year investment plan for the GGRF to fund projects and programs that reduce greenhouse gas emissions and deliver economic, environmental, and public health benefits. Requires that 25% of fund projects that benefit disadvantaged communities and 10% fund projects located within disadvantaged communities. (HSC 38560-38568)

9) Under the Nonprofit Public Benefit Corporation Law, establishes requirements for the organization and bylaws of nonprofit public benefit corporations created for any public or charitable purposes. (Corporations Code 5110 *et seq*.)

THIS BILL:

1) Requires the CPUC and CEC to jointly authorize the establishment of the Authority and take all necessary measures to create the Authority, including appointing initial officers and staff and directing the development of incorporation documents, bylaws, and other corporate materials.

2) Upon authorization by CPUC and CEC, requires the Authority to be established as a nonprofit public benefit corporation pursuant to, and subject to, the Nonprofit Public Benefit Corporation Law. Specifies that the Authority be governed by an independent board of directors consisting of seven members: three members appointed by the Governor, two members appointed by the Speaker of the Assembly, and two members appointed by the Senate Committee on Rules.

3) Requires that the Authority maintain open meeting standards and meeting notices consistent with the Bagley-Keene Open Meeting Act and the California Public Records Act.

4) Authorizes the CPUC and CEC to jointly establish additional requirements relating to governance, structure, policies, and practices for the Authority, as specified.

5) Establishes the Climate Equity Trust Fund (Trust), administered by the Authority for purposes specified by the bill, consisting of:

   a) Moneys received from the federal government;

   b) Moneys received from the GGRF;

   c) Moneys from noncompliance penalties assessed by CPUC, CEC, or Air Resources Board;

   d) Interest earned;

   e) Any properties or securities acquired through the use of moneys belonging to the Trust and all earnings of those properties or securities; and,

   f) All other moneys received from any other source.

6) Requires the Authority to administer the Trust for the benefit of electricity customers and to promote affordable electricity rates. Authorizes CPUC or CEC to assign additional duties and responsibilities to the Authority.

7) Requires the Authority to submit annual and multiyear spending plans for review and approval to CPUC and CEC, as specified.

8) Specifies that disbursements from the Trust may be provided through:

    a) Direct credits on ratepayer bills;

    b) Direct rebates or incentives to market participants, technology vendors, technology installers, and end-use customers; and,

    c) Reimbursement of eligible costs incurred by a load-serving entity or local publicly owned electric utility in the form of matching funds.

9) Specifies that eligible costs that may be reimbursed by the Trust include, but are not limited to:

    a) Transportation electrification programs and incentives;

    b) Building electrification programs and incentives;

    c) Public purpose programs, including energy efficiency, research and development, and low-income customer discounts;

    d) Programs to promote equity and affordability for low-income customers;

    e) Wildfire mitigation efforts;

    f) Distributed energy resource incentives;

    g) Administrative and overhead costs associated with the Authority's operation; and,

    h) Any other purpose specified by the Legislature in an appropriation of funds.

10) Prohibits moneys in the Trust from being used for shareholder incentives or return on shareholder equity for an electrical corporation or administrative or overhead costs for a state agency.

11) Requires the CPUC and CEC to each review and accept, modify, or reject the annual and multiyear spending plans submitted by the Authority, approve the Authority's annual administrative and overhead costs, if those costs are reasonable, and regularly review the activities of the Authority to ensure the Trust is being operated efficiently for the purposes specified by the bill.

12) States legislative intent regarding the bill, including that the disbursement of funds from the Trust support:

    a) Stable and affordable electricity rates;

b) Decarbonization and clean energy initiatives;

c) Transportation and building electrification initiatives;

d) Distributed energy resource programs;

e) Public purpose programs, including energy efficiency programs, research and development, and low-income customer discounts;

f) Equity initiatives to assist electricity customers in disadvantaged communities; and,

g) Wildfire mitigation activities.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Electricity rates**. Utility costs are generally approved by the CPUC in general rate case proceedings. California utility bills have been increasing significantly over the last decade. Ratepayer-funded programs contribute to rate increases, including wildfire mitigation, grid hardening, transportation electrification, and decarbonization efforts.

   In February of 2021, researchers with the Energy Institute at Haas, University of California Berkeley prepared the report, *Designing Electricity Rates for An Equitable Energy Transition.* The report examined the causes behind California's high electricity prices, and offered pricing reforms that could potentially improve efficiency and equity. According to the report, California's high electric rates are roughly two to three times the costs it takes to produce electricity. This misalignment between price and costs may confuse many customers, as the costs imbedded in an electric bill grow more removed from the cost of delivering the electricity, and efforts by individual consumers to reduce consumption may have little effect on their billing. The researchers pointed to inequities in cost recovery between a household that did or did not adopt behind-the-meter solar panels, and also predicted wildfire mitigation expenses as major cause of price increases in the near future.

   The report demonstrated that lower- and average-income households increasingly bear a greater burden of the high fixed costs of delivering electricity. To address these inequities, the report notes that the state could directly support some of the measures currently embedded in utility rates. The report suggests that using revenue raised from sales or income taxes would be much more progressive than the current scheme of electricity pricing, ensuring that higher-income households pay a higher share of the costs.

2) **State programs**. The state has adopted a couple of programs to provide assistance to ratepayers. The CARE Program provides assistance to low-income residential IOU customers with annual household incomes no greater than 200% of federal poverty guidelines. Customers enrolled in the CARE Program receive a 30-35% discount on their electric bill and a 20% reduction on their gas bill.

   The FERA program provides assistance to low-income residential customers of the state's three largest IOUs whose household income ranges between 200% and 250% of the federal poverty guidelines, helping customers with incomes slightly above the CARE allowance.

FERA customers receive an 18% line-item discount applied to their bill, subject to specified guidelines.

The California Climate Credit provides a refund to ratepayers, regardless of income, on their gas and electric bills twice a year, generally in April and October. The credit is funded by cap-and-trade revenues (the GGRF).

3) **This bill**. According to the author, this bill is intended to ensure that California's electrification goals don't come at the expense of energy affordability. This bill establishes the Trust to promote affordable electricity rates through disbursements of direct bill credits to customers; direct rebates or incentives to vendors, installers, or end-use customers; or, through reimbursements of eligible costs incurred by load serving entities (LSEs) or publicly owned utilities (POUs).

   This bill establishes a nonprofit benefit corporation, the Authority, to receive funds (state budget, federal dollars, other non-ratepayer funding) for the Trust and to use those funds to reimburse utilities and their customers from specified expenses. This bill includes a broad list of possible utility-related activities that could be funded, such as wildfire mitigation, transportation electrification, and public purpose programs, among others, to help reduce electric bills. However, the bill may have unintended consequences. The bill does not ensure that Trust moneys used to reimburse LSEs or POUs for eligible costs result in reductions to customer bills. For reimbursements, the utility would either have already been authorized to bill ratepayers for eligible projects, or the utility would be conducting work that was not pre-authorized. This could result in the utility effectively being paid twice for the same expense, or potentially being reimbursed for expenses not yet determined reasonable.

   This bill proposes to use moneys from the General Fund, GGRF, federal moneys, etc. to fund the Trust. In some cases, this may be appropriate, but it is not clear that the use of GGRF moneys for purposes of the bill would be limited to the purposes specified for the GGRF – specifically, to reduce greenhouse gas emissions.

   Finally, this bill establishes the Authority as a nonprofit public benefit corporation, presumably to provide independence from state agencies, but the bill requires the CPUC and CEC to establish the Authority, adopt governing structures and rules, review all spending plans, and appoint initial officers and staff. The Legislature has appropriated significant funding for similar purposes to those identified by this bill, including ratepayer arrearage relief and funding public purpose programs with non-ratepayer funds. The Legislature has done so simply through its appropriation authority, without resorting to a quasi-public pass-through entity, to date. A new Authority may not be necessary to accomplish the goals of this bill.

4) **Author's statement**:

   > California's retail electricity rates have skyrocketed in recent years, driving average customer bills upwards and threatening the affordability of basic service. Higher electricity bills could undermine California's climate goals—households are less likely to adopt clean technologies such as zero-emission vehicles, electric heat pumps for space heating and hot water, and induction stoves if they can't afford the electricity needed to

support them. AB 2329 establishes the Climate Equity Trust Fund to ensure the state's electrification transition doesn't leave behind its most vulnerable residents.

5) **Double referral**. This bill was heard by the Assembly Utilities and Energy Committee on April 17th, and passed with a vote of 13-0.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Sacramento
California Environmental Voters
California Municipal Utilities Association
California State Association of Electrical Workers
Citizens Climate Lobby
Climate Action California
Coalition of California Utility Employees
Natural Resources Defense Council
Quitcarbon
Santa Cruz Climate Action Network
The Climate Center
The Climate Reality Project: Silicon Valley
Union of Concerned Scientists

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2401 (Ting) – As Amended April 9, 2024

SUBJECT: Clean Cars 4 All Program.

SUMMARY: Requires the implementing regulations for the Clean Cars 4 All Program (CC4A) to additionally ensure that, among other things, incentives provided under the program are available in all areas of the state and that, in those areas where a local air district has not elected to manage the distribution of incentives, the Air Resources Board (ARB) manages the distribution of incentives to eligible residents of those areas.

EXISTING LAW:

1) Requires 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 (HSC) 38500-38599.11)

2) Establishes the CC4A, administered by ARB, to focus on achieving reductions in the emissions of GHG, improvements in air quality, and benefits to low-income state residents through the replacement of high-polluter motor vehicles with cleaner and more efficient motor vehicles or a mobility option. Requires ARB to set specific, measurable goals for the replacement of passenger vehicles and light- and medium-duty trucks that are high polluters. (HSC 44124.5)

3) Establishes the Clean Vehicle Rebate Project (CVRP) at ARB to expand financing mechanisms, including, but not limited to, a loan or loan-loss reserve credit enhancement program to increase consumer access to zero-emission and near-zero-emission vehicle financing and leasing options that can help lower expenditures on transportation and prequalification or point-of-sale rebates or other methods to increase participation rates among low- and moderate-income consumers. (HSC 44274.9(e)(1)(2))

THIS BILL:

1) Requires ARB, when setting measureable goals for the replacement of passenger vehicles and light- and medium-duty trucks that are high polluters, to prioritize vehicle retirement in areas of the state that have the highest percentage of people residing in disadvantaged and low-income communities, the highest numbers of vehicles manufactured prior to 2004 or that are at least 20 years old, and the highest number of vehicles with poor fuel economy and the most vehicles miles traveled.

2) Requires ARB to update the guidelines for Clean Cars 4 All no later than July 1, 2026.

3) Requires the incentives provided under the CC4A to be available in all areas of the state. In those areas where a district has not elected to participate in the CC4A, to manage the distribution of incentives within its jurisdiction, the state board shall manage the distribution of incentives under the CC4A to eligible residents of those areas in accordance with the requirements of the CC4A. The state board shall not manage the distribution of incentives in the jurisdiction of a district if the district has elected to participate in the program to distribute incentives within its jurisdiction.

4) Requires the application process and procedures for delivering available funding for the Clean Cars 4 All Program to include specified performance metrics for evaluating funding delivery and program administration and implementation.

5) Requires ARB to establish triggers and procedures for reallocating funds from portions of the CC4A managed by districts or by ARB that have a surplus of funds to other portions of the CC4A managed by other districts or ARB that have exhausted program funding and have demonstrated a need.

6) Requires ARB to track and report all CC4A data at the census tract level to support eligibility criteria that offers increased incentives for residents of disadvantaged communities.

7) Requires ARB to track and report GHG emissions reductions per vehicle retired based on miles per gallon and the miles traveled under the registered owner.

8) Requires ARB, for the accounting applicable to the CC4A, to separately display the portions of the program managed by each participating district and requires ARB to include projections of available funds for each portion of the program.

9) Requires the program performance analysis to include an evaluation of the funding for targeted outreach in low-income or disadvantaged communities with the highest number of vehicles manufactured before 2004 or that are at least 20 years old that are driven most and have the poorest fuel economy, including whether the funding should be enhanced or modified to reach the goals.

10) Requires, from the moneys made available to ARB, ARB to strive to maintain continuous funding to each district participating in the CC4A.

11) Requires, in allocating funding under CC4A to districts participating in the program and to the portion of the program managed by ARB, ARB to consider, at a minimum, all of the following metrics:

    a) Total number and value of vouchers deployed.

    b) The following metrics for retired vehicles:

        i) High average annual vehicle miles traveled. Allows average annual vehicle miles traveled to be determined by methods, including, but not limited to, comparing the odometer reading on the vehicle registration to the current odometer reading. Options for determining the current odometer reading include, but are not limited to, a preinspection report from an authorized dismantler, a recent smog check reading or

repair shop invoice, or a sworn statement or photograph of the odometer, or both, submitted with the application.

ii) Low fuel economy of the vehicles.

iii) Older model year of the vehicles.

12) Strikes the requirement that ARB consider participants' zip codes as a metric in allocating CC4A funding to participating districts.

13) Authorizes ARB to use up to 5% of the moneys available in a fiscal year for the purpose of outreach in areas of the state where ARB manages the distribution of incentives.

14) Authorizes ARB to use more than 5%, but no more than 10%, of the moneys available for distribution in those areas is ARB finds that the allocation would further outreach programs.

15) Requires ARB to establish a means-based strategy to identify potential recipients of incentives under the CC4A who meet all of the following criteria:

a) A person living in the top decile of disadvantaged communities;

b) A person owning a vehicle manufactured before 2004 or a vehicle that is at least 20 years old;

c) A person owning a vehicle with poor fuel economy and a high number of average annual vehicle miles traveled; and,

d) A person from an underserved population.

16) Requires, as part of the means-based strategy, ARB to require an increased incentive to be provided under the CC4A to individuals who meet all of the criteria as compared to individuals who otherwise qualify for the CC4A, but do not meet all of the specified criteria.

17) Requires, in establishing the means-based strategy, ARB to coordinate with districts and local nonprofit and community organizations that have a strong and ongoing local presence in areas within a particular district.

18) Requires a participating district, and ARB with respect to the areas where it manages the distribution of incentives, to implement the means-based strategy and provide increased incentives.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> With the retirement of CVRP, California's Clean Cars 4 All serves as the state's flagship vehicle incentive program designed to help low-income drivers access zero emission vehicles (ZEVs) and retire old, polluting vehicles from the roads. The successful Clean Cars 4 All program has recently been expanded statewide

and intends to reduce greenhouse gas emissions as efficiently and equitably as possible. To accomplish this goal, the state must maximize its investments to reduce gasoline consumption, especially among lower-income consumers who cannot afford to live near their workplaces and spend large portions of their income on fuel for long distance commutes. AB 2401 will improve ZEV equity and air quality by codifying the expanded Clean Cars 4 All program, requiring vehicle data collection to allow for more targeted outreach to the lowest-income Californians, and increasing incentive amounts for the lowest income, highest mileage drivers.

2) **Transportation GHG reduction goals**. California has some of the most ambitious GHG reduction goals in the nation, which include goals to reduce petroleum use in California up to 50% from 2015 levels by 2030, phase out passenger combustion-engine cars by 2035, and reduce GHG emissions 85% below 1990 levels by 2045. The transportation sector represents about 40% of California's total GHG emissions portfolio, and replacing traditional gas-powered cars with ZEVs is a significant part of California's effort to reduce climate emissions. ARB's 2022 Scoping Plan explains that to meet the overall state goal of carbon neutrality by 2045, vehicles must transition to zero emission technology. Governor Newsom's ZEV Executive Order N-79-20 set the following ZEV targets for California: 100% of in-state sales of new passenger cars and light-duty trucks will be zero emission by 2035; 100% zero-emission medium and heavy-duty vehicles in the state by 2045, where feasible, and by 2035 for drayage trucks; and, 100% zero-emission off-road vehicles and equipment operations by 2035, where feasible.

   As of today, more than 1.6 million ZEVs are on Californians roads – two years ahead of schedule – and 1 out of every 4 cars sold in California is zero emission.

3) **Clean Cars 4 All eligibility**. CC4A provides incentives up to $9,500 per vehicle through California Climate Investments to help lower-income California drivers scrap their older, high-polluting cars and replace them with zero- or near-zero emission replacements. Through the support of CC4A, as well as CVRP and the Clean Vehicle Assistance Program, as of November 2022, more than one million plug-in electric cars, pickup trucks, sport utility vehicles (SUV), and motorcycles have been sold in California. The data also show that California, with only 10% of the nation's cars, now accounts for more than 40% of all ZEVs in the country. In fact, a recent study shows that more than 50% of ZEV purchasers would not have purchased a ZEV without a rebate.

   Eligible applicants must fall below 300% of the Federal Poverty Level ($83,250 for a family of four). The average vehicle retired is about 22 years old with an estimated fuel economy of 21.5 miles per gallon. The average replacement vehicle has a fuel economy of 80 miles per gallon equivalent.

   AB 2401 requires ARB to collect additional data and use it to establish a needs-based approach to identify and target outreach and incentives to low-income, high-mileage drivers with older, high-polluting vehicles.

   The sponsors of this bill, including Valley Clean Air Now, cite *Cleaner Cars, Cleaner Air*, a report that studied how old cars negatively impact air quality in California, as background for the need for these changes. The study notes that despite making up only 19% of the vehicles

in the state, pre-2004 vehicles emit three times as much smog-forming nitrogen oxides as compared to all 2004 and later vehicles combined. The study further confirmed that communities with the highest exposure to pollution from pre-2004 vehicles are home to higher percentages of people of color. To reduce inequitable exposure to pollution, the report concluded that the state should prioritize incentives and target outreach and education toward priority populations owning pre-2004 vehicles and living in areas with high concentrations of older vehicles.

According to ARB, under the current program, the average vehicle retirement age is 1999. Looking at the average vehicle age of retirement for each air district, 11,628 out of 13,335 vehicles (87.20%) were model year 2004 or older, and 13,217 out of 13,335 (99.12%) were model year 2009 or older. While eliminating the drivers with slightly less old vehicles (model year 2005 or newer) ineligible from the program precludes opportunities to replace a polluting vehicle with a ZEV, 2004 and older vehicles have substantially worse emissions controls than a newer vehicles, and as time progresses, more vehicles will be captured by the 20 year or older piece.

4) **CC4A administration**. CC4A is currently administered in the five largest air districts in California: South Coast Air Quality Management District (AQMD), San Joaquin Valley Air Pollution Control District (APCD), Bar Area AQMD, Sacramento Metropolitan AQMD, and upcoming program in San Diego APCD.

   In addition to district administered programs, ARB is expanding the program to reach communities that have not been reached by district programs that would include rural, tribal, and low-income communities and other populations. The district programs will expand to all areas of their respective jurisdiction with the single third-party administrator serving all other areas of California.

   AB 2401 would codify the statewide expansion and require ARB to distribute incentives to eligible residents in areas where an air district has not elected to participate in CC4A.

5) **CC4A funding**. ARB's Fiscal Year 2023-2024 Funding Plan for Clean Transportation Incentives (Funding Plan) includes $28 million to the CC4A statewide program.

   In the Funding Plan, ARB staff recommended splitting the allocation evenly between the statewide project and the district projects. If demand for funding for the statewide project is lower than $14 million, then ARB staff proposed that funds can be shifted to meet demand for the Financing Assistance for Lower Income Consumers project.

   As a baseline allocation, each district will be given 10%, or $1.4 million, of the total allocation. The three districts that have achieved 1,000 projects in any 12-month period (South Coast AQMD, San Joaquin Valley APCD, and Bay Area AQMD) will receive another 10% of the total allocation. The remaining 20%, or $5.6 million, will be split among those same three districts based on their average share of the following populations: total eligible population, the population of individuals below 200% of the Federal Poverty Level, disadvantaged community population, and the population of vehicles with model years from 1990 to 2007. ARB staff used CalEnviroscreen 4.0 to determine disadvantaged populations of each district, and data from the California Department of Motor Vehicles (DMV) to determine the vehicle populations (vehicles with model years from 1990 to 2007).

This bill requires ARB to strive to maintain continuous funding to each district participating in CC4A, which is consistent with ARB's staff proposal, and it requires ARB to establish triggers and procedures for reallocating funds from portions of CC4A managed by districts or ARB that have a surplus of funds to other districts or ARB that have exhausted program funding and have demonstrated a need. The author's intent is to maintain flexibility for ARB to manage funds allocated by the Legislature for this incentive program while maintaining funding, to the greatest extent possible, for the air districts who are running a CC4A program.

6) **Double referral**. This bill was heard in the Assembly Transportation Committee on April 15 and approved by a vote of 15-0.

7) **Related legislation**:

AB 1267 (Ting) 2023 would have to required ARB to ensure that beginning January 1, 2025, an additional incentive is awarded under a ZEV incentive program to a recipient who is a gasoline superuser, as defined. This bill was held in the Assembly Appropriations Committee.

AB 2816 (Ting) 2022 would have required ARB to award incentives for passenger ZEVs based on the amount of gasoline or diesel the applicant's vehicle consumed. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Conejo / San Fernando Valley
350 Humboldt: Grass Roots Climate Action
350 Sacramento
Active San Gabriel Valley
California Environmental Voters
California Environmental Voters
California New Car Dealers Association
Chargepoint, INC
Citizens Climate Lobby
Climate Action California
Coalition for Clean Air
Coltura
Democrats of Rossmoor
Ecology Action
Environment California
Friends Committee on Legislation of California
Greenlatinos
Greenlining Institute; the
Lutheran Office of Public Policy - California
National Resources Defense Council
Recolte Energy
Santa Cruz Climate Action Network

Sierra Club California
Silicon Valley Youth Climate Action
Sustainable Mill Valley
Sustainable Rossmoor
The Climate Center
The Greenlining Institute
Transformative Wealth Management LLC
Transportation Agency for Monterey County (TAMC)
Union of Concerned Scientists
Valley Clean Air Now
Voices for Progress
Vote Solar
Zero-waste People Power

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2537 (Addis) – As Amended April 10, 2024

SUBJECT: Energy: offshore wind energy development: Offshore Wind Community Capacity Building Fund Grant Program.

SUMMARY: Establishes Offshore Wind Community Capacity Building Fund Grant Program (Program) at the State Energy Resources Conservation and Development Commission (CEC) to award grants for the purpose of building capacity within local communities and tribal communities to engage in the process of offshore wind energy development.

EXISTING LAW:

1) Establishes 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 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 (PRC) 25991)

3) Establishes the Voluntary Offshore Wind and Coastal Resources Protection Program (Voluntary Program) and Voluntary Offshore Wind and Coastal Resources Protection Fund (Voluntary Fund), administered by the CEC to support state activities that complement and are in furtherance of federal laws related to the development of offshore wind facilities. Requires the CEC to award and allocate moneys under the Voluntary Program for various purposes. Authorizes the CEC to accept federal and private funding for the purposes of the Voluntary Program. (PRC 25992.10 and 25992.20)

4) Requires, if the California Public Utilities Commission (CPUC) requests the Department of Water Resources (DWR) to procure eligible energy resources, and DWR elects to exercise its central procurement function to conduct one or more competitive solicitations or enter into contracts for eligible energy resources, as provided, the CPUC, in consultation with DWR, to develop and adopt procedures and requirements that govern competitive procurement by, obligations on, and recovery of costs incurred by DWR relating to bids for the development of eligible energy resources. (Water Code 80820)

THIS BILL:

1) Defines the following terms for purposes of the bill:

   a) "Fund" means the Community Capacity Building Fund (Fund).

b) "Program" means the Offshore Wind Community Capacity Building Fund Grant Program (Program).

2) Establishes the Fund in the State Treasury.

3) Authorizes moneys in the Fund to be used, upon appropriation by the Legislature, by the CEC to establish the Program to award grants for the purpose of building capacity within local communities and tribal communities to engage in the process of offshore wind energy development, including, but not limited to, activities related to consultation, participation in project planning and development, programs connecting members of tribal nations and underrepresented communities to careers in science, technology, engineering, math, and the implementation of local and tribal benefit agreements.

4) Prohibits moneys in the Fund from being used to fulfill the purposes of financial commitments made to fulfill a lessee's bidding credits in a bureau lease sale auction.

5) Requires entities eligible for a grant from the Fund to include, but not be limited to, all of the following entities:

a) Local communities located within unspecified miles of the geographic center of a lease tract of applicable proposed or existing offshore wind energy developments, rural communities, coastal zone communities, disadvantaged communities, and low-income communities.

b) California tribes, including federally recognized tribes or California Native American tribes, identified on the contact list maintained by the Native American Heritage Commission.

c) Nonprofit organizations that represent the interests of local communities or California tribes in relation to offshore wind energy development, if the organization meets all of the following criteria:

i) Is recognized by the federal government as a 501(c) or 521(a) nonprofit entity pursuant to the Internal Revenue Code;

ii) Is registered and certified as a nonprofit organization by the State of California; and,

iii) Is not on the list of organizations for which the tax-exempt status is revoked that is published and maintained by the Franchise Tax Board.

6) Requires the CEC to establish a grant application process for the Program.

7) Requires the grant application process to ensure that the allocation of grant moneys is done in an equitable manner that takes into account the needs and capacities of the communities, tribes, and organizations that apply for those grants.

8) Requires the CEC, in consultation with local communities, tribes, and other relevant stakeholders to develop guidelines for the use of grant moneys awarded from the Fund. Requires the guidelines to be subject to review and amendment every three years.

9) Requires the CEC to prepare and submit an annual report to the Legislature, in accordance with Section 9795 of the Government Code, on the implementation and effectiveness of the program. Requires the report to include, but not be limited to, the total amount of grant moneys awarded by the Program, a description of the activities funded by the Program, and an assessment of the impact of the Program on the capacity of local communities and tribes to engage in offshore wind energy development.

10) Requires DWR to consider the bidder's impact on the Fund when evaluating the bids received through a solicitation for eligible energy resources.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> AB 2537 will establish the Local and Tribal Communities Offshore Wind Capacity Building Fund, which will enhance the ability of tribes and local communities to actively participate in the offshore wind development process, including project planning and development. This will empower local governments and tribes to engage in the next chapter of California's renewable energy leadership.

2) **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. 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 gigawatts (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.

3) **California Tribes impacted by offshore wind.** Many California Native American tribes and peoples have connections to the Pacific Ocean, the coast, and marine habitats and species. Each California Native American tribe has its own perspective, concerns, and priorities regarding offshore wind. Many tribal members depend on local fishing and harvesting of sea life for cultural, subsistence, and commercial needs, and have concerns about the potential

impact on their ability to feed their families and loss of income from commercial fishing. On the North Coast, tribes expressed significant concern about the impacts on the population and migration patterns of the already endangered salmon.

There are five existing offshore wind leases in California: two in northern California off Humboldt County, and three in Central California near Morro Bay. In Humboldt, there are three federally-recognized Tribes near the offshore wind lease site: the Yurok, the Wiyot, and the Mattole. Morro Bay and Diablo Canyon are ancestral lands of cultural, ceremonial, and spiritual importance to the Santa Ynez Band of Chumash Indians Tribe, and the Gabrieleño are nearby on the Santa Barbara coastline.

Tribes are seeking a direct role in the decision-making process throughout the planning, permitting, operation, and decommissioning of offshore wind operations and associated infrastructure for offshore wind development. The CEC's AB 525 strategic plan identifies and proposes strategies for potential impacts to Native American and Indigenous peoples.

Strategies for addressing impacts to California Native American tribes could include conducting meaningful consultation with tribal representatives, supporting the establishment of strong, legally binding tribal community benefits agreements, continuing to study impacts on tribes including exploring public safety measures to reduce violent crime and sexual and gender-based violence against California tribes and other vulnerable populations, and collaborating with tribes on avoidance, mitigation, and co-management opportunities.

4) **Communities impacted by offshore wind.** Offshore wind development can provide a variety of benefits to local communities, including tax revenues, supply chain and manufacturing activities, and job creation. It can also lead to concerning impacts, such as changes in the local workforce, increased construction traffic, and changes to the environment valued by the nearby communities. Establishing a standardized process with funding to build capacity with local jurisdictions impacted by offshore wind could complement existing efforts directly targeted at job skilled training and port development.

5) **Offshore Wind Community Capacity Building Fund Grant Program**. This bill creates the Program at the CEC for purposes of providing grants to build capacity within local communities and tribal communities to engage in the process of offshore wind energy development. Capacity building could include activities related to consultation, participation in project planning and development, programs connecting members of tribal nations and underrepresented communities to careers in science, technology, engineering, math, and the implementation of local and tribal benefit agreements.

   Grants could be awarded to local communities near the geographic center of an offshore wind energy lease tract, rural communities, coastal zone communities, disadvantaged communities, and low-income communities; California Native American tribes, and nonprofits that represent the interests of local communities or California tribes in relation to offshore wind energy development.

   As it relates to local governments, the bill includes "local communities located within ____ miles of the geographic center of a lease tract of applicable proposed or existing offshore wind energy developments." The offshore wind turbines will be up to 10 miles offshore, so

referencing the center point of the lease tract as it relates to defining eligible grant recipients should be reevaluated.

6) **Funding the Fund.** The Program would be supported by the Fund created in the bill, but the bill does not specify how the Fund would be funded.

   The Fund is linked to an existing law that requires the CPUC to adopt procedures that govern competitive procurement by, obligations on, and recovery of costs incurred by DWR relating to bids for the development of eligible energy resources. Under that law, evaluating the bids received through a solicitation, DWR must consider a project's viability, the useful life of a project, and the capability to supply energy, among others. This bill would require DWR to additionally consider the bidder's impact on the Fund, thus making any deposits into the Fund both voluntary and just a single (non-prioritized) consideration made by DWR when procuring renewable energy. There is nothing in that law, or proposed by this law, directly connecting DWR's renewable energy procurement to offshore wind.

   The Voluntary Program is an existing grant program at CEC that supports state activities that complement and are in furtherance of federal laws related to the development of offshore wind facilities. The CEC provides grants to public and private entities, including state agencies, tribal entities, local governmental agencies, research institutions, and nonprofit entities. The CEC can accept federal and private sector money for the Voluntary Program; the Voluntary Fund is funded with federal dollars, and the Private Donations Account (Account) within the Voluntary Fund can accept private donations. As of March 19, no donations or other deposits have been made into the Voluntary Fund or the Account and the balances of each are zero. However, it is still early in the process, and federal dollars are likely coming down the pike to support the current offshore wind leases approved off California.

   The author may wish to consider providing financial assistance for capacity building to local communities or tribes either directly, through a nonprofit, as defined currently in the bill, or by providing money from the existing Voluntary Fund.

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

8) **Related legislation**:

   AB 80 (Addis) requires the Ocean Protection Council to establish and oversee, in coordination with other state agencies, a West Coast Offshore Wind Science Entity. This bill is in the Senate Appropriations Committee.

   AB 2212 (Lowenthal) enacts the Offshore Wind Workforce Safety Training Facility Development Act and requires the CEC to oversee the allocation and use of funds allocated for the development of training facilities and to develop standardized training curricula tailored to the specific needs of the offshore wind industry. This bill is referred to the Assembly Natural Resources Committee.

   SB 286 (McGuire), Chapter, 386, Statutes of 2023, established the California Offshore Wind Energy Fisheries Working Group to address offshore wind project impacts to certain fisheries and other interests, including providing for compensation to those affected, among other things.

AB 209 (Committee on Budget), Chapter 251, Statutes of 2022, among its many energy-related provisions, established the Voluntary Offshore Wind and Coastal Resources Protection Program.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Humboldt: Grass Roots Climate Action
350 Sacramento
Brightline Defense Project
City of Morro Bay
Climate Action California

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2560 (Alvarez) – As Introduced February 14, 2024

SUBJECT: Density Bonus Law: California Coastal Act of 1976

SUMMARY: Provides that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law (DBL) be permitted notwithstanding the California Coastal Act of 1976 (Coastal Act).

EXISTING LAW:

1) States the intent of the Legislature to address the holding and dicta in Kalnel Gardens, LLC v. City of Los Angeles (2016) 3 Cal.App.5th 927 regarding the relationship between the DBL and the Coastal Act of 1976. The Legislature's intent is that the two statutes be harmonized so as to achieve the goal of increasing the supply of affordable housing in the coastal zone while also protecting coastal resources and coastal access.

2) Pursuant to the DBL:

   a) Requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct specified percentages of units for lower income households or very low income households, and meets other requirements. (Government Code (Gov Code) 65915 (b)(1))

   b) Provides that the DBL does not supersede or in any way alter or lessen the effect or application of the Coastal Act, and requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the DBL be permitted in a manner consistent with the Coastal Act. (Gov Code 65915 (m))

   c) Requires the review of a housing element for jurisdictions located within a coastal zone to provide an additional analysis of units constructed, demolished and replaced within three miles of a coastal zone to ensure the affordable housing stock with the coastal zone is being protected and provided. (Gov Code 65588 (d))

3) Pursuant to the Coastal Act:

   a) Regulates development in the coastal zone and requires a new development to comply with specified requirements. (Public Resources Code (PRC) 30000)

   b) 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)

c) Defines "development" to mean, among other things, the placement or erection of any solid material or structure on land or in water. "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (PRC 30106)

d) Provides that the scenic and visual qualities of coastal areas must be considered and protected as a resource of public importance. Permitted development must be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government must be subordinate to the character of its setting. (PRC 30251)

e) Requires all new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard; assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs; be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development; minimize energy consumption and vehicle miles traveled; and, where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. (PRC 30253 (f))

f) Provides that the Legislature finds and declares that it is important for the California Coastal Commission (Commission) to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low- and moderate-income in the coastal zone. (PRC 30604 (g))

FISCAL EFFECT: Non-fiscal

COMMENTS:

1) **Author's statement**:

> The Coastal Zone is one of the most expensive housing markets in the country, rendering it unaffordable for the vast majority of Californians, including service workers who make the coastal economy possible. The ballooning housing costs is a direct result of not building enough housing to meet the demand.
>
> As a state program that has proven successful in creating more market rate and affordable housing across the state, Density Bonus Law serves as an important tool to resolve the severe housing shortage in our coastal areas. Density Bonus Law only applies in areas already zoned residential and allows developers to build additional units above the zoned amount in exchange for a certain percentage of income-restricted units. This ensures areas already zoned for housing are building

more units than they would have otherwise while also dedicating a portion of them for moderate, low, and very-low income earners.

2) **Density Bonus Law**. California, like much of the country, is in the midst of a housing crisis that continues to exacerbate existing inequities. The median price for a single-family home in California in 2021 was $786,750, which less than a quarter of households could afford to purchase. Options for affordable rentals are similarly limited. California ranks in the top seven states in the country for inadequate affordable housing stock, and more than half of the state's renter households were cost burdened in 2019, meaning that they spent more than 30% of their household income on rent.

California state law recognizes that local governments play a vital role in developing affordable housing and requires each community's fair share of housing to be determined through a mandated regional housing needs allocation. In 1969, the state mandated that all California cities, towns, and counties to plan for the housing needs of its residents, regardless of income. California's DBL was enacted in 1979 to provide housing developers tools to encourage the development of much needed affordable and senior housing. The DBL achieves this objective by allowing developers to exceed the normal density restrictions when they meet certain criteria. Cities and counties are required to grant a "density bonus," which is an exceedance of the otherwise allowable project density, if a housing project would include affordable units for one or more of these demographics. The amount of the density bonus is codified as a sliding scale based on the percentage of affordable units provided and the demographics targeted. The law also allows for a 100% density bonus for residential developments that are 100% affordable. The Legislature continues to refine the DBL, providing additional flexibility to developers in meeting requirements for a density bonus.

According to the Commission, many local jurisdictions in the coastal zone have already adopted inclusionary housing ordinances separate from DBL. Inclusionary housing ordinances generally require that any new multi-unit residential project include a certain percentage of affordable units, with no density bonus or other development standard exception granted in return. Such requirements frequently range from 15% to 20%, and are typically framed in terms of providing such units on-site, contributing a fee to allow for the construction of such units off-site, or some combination thereof. Inclusionary housing ordinances are not insulated from DBL. In jurisdictions where an inclusionary housing ordinance has stronger requirements than the DBL, a developer is not required to propose any additional affordable units in order to receive the multitude of exceptions afforded by the DBL.

The policies of the Coastal Act establish development standards intended to protect coastal resources. Where the DBL allows development projects to exceed these development standards, the Coastal Act and DBL conflict with one another, potentially significantly. Current law in the DBL (Gov. Code 65915 (m)) seeks to avoid these conflicts and harmonize the two laws by stating that the DBL does not supersede or in any way alter or lessen the effect or application of the Coastal Act, and requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the DBL be permitted in a manner consistent with the Coastal Act.

AB 2560 proposes to repeal that provision and instead require any density bonus, concession, incentive, waiver or reduction of development standards, and parking ratios to

which an applicant is entitled under the DBL to be permitted regardless of compliance with the Coastal Act.

3) **Housing development in the coastal zone**. The Commission administers the Coastal Act and regulates proposed development along the coast and in nearby areas. Generally, any development activity in the coastal zone requires a coastal development permit (CDP) from the Commission or local government with a certified local coastal plan (LCP). Eighty-five percent of the coastal zone is currently governed by LCPs drafted by cities and counties, and certified by the Commission. In these certified jurisdictions, local governments issue CDPs with detailed planning and design standards. There are 14 jurisdictions without LCPs – also known as "uncertified" jurisdictions – where the Commission is still the permitting authority for CDPs. The width of the coastal zone varies, but it 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 original Coastal Act of 1976 included PRC 30213 of the Coastal Act, which stated:

   > *Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided.*

   The definition of low- and moderate-income households was anyone earning up to 120% of the median income, which included about 2/3 of California households at the time. In the first five years of the Coastal Act, the Commission successfully required the construction of more than 5,000 affordable, deed-restricted, owner-occupancy and rental units in high-priced areas such as Laguna Nigel, San Clemente, and Dana Point. It also collected about $2 million in in-lieu fees for additional housing opportunities throughout the state.

   Over time, however, many local governments objected to the loss of local control and stated that the Coastal Act's housing policies were preventing them from preparing LCPs. Subsequently, in 1981, the Legislature adopted the Mello Act [SB 626 (Mello) Chapter 1007, Statutes of 1981] to remove the housing polices out of the Coastal Act and by providing that "*No local coastal program shall be required to include housing policies and programs."* (PRC 30500.1) That legislation allowed any developer who had not yet completed a coastal housing project to require the Commission to remove the affordable requirements from the permit and prohibited the Commission from requiring local governments to include affordable housing in their LCPs. As a result, affordable housing development waned in the coastal zone.

   Despite this, the Commission has maintained its mandate to protect the coast and, as of 2019, had approved more than 90% of all development applications. The Coastal Act requires the Commission to encourage housing opportunities for persons of low and moderate income. It further prohibits, in reviewing residential development applications for low- and moderate-income housing, the issuing local agency, or the Commission on appeal, from requiring measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional permitted density.

The Commission states that it has never denied a single affordable housing project in its history. Furthermore, permit review doesn't appear to be a roadblock to development. In terms of affordable housing project application turnaround times, permits are subject to the Permit Streamlining Act, thus the Commission must comply with those deadlines. The Commission also finds 'No Substantial Issue' on most of the appeals received, and turns permit applications around in 49 days.

4) **So, what is the problem?** In 2013, City of Los Angeles planning officials approved a residential development in the Venice area that was ultimately challenged in court over the proposed height, density, setbacks, and other visual and physical characteristics and the compatibility with the Coastal Act. The Court found that a proposed project in the coastal zone must be consistent with the Coastal Act and any applicable LCP adopted pursuant to the Coastal Act before proceeding with development entitlements. The court noted that "the Legislature appears to have struck a balance" between the Act and DBL "by requiring local agencies to grant density bonuses unless doing so would violate the [Coastal Act]."[Kalnel Gardens, LLC v. City of Los Angeles (3 Cal.App.5th 927 (2016))]

   Subsection (m) of Section 65915—the focus of this bill—requires the DBL and the Coastal Act to coexist without the DBL superseding the Coastal Act. The Legislature affirmed this requirement in AB 2797 (Bloom) Chapter 904, Statutes of 2018. Under subsection (m), a developer is entitled to all the incentives provided by DBL (e.g., the density bonus, various designs incentives/concessions), but the developer must integrate the incentives into the project design in a way that is also consistent with the Coastal Act. In this context, consistency with the Coastal Act means, in most instances, meeting the standards in a local government's LCP, since local governments are doing the vast majority of the permitting.

   There is nothing about the Coastal Act that preempts or stymies developers designing their project to avoid or, if necessary, minimize inconsistencies between DBL and the requirements of an LCP. That said, there is a subset of density bonus projects where harmonization can be tough, sometimes due to an unavoidable inconsistency between a certain DBL incentive and an LCP standard. Lack of objective standards can create confusion and delays.

   Some coastal jurisdictions have prepared for these situations by adding a harmonization provision to their LCP. This provision basically brings the concept of subsection (m) into the LCP and says projects should harmonize the two statutes, and if there are unavoidable inconsistencies, they should be minimized. As an example, the City of Santa Cruz's LCP reads:

   1. State DBL provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976.

   2. For development within the coastal zone, the requested density bonus and any requested incentive, concession, waiver, modification, modified parking standard, or commercial development bonus shall be consistent with state density bonus criteria. All applicable requirements of the certified Santa Cruz local coastal program shall be met (including but not limited to sensitive habitat, agriculture, public viewshed, public recreational access, and open space), with

the exception of the numeric standards changed through state density bonus provisions.

In jurisdictions that don't have a harmonization provision in their LCP, density bonus projects run a greater risk of being denied locally and appealed to the Commission because the local government may identify an unavoidable inconsistency and deny the project, or project opponents may use the inconsistency to appeal the project. In actuality, appeals of local projects to the Commission are relatively few—just 6% of local permits in 2023. If all local governments in the coastal zone were required to have a harmonization provision in their LCP, the number of density bonus projects that get appealed to the Commission could be potentially be substantially minimized.

5) **Costs associated with coastal development**. The Coastal Act guides how the land along the coast of California is developed, or protected from development, and it emphasizes the importance of public access to 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 law calls for orderly, balanced development, consistent with state coastal priorities and taking into account the rights of property owners. The coastal zone represents only 1% of California's landmass. The Coastal Act exists to provide additional protections for this resource because it is unique, irreplaceable, relied on by various sources of income, and utilized for myriad recreational activities.

   The added layers of review when developing in the coastal zone does add both time and cost to a project. According to the Department on Housing and Community Development (HCD), statewide affordable housing shortfall is more acute in the Coastal Zone. HCD notes that coastal areas cost 30% more, and housing in the coastal zone has higher cost burden as a result of lack of affordable housing. The HCD sets housing need at the state level based on population growth and pent-up demand based on vacancy rates, high cost burden (percentage of income spent on housing), lack of affordability, and homelessness. High cost burden creates lack of home ownership (i.e., it's too expensive to save for a down payment) and makes it harder to experience economic shocks (i.e., medical expenses, car breaking down, etc.). HCD finds that the Coastal Act raises the price and rental income of multifamily housing units located within the Coastal Zone. The total effect of regulation on prices, an increase of 13–21%, results from local benefits generated from restrictions on immediate neighbors and from amenities operating at a larger spatial scale.

   It is worth noting that there are financial benefits to developers that result from the regulation of properties within the Coastal Zone. For example, development restrictions that reduce congestion and loss of open space provide benefits to all property owners within the Coastal Zone and increases property values. Andrew Planting, a Bren School professor of natural resource economics and policy, decided to investigate how the Coastal Act has impacted property values in the coastal zone by comparing them to nearby properties just outside the designated areas. Using price and rental income data for apartments and condominiums in Southern California, Planting's team found that the regulation increased the value of properties within the coastal zone by 18 to 25%.

6) **Developing in the Coastal Zone does work.** At the Commission's March 15 meeting, the Commission unanimously approved the City of Morro Bay's complete update of its LCP Implementation Plan (IP). The IP specifies the protocols to provide for density bonuses and

alternative dwelling unit (ADU) lot splits, including encouraging such housing types while also ensuring that, for example, they are located outside of sensitive habitat areas or coastal hazard areas.

For density bonuses, the IP provides for a deviation from specific LCP provisions for projects that encourage housing opportunities for persons of low and moderate income when there will be no significant adverse coastal resource impact due to the approved project. To facilitate such housing and mixed-use, infill development opportunities, the IP includes a series of complementary multimodal transportation provision, including flexible parking standards. That includes specifying parking standards, and provisions to be flexible with such requirements. The IP's encouragement of various types of housing, including affordable housing, ADUs, two-home development, and multi-family units while ensuring that such housing is carried out in a manner protective of coastal resources, including away from eroding bluffs and sensitive habitats. The IP includes procedures to implement density bonuses for affordable housing so as to harmonize the State's density bonus law with the Coastal Act. The IP requires an application that seeks a density bonus in exchange for affordable housing to compare the LCP-consistent project to a project in which the size, scale, density, and other bonuses have been applied, with the goal of allowing the public and decisionmakers a clear understanding of any coastal resource and affordable housing costs and benefits. The City's proposed density bonus provisions are similar to other such provisions certified in recent LCPs, including in Santa Cruz County.

7) **Protecting the coastal zone**. A central tenet of the Commission and foundational pillar of the Coastal Act is equitable access to coastal resources. The Coastal Act, through CDPs, provides unique protections to the coastal zone that are separate and distinct from the California Environmental Quality Act. The Coastal Act includes consideration of the prevention of sprawling development, protection of views to and along the ocean and scenic coastal areas, and maintenance and enhancement of public access to the coast. Further, all new development is required to minimize risk to life and property in areas of high geologic, flood, and fire hazard; assure geologic stability; minimize energy consumption and vehicle miles travelled, and, where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

   As Mary Shallenberger, Coastal Commissioner from 2004-2017, wrote in 2019:

   > Relaxing development controls in the coastal zone isn't the answer because over-regulation was never the problem. The problem is there is little market-based incentive to build this type of housing to begin with, compounded by the fact that the Legislature stripped the regulatory authority from the agency that was doing more than any other to provide actual affordable units.

   The Commission's January 2022 report, *Report on the Historical Roots of Housing Inequity and Impacts on Coastal Zone Demographic Patterns*, explains that one thing that makes tackling the affordable housing shortage difficult are the myriad overlapping jurisdictional authorities and housing policies that apply to one particular area. Commission staff and other housing advocates would benefit from research on the various housing policies applicable to the coastal zone and how they interact with each other and the Coastal Act. These include the Mello Act of 1981 and subsequent Mello Act Ordinances, the DBL, the Housing

Accountability Act, Coastal Act and LCP policies on accessory dwelling units, the California H.O.M.E. Act, inclusionary zoning initiatives, and others. Understanding this ecosystem of policy and legislation is an important part of designing effective policy solutions that are compliant with existing law.

The author may wish to consider this recommendation, which could inform future legislation on this subject.

8) **This bill**. AB 2560 would provide the Coastal Act doesn't apply for permitting density bonuses, concessions, incentives, waivers or reductions of development standards, and parking ratios. By including the language "notwithstanding the Coastal Act," the bill null and voids coastal protections afforded to housing development in the coastal zone.

Last year, this committee heard AB 1287 (Alvarez), which proposed the same amendment to exempt the Coastal Act from the DBL. The committee approved the bill, with a vote of 10-0, with an amendment striking the amendments to subdivision (m) to maintain that provision of current law as it stands.

9) **Committee amendments**. The *Committee may wish to consider* amending the bill as follows:

(m) Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under this section shall be permitted notwithstanding the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) <u>if the development is not located on a site that is any of the following:</u>

<u>(1) An area of the coastal zone subject to paragraph (1), (2) or (3) of subdivision (a) of Section 30603 of the Public Resources Code.</u>
<u>(2) An area of the coastal zone that is not subject to a certified local coastal program.</u>
<u>(3) An area of the coastal zone that is vulnerable to five feet of sea level rise, as determined by the National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or a local government's coastal hazards vulnerability assessment.</u>
<u>(4) In a parcel within the coastal zone that is not zoned for multifamily housing.</u>
<u>(5) In a parcel in the coastal zone and located on either of the following:</u>
<u>(A) On, or within a 100-foot radius of, a wetland, as defined in Section 30121 of the Public Resources Code.</u>
<u>(B) On prime agricultural land, as defined in Sections 30113 and 30241 of the Public Resources Code</u>.

10) **Double referral**. This bill was heard in the Assembly Housing and Community Development Committee on April 10 and approved by a vote of 8-0.

11) **Relevant legislation**:

AB 2430 (Alvarez) amends the same code of law under the DBL to prohibit a city, county, or city and county from charging a monitoring fee, as defined, on specified types of housing developments if certain conditions are met. This bill was pulled by the author in the Assembly Housing and Community Development Committee.

SB 951 (Weiner) makes changes to the California Coastal Act and clarifies that LCP updates, for local governments in the coastal zone, shall be completed in the same timeframes as required in the housing element. This bill is referred to the Senate Appropriations Committee.

SB 1077 (Blakespear) requires, by an unspecified date, the Commission to develop and provide guidance for local governments to facilitate the preparation of amendments to an LCP to clarify and simplify the permitting process for accessory dwelling units and junior accessory dwelling units within the coastal zone. This bill is referred to the Senate Appropriations Committee.

SB 1092 (Blakespear) requires the Commission to perform a study on appeals of multifamily housing projects, as provided. This bill is referred to the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Abundant Housing LA
American Planning Association, California Chapter
Associated General Contractors
California Apartment Association
California Building Industry Association
California Community Builders
California Housing Partnership Corporation
California Yimby
Circulate San Diego
City of San Diego
Civicwell
Construction Employers' Association
East Bay for Everyone
East Bay Yimby
Greenbelt Alliance
Grow the Richmond
Housing Action Coalition
Housing Leadership Council of San Mateo County
How to Adu
Leadingage California
Monterey Bay Economic Partnership
Mountain View Yimby
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
San Francisco Bay Area Planning and Urban Research Association (SPUR)
San Francisco Yimby

San Luis Obispo Yimby
Santa Cruz Yimby
Santa Rosa Yimby
South Bay Yimby
Southside Forward
Spur
Streets for All
Streets for People
Urban Environmentalists
Ventura County Yimby
Yimby Action

Opposition

Azul
California Cities for Local Control
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
California Contract Cities Association
California Native Plant Society
California River Watch
Canyon Back Alliance
Center for Biological Diversity
Chiatri De Laguna Farm
Citizens Preserving Venice
Cleanearth4kids.org
Coastal San Pedro Neighborhood Council
Defenders of Wildlife
East Area Progressive Democrats
Endangered Habitats League
Environmental Defense Center
Environmental Action Committee of West Marin (EAC)
Environmental Center of San Diego
Environmental Defense Center
Forest Unlimited
Green Foothills
Livable Ventura, INC
Los Cerritos Wetlands Land Trust
Mission Street Neighbors
New Livable California
Newport Beach; City of
North Coast Rivers Alliance
Orange County Coastkeeper
Our City SF
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Puvunga Wetlands Protectors
Resource Renewal Institute
San Francisco Bay Physicians for Social Responsibility

Santa Clara Valley Audubon Society
Save the Sonoma Coast
Sierra Club California
Smith River Alliance
Save Lafayette
Socal 350 Climate Action
South Bay Cities Council of Governments
Surfrider Foundation
Watershed Alliance of Marin
West Sonoma County Alliance

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2572 (Muratsuchi) – As Amended March 21, 2024

SUBJECT: Ocean carbon dioxide removal projects

SUMMARY: Requires the Air Resources Board (ARB) to develop criteria to determine whether an ocean carbon dioxide removal (CDR) project is environmentally safe and sustainable, and to qualify environmentally safe and sustainable projects for inclusion in state carbon credit programs.

EXISTING LAW:

1) Requires ARB, pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to:

    a) Adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 40% below 1990 levels by 2030 and to 85% below 1990 levels by 2045.

    b) Authorizes ARB to adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit GHG emissions, applicable until December 31, 2030. Under this authority, ARB adopted a cap and trade regulation that applies to large industrial facilities and electricity generators emitting more than 25,000 metric tons of carbon dioxide (CO_2) equivalent per year, as well as distributors of fuels, including gasoline, diesel, and natural gas.

    c) Requires any reduction of GHG emissions used for compliance purposes to be real, permanent, quantifiable, verifiable, enforceable, and additional. (Health & Safety (HSC) Code 38500 *et seq.*)

2) Requires ARB to establish a Carbon Capture, Removal, Utilization, and Storage Program to, among other things, evaluate the efficacy, safety, and viability of carbon capture and storage and CDR technologies and facilitate the capture and sequestration of carbon dioxide from these technologies, where appropriate. (HSC 39741.1)

3) Establishes the Low Carbon Fuel Standard (LCFS) regulations to reduce the full fuel-cycle, carbon intensity of the transportation fuel pool used in California, pursuant to AB 32. (Title 17 California Code of Regulations 95480)

THIS BILL:

1) Requires ARB to do all of the following:

    a) Work with existing interagency working groups to include research on ocean CDR technology development and deployment in future scoping studies;

    b) Develop criteria to determine whether an ocean CDR project is environmentally safe and sustainable;

c) Qualify ocean CDR projects that are environmentally safe and sustainable for inclusion in carbon credit programs;

d) Coordinate with other state agencies to develop a single point of contact to coordinate and streamline the permitting of ocean CDR projects; and,

e) Cooperate with universities, companies, and others on workforce development, and coordinate with other state agencies with workforce training programs or business development programs to assist in the development of the skilled workforce needed to develop ocean CDR projects in California.

2) Requires ARB and any agency with a relevant financial incentive program, including, but not limited to, grants, tax credits, or other financial inducements, to consider an ocean CDR program to the extent the program achieves similar or better climate and environmental policy goals.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> The climate crisis is here and now. If we want to have any chance at saving our planet, we must do everything we can to reduce the warming effects of greenhouse gases. As our planet's largest carbon sink, our oceans can play a big part in helping us achieve our climate goals. However, there is a limit to how much carbon dioxide they can absorb until they reach their breaking point. If we can remove carbon dioxide from our oceans we can help it absorb more from the atmosphere and give us a fighting chance at keeping our planet below 2 degrees Celsius and avoid the worst effects of climate change.

2) **Oceans as carbon sink**. The ocean, covering 70% of Earth's surface, includes much of the global capacity for natural carbon sequestration, and great potential for uptake and long term sequestration of human produced CO_2 because, per unit volume, seawater holds nearly 150 times more CO_2 than air. According to the University of California, Davis, oceans currently absorb roughly 25% of the CO_2 emitted from anthropogenic activities annually. As atmospheric CO_2 levels increase, so do the CO_2 levels in the ocean. Scientific observations have measured ocean CO_2, increasing in proportion to the rise in atmospheric CO_2, but there may be a saturation limit. Scientists have observed clear regional deviations from this correlative pattern, suggesting that there is no guarantee that sequestration will remain as robust with time.

3) **Carbon capture and sequestration**. Carbon Capture and Storage (CCS, also sometimes referred to as carbon capture and sequestration) is the process of capturing CO_2 that is formed during combustion or industrial processes and putting it into long-term storage so that it is not emitted into the atmosphere. Once the CO_2 is captured, it may be compressed and chilled (depending on the storage situation), and transported to an appropriate storage site, usually by pipelines and/or ships and occasionally by trains or other vehicles. To store the

CO_2, it is injected into deep, underground geological formations, such as former oil and gas reservoirs, deep saline formations, and coal beds.

SB 905 (Caballero), Chapter 359, Statutes of 2022, requires ARB to establish a Carbon Capture, Removal, Utilization, and Storage Program to evaluate the efficacy, safety, and viability of carbon capture, utilization, or storage technologies and CDR technologies and facilitate the capture and sequestration of CO_2 from those technologies, where appropriate. ARB is required, by January 1, 2025, to adopt regulations creating a unified state permitting application for approval of CCUS and CDR projects. The projects covered under SB 905 would include those that capture CO_2 from point sources or from the atmosphere and permanently store it in specialized geologic formations, typically half a mile or more underground. SB 905 prohibits the transfer of CO_2 via pipeline until the U.S. Department of Transportation's Pipelines and Hazardous Materials Safety Administration completes its rulemaking to update existing CO_2 pipeline safety requirements, making CCS or CDR projects that would require a pipeline to transfer CO_2 currently on hold in California. SB 905 did not recognize ocean CDR as a covered technology.

Climate Change 2022: Mitigation of Climate Change, a report by the International Panel on Climate Change, states "[t]he deployment of CDR to counterbalance hard-to-abate residual emissions is unavoidable if net zero CO_2 or GHG emissions are to be achieved." ARB's AB 32 Scoping Plan, the state's roadmap for reducing GHGs and achieving carbon neutrality, acknowledges that to achieve carbon neutrality, mechanical CDR will need to be deployed. Mechanical CDR incudes direct air capture (DAC), a chemical scrubbing processes that capture CO_2 through absorption or adsorption separation processes; mineral carbonation, which involves rapid mineralization of CO_2 at the Earth's surface; and, others, that could include, but the Scoping Plan doesn't discuss, ocean CDR.

If CCS doesn't come to full fruition under SB 905 due to pipeline restrictions, ocean CDR may be a technology to assist in the effort to achieve the state's 2045 carbon neutrality goals.

4) **Ocean CDR technology.** The University of California, Los Angeles (UCLA) is behind a new technology company that is building a seawater CDR system that could be used off California pursuant to this bill. The company, Equatic, uses an electrolytic process developed by scientists at UCLA's Institute for Carbon Management. Seawater has contained dissolved inorganic carbon (DIC) for millions of years, and is in effect oversaturated with respect to calcium carbonate (as exemplified by the stability of sea shells). The Equatic process uses this fact to immobilize new and historic CO_2. The seawater flows through a mesh that allows an electrical charge to pass into the water, rendering it alkaline. This kicks off a set of chemical reactions that ultimately combines dissolved CO_2 with calcium and magnesium native to seawater, producing limestone and magnesite by a process similar to how seashells form. The seawater that flows out would then be depleted of dissolved CO_2 and ready to take up more. A co-product of the reaction, besides minerals, is hydrogen, which is a clean fuel.

   The technology is being demonstrated with two pilots, one at the Port of Los Angeles and one in Singapore. Each of these plants removes ~100 kilogram of CO_2 per day. Equatic has designed and built novel, two-chamber, flow-through electrolytic reactors and is validating and optimizing their performance with the two pilots. The pilots also verify that CO_2 is being effectively removed from the atmosphere.

The net extent of CO_2 removal accomplished by the Equatic process, and any others that may be considered, must be measurable, verifiable, reportable, additional, and durable. In addition, the potential for leakage, the environmental impact, and co-benefits must be considered.

Other ocean CDR technologies are also on the horizon. In October 2023, the U.S. Department of Energy announced $36 million from the Sensing Exports of Anthropogenic Carbon through Ocean Observation (SEA-CO2) program to advance marine CO_2 capture and storage technologies.

5) **Carbon credit programs.** This bill requires ARB to qualify ocean CDR projects that are environmentally safe and sustainable for inclusion in carbon credit programs. Doing so creates an incentive for these technologies as there are no state subsidies being granted to advance their research, development, and deployment.

   The ARB Scoping Plan acknowledges that while federal incentives for CDR provide some support for this technology, the only California program that recognizes this technology is the LCFS program.

   Pursuant to the AB 32 Scoping Plan, ARB identified the LCFS as one of the nine discrete early action measures to reduce GHGs The LCFS is designed to decrease the carbon intensity of California's transportation fuel pool and provide an increasing range of low-carbon and renewable alternatives, which reduce petroleum dependency and achieve air quality benefits. Under LCFS, projects that have generated ARB Compliance Offset Credits under the market-based compliance mechanism may apply to receive credits under the LCFS.

   Under AB 32, ARB adopted the cap-and-trade program as a market-based compliance mechanism to establish a declining limit on major sources of GHG emissions throughout California, and ARB creates allowances equal to the total amount of permissible GHG emissions (i.e., the "cap"). Each year, fewer allowances are created and the annual cap declines. Under the program, covered entities can invest in "offsets" – projects that sequester carbon in forests, flooded rice fields, biogas control systems for manure management on dairy cattle and swine farms, and others – to satisfy a small percentage of their overall compliance obligation. Any reduction of GHG emissions used for compliance purposes must be real, permanent, quantifiable, verifiable, enforceable, and additional.

   The author may wish to work with ARB to evaluate whether this is the most appropriate credit under the LCFS and AB 32 credit programs.

6) **Incorporating ocean CDR into existing state frameworks.** There is currently no single, comprehensive legal framework for ocean CDR research or deployment, either internationally or in the United States. International legal frameworks for the ocean, such as the U.N. Convention on the Law of the Sea and the London Convention and Protocol, predate the concept of ocean CO_2 removal. As a result, these frameworks are retroactively applied to these approaches, leading to differing interpretations and a lack of clarity in some cases. A report by the National Academies of Sciences, Engineering, and Medicine, *A Research Strategy for Ocean-based Carbon Dioxide Removal and Sequestration (2022),* notes that the multi-jurisdictional overlay of the ocean makes regulation of ocean CDR technologies difficult, but "developing a clear and consistent legal framework for ocean CDR

is essential to facilitate research and (if deemed appropriate) full-scale deployment, while also ensuring that projects are conducted in a safe and environmentally sound manner."

California has jurisdiction of the ocean up to three miles offshore. Should ARB identify ocean CDR projects that meet its criteria for being environmentally safe and sustainable, it could create a model framework for ocean carbon sequestration akin to the model framework for reducing GHGs under AB 32.

7) **Committee amendments**. The *Committee may wish to consider* cross referencing SB 905 in this bill to ensure this bill comports ARB's CCS program pursuant to that law, and make other technical amendments, as follows:

   a) HSC 39741.6 (a)(2): ~~Develop criteria to determine whether an ocean carbon dioxide removal project is environmentally safe and sustainable.~~ Consider how to include ocean carbon dioxide removal projects into the Carbon Capture, Removal, Utilization, and Storage Program, established pursuant to section 39741.1.

   b) HSC 39741.6 (b): The state board and any agency with a relevant financial incentive program, including, but not limited to, grants, tax credits, or other financial inducements, shall consider whether it is appropriate to make an ocean carbon dioxide removal program eligible for that financial incentive program, to the extent the ocean carbon dioxide removal program achieves similar or better climate and environmental policy goals.

REGISTERED SUPPORT / OPPOSITION:

Support

Altasea
Eco Equity
Equatic Tech INC

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2661 (Soria) – As Amended March 21, 2024

SUBJECT: Electricity: transmission facility planning: water districts

SUMMARY: Requires the Public Utilities Commission (PUC) to analyze the potential for 10,000 to 30,000 megawatts of additional solar electrical generation in the Central Valley, as specified. Authorizes the Westlands Water District to own, operate, and lease solar photovoltaic generation facilities, energy storage systems, and transmission lines.

EXISTING LAW:

1) The Renewables Portfolio Standard (RPS) requires utilities and other retail sellers of electricity to procure 60% of their retail electricity sales from eligible renewable energy resources by 2030 and thereafter, including interim targets of 33% by 2020, 44% by 2024, and 52% by 2027. (Public Utilities Code (PUC) 399.11 *et seq.*)

2) SB 100 establishes a policy that eligible renewable energy resources and zero-carbon electric generating facilities will supply all electricity procured to serve California customers by December 31, 2045, and directs the PUC, California Energy Commission (CEC), and Air Resources Board (ARB) to incorporate this policy into all relevant planning and programs. (PUC 454.53)

3) Requires the PUC to adopt a process for each Load Serving Entity (LSE) serving end-use customers in the state, to file an integrated resource plan (IRP) and schedule periodic updates to the plan to ensure that it meets, among other things, the state's targets for reducing emissions of greenhouse gases and the requirement to procure at least 60% of its electricity from eligible renewable energy resources by 2030. (PUC 454.52)

4) Requires that the IRP of each LSE contribute to a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy resources in a cost-effective manner, meets the emissions reduction targets for greenhouse gas emissions established by ARB for the electricity sector, and prevents cost shifting among LSEs. (PUC 454.54)

5) Establishes water districts and authorizes a district to construct, maintain, and operate plants for the generation of hydroelectric energy and transmission lines for the conveyance of the hydroelectric energy. (Water Code 31149.1)

THIS BILL, as proposed to be amended:

1) Requires the PUC, for purposes of the next IRP plan cycle after January 1, 2025, to perform a sensitivity analysis evaluating the potential for 10,000 to 30,000 megawatts of solar electrical generation located in the Central Valley beyond the amount of solar generation in the most recent IRP preferred system plan.

2) Requires the PUC to transmit this analysis to the ISO for evaluation as part of the next transmission planning process.

3) Authorizes Westlands to provide, generate, and deliver solar photovoltaic or hydroelectric electricity (including selling surplus electricity at wholesale), to construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for generating and delivering that electricity (e.g., transmission lines), and construct operate and maintain an energy storage system, as defined.

4) Makes related findings.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. The Central Valley includes parts of 19 counties, which together are home to more than 35,000 farms and nearly 6 million harvested acres. The Central Valley includes 8 of the top 10 agricultural counties in the state: Fresno, Kern, Tulare, Stanislaus, Merced, San Joaquin, Kings, and Madera. According to the United States Geological Survey (USGS), the Central Valley of California is recognized as a vital and diverse agricultural region by producing over 250 food crops valued at more than $17 billion annually. The USGS also estimates that the Valley produces 25% of the Nation's food, including 40% of the Nation's fruits, nuts, and other table foods. These farming activities demand vast amounts of water. It is estimated that Central Valley occupies 75% of California's irrigated land. Much of the water supply used for this irrigation comes from local groundwater resources. In recent years, climate change events such as extreme heat events, sustained droughts, and major flooding are threatening the growing agricultural economy.

   In January 2022, the California Independent System Operator (CAISO), in collaboration with the PUC and CEC, created a 20-Year Transmission Outlook to examine longer-term grid requirements. This study envisions over 25 GW of solar development and 14 GW of battery development in the lower Central Valley.

   As of 2019, there are over 3GW of solar projects in the Central Valley, and roughly half of this capacity was installed in the last five years. Solar development is expected to increase as the state strives to meet its 2045 renewable energy goals. Given that transmission capacity in the Central Valley is a limiting factor, solar project development has concentrated in areas where transmission already exists. Existing transmission is primarily located on the western side of the Valley and new solar projects will likely continue to cluster there in the absence of new approaches to planning and significant transmission investments in other parts of the Valley.

   Current law authorizes a water district to construct, maintain, and operate plants for the generation of hydropower energy and transmission lines for the transmission of the hydropower. Westlands Water District is the largest agricultural water district in the United States and provides water primarily to farms and rural communities on the west side of Fresno and Kings counties. Before Westlands began receiving Central Valley Project water, farmers on the west side of the San Joaquin Valley relied on groundwater pumping. This dependence led to severe overdrafts, widespread land subsidence and other environmental

damage. Drought conditions as well as environmental regulations have led the Bureau of Reclamation to reduce the amount of water it delivers to Westlands.

2) **Author's statement**:

> To combat the impacts of climate change, California has set ambitious goals to increase the use of clean energy – aiming to achieve 60% eligible renewable energy by 2030 and 100% zero carbon energy by 2045. To meet these goals, new renewable generation facilities and thousands of miles of new transmission lines are needed. The California Independent System Operator has already identified an opportunity to develop 30,000 megawatts of solar in the San Joaquin Valley.
>
> At the same time, changes in water supply due to the Sustainable Groundwater Management Act are projected to potentially lead to 500,000 and 900,000 acres of farmland being fallowed in the San Joaquin Valley alone. This fallowed farmland can be the key to expanding our solar generation and improving the state's transmission lines.
>
> Westlands Water District is in a unique position to identify suitable fallowed farmland in their service territory for conversion to solar generation and use this land to contribute to the state's renewable portfolio while making up for lost water supply revenues needed to continue serving their remaining water customers. Unfortunately, there is not enough transmission currently planned for the Central Valley to capitalize on this opportunity. AB 2661 will require the PUC to evaluate this potential new solar generation and gives Westlands Water District the authority to build, own, and operate transmission lines to connect this new generation to the grid.

3) **Double referral**. This bill was approved by Utilities and Energy Committee on April 17 by a vote of 16-0. Included in the Utilities and Energy Committee's action was a commitment to adopt proposed amendments in this committee, limiting the scope of the bill to the Westlands Water District and making other technical and clarifying changes.

REGISTERED SUPPORT / OPPOSITION:

Support

Agricultural Council of California
Agricultural Energy Consumers Association
California Avocados
California Citrus Mutual
California Cotton Ginners and Growers Association
California Manufacturers and Technology Association
California Walnuts
City of Avenal
City of Coalinga
Coalition of California Utility Employees
Golden State Clean Energy
Harris Farms
Regenerate California Innovation
Self-Help Enterprises

State Association of Electrical Workers
Western Agricultural Processors Association
Western Growers Association
Westlands Water District

Opposition

California Wind Energy Association (unless amended)

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2760 (Muratsuchi) – As Amended April 8, 2024

SUBJECT: Lower Emissions Equipment at Seaports and Intermodal Yards Program.

SUMMARY: Enacts, until January 1, 2032, the Lower Emissions Equipment at Seaports and Intermodal Yards Program at the Air Resources Board (ARB) to approve as covered equipment applicable cargo handling equipment (CHE) that will reduce cumulative emissions at seaports and intermodal yards in the state.

EXISTING LAW:

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

    a) Establishes ARB as the state agency responsible for monitoring and regulating sources emitting greenhouse gas (GHG) emissions.

    b) Requires the GHG emissions reduction limit to be at least 85% below the 1990 level by 2045, and establishes a goal of zero net carbon emissions by 2045.

    c) Requires ARB to prepare and approve a Scoping Plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs. Requires ARB to consult with all state agencies with jurisdiction over sources of GHGs. Requires the Scoping Plan to identify and make recommendations on direct GHG emissions reduction measures, among other things. Requires ARB to update Scoping Plan for at least once every five years.

2) Establishes the Charge Ahead California Initiative that, among other things, includes the goal of placing at least one million zero emission vehicles (ZEV) and near-zero emission vehicles into service by January 1, 2023. (HSC 22458)

3) Requires ARB to allocate funds on a competitive basis for projects that are shown to achieve the greatest emission reductions from each emission source identified as specified, from activities related to the movement of freight along California's trade corridors, commencing at the state's airports, seaports, and land ports of entry. (HSC 39625.5)

4) Establishes the Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Regulation to reduce toxic and criteria emissions (13 California Code of Regulations 2479)

THIS BILL:

1) Establishes the Lower Emissions Equipment at Seaports and Intermodal Yards Program.

2) Defines the following terms:

a) "Cargo handling equipment" as any off-road, self-propelled vehicle or equipment used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Excludes any fully automated CHE or infrastructure that is used to support fully automated CHE, including equipment that is remotely operated and remotely monitored with or without the exercise of human intervention or control. Does not limit the use of devices that support human-operated CHE, including equipment to evaluate the utilization and environmental benefits of that human-operated equipment.

b) "Covered equipment" as any hydrogen-powered CHE or off-road hybridized rubber-tire gantry cranes that significantly reduce criteria pollutants, toxic air contaminants, and GHG emissions. "Covered equipment" includes any of the following: new equipment sold for operation at a seaport or intermodal yard; retrofit or replacement of old engines powering equipment with new or retrofitted engines, motors, or drives for operation at a seaport or intermodal yard; and, development and demonstration of advanced technologies for equipment for operation at a seaport or intermodal yard.

c) "Repower" to replace an existing engine with a newer engine or power source.

3) Requires ARB to approve as covered equipment applicable CHE that will reduce cumulative emissions at seaports and intermodal yards in the state.

4) Provides that eligibility for covered equipment approvals shall be determined by ARB. Requires a covered equipment application to be approved by ARB if the applicant demonstrates either of the following:

a) The total surplus emissions from covered equipment are lower cumulative emissions than the emissions resulting from compliance with the current applicable CHE statute, regulation, or rule, as determined by ARB.

b) The covered equipment meets the standards and definitions for zero emissions set forth under European Union (EU) Regulation No. 2019/1242.

5) Provides that an application for covered equipment shall not be deemed ineligible for approval solely on the basis that the subsequent purchase or funding for the acquisition of covered equipment may be purchased with the use of any state or federal grant funding, funded or used for credit under any state or federal emissions averaging, banking, or trading program, or used in any other voluntary emission reduction program.

6) Provides that an application for covered equipment shall not be deemed ineligible for approval solely on the basis that the subsequent purchase of covered equipment is entered into pursuant to a corporate or a controlling board's policy, plan, tenancy agreement, port lease, or any other contract.

7) Provides that eligible applicants may be any individual, company, or public agency that sells, resells, distributes, or manufactures CHE for the purposes of operating at a seaport or intermodal yard in the state.

8) Prohibits a covered equipment application from being approved for the sale, manufacture, distribution, or retrofit of fully automated CHE or infrastructure that is used to support fully automated CHE.

9) Requires ARB to certify CHE as covered equipment under this bill if the applicant seller, reseller, distributor, or manufacturer of the CHE demonstrates to ARB that the equipment satisfies all of the following:

    a) Demonstrates cumulative emission reductions of nitrogen oxides (NOx) greater than the regulatory baseline over the useful life of the CHE identified in an application;
    b) Demonstrates cumulative emission reductions of diesel particulate matter greater than the regulatory baseline over the useful life of the CHE identified in an application;
    c) Demonstrates cumulative emission reductions of greenhouse gases greater than the regulatory baseline over the useful life of the CHE identified in an application; and,
    d) Demonstrates immediate emission reductions of NOx and diesel particulate matter upon initial use in operations that will be at least 10% greater than the regulatory baseline at the time of application.

10) Requires the applicant to provide in an application all of the following:

    a) A methodology for evaluating cumulative emission reductions of NOx emissions;
    b) A methodology for evaluating cumulative emission reductions of diesel particulate matter;
    c) A methodology for evaluating cumulative emission reductions of GHGs;
    d) A methodology for determining the useful life for a piece of CHE; and,
    e) A baseline emissions profile for regulated emission reductions of NOx, diesel particulate matter, and GHGs based on the application of both the current applicable statutes, regulations, and rules regarding CHE regulation.

11) Requires an application to be provided to ARB for a project approval before December 31, 2025.

12) Requires project applicants to submit all information required by ARB at the time of submission and upon subsequent request as necessary to process the application.

13) Requires ARB to establish an application fee in a reasonable amount to cover the administrative costs of processing project applications. Deposits application fees in the Air Pollution Control Fund.

14) Provides that, except for rubber-tired gantry cranes, covered equipment that is purchased before January 1, 2027, is not be required by any rule or regulation adopted by ARB to be retired, replaced, retrofitted, or repowered until the end of the useful life of the equipment as established by ARB for each piece of certified equipment certified.

15) Provides that the retirement, replacement, retrofit, or repower of covered equipment rubber-tired gantry cranes that are purchased before January 1, 2027, are not be required by any rule or regulation adopted by ARB until the end of the useful life of the equipment as established by ARB for the certified equipment or January 1, 2045, whichever date is earlier.

16) Requires ARB, by January 1, 2027, and January 1, 2031, to evaluate the impact of this bill on state and local clean air efforts to meet state and local clean air goals.

17) Requires ARB to hold at least one public workshop prior to the completion of the evaluations.

18) Sunsets this bill on January 1, 2032.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> In order to reduce greenhouse gas emissions while also remaining competitive in international shipping, it is crucial that California use all the technologies available at its disposal. However, port operators are currently hesitant to invest in new, cleaner CHE due to concerns that the lower emission equipment may not meet future "zero-emission" standards.
>
> AB 2760 requires ARB to establish a methodology that determines whether the use of improved CHE would result in reduced cumulative emissions compared to emissions that would occur if ports simply complied with existing regulations. The bill also requires CARB to approve CHE projects that would reduce cumulative emissions and allow the operator to maintain that new equipment over its useful life. While not truly "zero-emission," these transitional technologies are nevertheless considered "zero-emission" under EU regulations and can reduce emissions in our hard-to-electrify sectors.

2) **Air quality at California's ports**. Shipping containers are large standardized containers designed to be used across different modes of transport—from ship to rail to truck—without unloading or reloading the cargo. Container ports are facilities where cargo or shipping containers are transshipped between different vehicles and machinery to move goods, both containerized and bulk. CHE such as yard trucks (hostlers), rubber-tired gantry cranes, container handlers, and forklifts are central to port operations. Historically, most port equipment has been powered by diesel or gasoline.

   California has 12 ports through which large volumes of goods are both imported and exported internationally. These ports process about 40% of all containerized imports and 30% of all exports in the United States. In recent years, California's ports have faced several challenges, including congestion and air pollution from associated facilities and vehicles. The

Ports of Los Angeles and Long Beach remain some of the largest sources of air pollution in the South Coast Air Basin. These ports are responsible for about 10% of the basin's total NOx emissions.

Air pollution from port activities has significant public health and environmental implications. Exposure to air pollution is associated with an increased risk of heart and lung disease, increased cancer risk, and increased respiratory symptoms. Harmful emissions also have been associated with negative impacts on birth and developmental outcomes, such as low birth weight, premature births, and lower lung function in children. In addition, diesel fuel consumption emits GHGs, which accelerates climate change.

3) **Coastal community impacts.** Communities that neighbor ports face the highest exposure of air pollutants from port operations. As a result, these communities tend to experience a disproportionate share of the pollution burden in the state. For example, nearly all of the census tracts that surround the Ports of Long Beach and Los Angeles (POLA/POLB) are ranked in the top one-third of the most pollution burdened in the state, according to the California Communities Environmental Health Screening Tool (CalEnviroScreen), a tool which assesses communities' pollution burden and vulnerability. In addition to greater exposure, these communities also are relatively more vulnerable to pollution impacts. This is because these areas tend to have (1) a higher share of sensitive populations—those with physiological conditions, such as asthma and heart disease, that make them more vulnerable to pollutants—and (2) socioeconomic factors associated with higher pollution vulnerability, such as poverty and lower educational attainment. This combination of disproportionately high pollution exposure *and* vulnerability results in the neighborhoods adjacent to POLA/POLB scoring in the top quartile for their overall CalEnviroScreen assessment. Such a score indicates high levels of cumulative environmental and health impacts, and identifies these areas as "disadvantaged communities" eligible for prioritized funding from certain state programs.

4) **CHE Regulation to Transition to Zero-Emissions**. Mobile CHE is any motorized vehicle used to handle cargo or perform routine maintenance activities at California's ports and intermodal rail yards. The type of equipment includes off-road, self-propelled vehicle or equipment used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Equipment includes, but is not limited to, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, aerial lifts, excavators, and dozers.

   ARB's CHE Regulation was adopted in 2005 to reduce toxic and criteria emissions and was fully implemented by the end of 2017, and remains in full effect until amended or superseded with new requirements.

   ARB Resolution 17-8, adopted in March 2017, directed ARB staff to develop new regulatory requirements for CHE that will require up to 100% zero-emissions technologies at ports and intermodal railyards by 2030. In March 2018, ARB staff presented a plan to begin development of a regulation to minimize emissions and community health impacts from CHE. The CHE regulation sets in-use requirements for diesel CHE at ports and rail

yards. Staff would assess the availability and performance of zero-emission technology as an alternative to all combustion-powered cargo equipment and evaluate additional solutions that may include efficiency improvements.

Proposed regulatory amendments, to be considered by ARB sometime in 2024, would propose an implementation schedule for new equipment and facility infrastructure requirements, with effective dates beginning in 2026. In this potential action, all mobile equipment at ports and rail yards, including but not limited to: diesel, gasoline, natural gas, and propane-fueled equipment, would be subject to new requirements. ARB staff would also consider opportunities to prioritize the earliest implementation in or adjacent to the communities most impacted by air pollution.

The proposed changes to the CHE Regulation are in line with the 2022 Scoping Plan, which calls for 100% of CHE to be zero-emission by 2037, and 100% of drayage trucks to be zero emission by 2035.

5) **New program.** The Legislative Analyst's Office's (LAO) *2022 Overview of California's Ports* suggests to reduce emissions in the long term, ports will need to electrify their heavy-duty fleets. The LAO identified several barriers that impede ports' progress in pursuing this goal, including: (1) certain electric vehicles and equipment are not yet widely available, (2) costs are high, and (3) current battery reliability may not suit port operations. The LAO suggested that given the scope of the types of equipment and vehicles that will need to be electrified across all California ports, the costs could easily reach billions of dollars.

   This bill would create the Lower Emissions Equipment at Seaports and Intermodal Yards Program at ARB to certify and approve CHE that reduce *cumulative* NOx, diesel, and GHG greater than the regulatory baseline over the useful life of the equipment, and results in an immediate 10% reduction of diesel particulate matter and NOx emissions. ARB's 2022 CHE emission inventory covers all mobile self-propelled off-road diesel equipment that operates at California ports and intermodal rail yards, and uses the best available data, methods, and research to determine current emissions from the CHE sector and forecasts emissions to 2050. These emissions figures would represent the baseline emissions referenced in the bill.

   Covered CHE, with the exception of rubber-tired gantry cranes, that is purchased before January 1, 2027, would not be required by any ARB rule or regulation to be retired, replaced, retrofitted, or repowered until the end of the useful life of the equipment. ARB is then required, by January 1, 2027, and January 1, 2031, to evaluate the impact of this Program on state and local clean air goals.

   The bill sunsets the Lower Emissions Equipment at Seaports and Intermodal Yards Program in 2032.

6) **CHE technologies.** There are existing zero-emission technologies available. In fact, of the 39 unique types of CHE, zero-emission products are available for 30 of them. Of these 30 types, there are more than 500 models commercially available.

   Hydrogen Internal Combustion Engines (H2ICE) is a potential CHE equipment technology that the sponsors of the bill envision as eligible as covered equipment under this bill. H2ICE

combusts hydrogen in a traditional internal combustion engine and uses existing CHE architecture and supply chains. It is recognized that it is not a replacement for battery electric or hydrogen fuel cell technology, but the sponsors of this bill see it as a complimentary technology that will become a major part of the solution.

Preliminary estimates for equipment costs per unit are approximately 40% lower ($1 million for H2ICE vs. $1.8 million for H2Fuel Cell or Battery-Electric). In October 2023, the U.S. Department of Energy announced $7 billion to launch seven Regional Clean Hydrogen Hubs (H2Hubs) across the nation and accelerate the commercial-scale deployment of low-cost, clean hydrogen. California will receive up to $1.2 billion for the Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES), the state's designated H2Hub, to build or expand hydrogen projects that will support three essential hard-to-decarbonize end-use sectors: heavy-duty vehicles, power plants, and ports. These funds, to be matched by POLA/POLB and their tenants, will involve deployment of hydrogen fuel cell CHE and mobile hydrogen fueling trucks or stations in the ports' terminals. Subsequent phases will add additional CHE and support the statewide deployment of 5,000 hydrogen fuel cell heavy-duty trucks.

The Pacific Merchant Shipping Association (PMSA), cosponsor of the bill, notes that $1.2 billion is not going to fund all of the needed qualified projects, but suggests that the Ports and PMSA's members are well positioned to compete for these funds, with POLA/POLB seeking up to $500 million of the $1.2 billion. The Oakland port is competing for funds, as well.

The H2ICE equipment is not yet available. It is believed that there is likely an 18-24 month lead-time for equipment orders as they are not yet in full production.

7) **Covered CHE**. Under the bill, ARB would be required to certify covered CHE if the seller validates to ARB that the equipment: 1) demonstrates cumulative emission reductions of NOx greater than the regulatory baseline over the useful life of the CHE identified in a project application, and 2) demonstrates cumulative emission reductions of diesel particulate matter greater than the regulatory baseline over the useful life of the CHE identified in a project application.

   Covered equipment would also have to meet the standards and definitions for zero emissions set forth under EU Regulation No. 2019/1242. The first-ever EU-wide CO_2 emission standards for heavy-duty vehicles, adopted in 2019, set targets for reducing the average emissions from new lorries for 2025 and 2030. The targets are expressed as a percentage reduction of emissions compared to EU average in the reference period (1 July 2019–30 June 2020): a 15% reduction on and after 2025, and a 30% reduction on and after 2030.

   EU inserted language to include H2ICE in the definition of ZEV. The regulation defines a 'zero-emission heavy-duty vehicle' as a vehicle either without an internal combustion engine or with an internal combustion engine that emits less than one gram carbon/kilowatt hour. H2ICE meets and exceeds this guideline.

   According to the author, following the EU's lead will help avoid imposing California-only unique equipment purchasing standards not met by other jurisdictions/manufacturers.

8) **Equipment investments are up to the applicant.** The useful life of CHE can be up to 22 years, so this bill will likely result in front loading the purchases of 'not quite zero' emission CHE that would then be in service for up to 22 years – or longer. This bill would prohibit any rule or regulation requiring the retirement before 2045 of an emission-producing piece of equipment purchased under this Program, even though ARB is working on revising the CHE regulations to require 100% zero-emissions technologies at ports by 2030.

   Investing in expensive equipment for a program that sunsets in 2032 may not be economically practical given the likely impending amendments in 2024 to the current CHE regulation and availability of zero emission equipment, but the bill is attempting to provide a stepping stone to compliance with zero emission requirements. And, the Program would be voluntary, so investments would only be made in new equipment if an entity chose to do so.

   The 2045 date is intended to capture the average life span of the equipment; however, grandfathering in lower-emission equipment until 2045 – likely well past a zero emission regulatory requirement – runs counter to the state's GHG and air quality laws.

   Furthermore, ARB administers the Zero- and Near Zero-Emission Freight Facilities Program to accelerate the adoption of clean freight technologies and reduce air pollution caused by the movement of goods throughout the state. Under the program, ARB provides funding to local air districts, other California public entities, and nonprofits, which may partner with private sector parties (e.g., end-users, manufacturers) for pre-commercial demonstrations of advanced vehicles, engines, equipment, and transportation systems. ARB also provides vouchers up to $1 million for CHE equipment under the Clean Off Road Equipment program.

   These financial assistance programs could support the transition to zero emission CHE technologies in the interim (before the CHE Regulations are updated), avoiding any complications of entities' investments in expensive CHE that will ultimately be noncompliant – yet the state is facing significant budget shortfall, and entities likely don't want to bet on funding availability to assure their compliance.

9) **Double referral**. This bill was heard in the Assembly Transportation Committee on April 15 and approved by a vote of 15-0.

10) **Committee amendments.** The Committee may wish to consider the following amendments:

   a) In PRC 39905 (b), include a reference to ARB's 2022 CHE Emission Inventory, and any subsequent updates to the inventory, to establish those data as the regulatory baseline for which CHE emissions are compared.

   b) In PRC 39905 (a), require ARB to establish the useful life span of each covered CHE, and strike PRC 39905 (b)(4).

11) **Relevant legislation**. AB 1743 (Bennett) 2023 would have enacted the Lower Emissions Transition Program to require ARB to approve projects that reduce cumulative emissions from CHE, and sources at seaports in the state during the transition period to zero-emissions CHE requirements. This bill was held in the Assembly Appropriations Committee

REGISTERED SUPPORT / OPPOSITION:

Support

Cleanearth4kids.org
International Longshore & Warehouse Union Local 13
Pacific Merchant Shipping Association

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2762 (Friedman) – As Amended April 15, 2024

SUBJECT: Plastic waste: California Reusable Beverage Container Act

SUMMARY: Establishes rates for the use and the collection for reuse of reusable beverage containers.

EXISTING LAW establishes the Beverage Container Recycling and Litter Reduction Act (Bottle Bill), administered by the Department of Resources Recycling and Recovery (CalRecycle) (Public Resources Code 14500 *et seq*.), which:

1) Defines terms used in the Bottle Bill, including:

   a) "Beverage" to mean the following product in liquid, ready-to-drink form:

      i) Beer and other malt beverages;

      ii) Wine and distilled spirit coolers;

      iii) Carbonated and noncarbonated water;

      iv) Carbonated and noncarbonated soft drinks, including sports drinks;

      v) Carbonated and noncarbonated drinks that contain any percentage of fruit juice;

      vi) Coffee and tea drinks;

      vii) Vegetable juice;

      viii) Distilled spirts; and,

      ix) Wine, including nonalcoholic wine and wine sold in a pouch, box, or bladder.

   b) "Beverage container" as the individual, separate bottle, can, jar, carton, or other receptacle, however denominated, in which a beverage is sold, and which is constructed of metal, glass, plastic, or other material, or any combination of these materials.

   c) "Beverage manufacturer" as any person who bottles, cans, or otherwise fills beverage containers, or imports filled beverage containers, for sale to distributors, dealers, or consumers, as specified.

   d) "Processor" as any person, including a scrap dealer, certified by CalRecycle to purchase empty beverage containers from recycling centers in the state for recycling and who cancels, or certifies to CalRecycle the cancellation of, beverage containers.

e) "Refillable beverage container" as any aluminum, bimetal, glass, plastic, or other beverage container holding 150 fluid ounces or less that has a minimum deposit of 3 cents and that would ordinarily be returned to the manufacturer to be refilled and resold.

f) "Reusable beverage container" as a glass beverage container with a refund value that is processed by a processor for subsequent washing for refill and sale by a beverage manufacturer.

2) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Specifies that a beverage container that is a box, bladder, pouch, or similar container that contains wine or distilled spirits has a CRV of 25 cents.

3) Requires beverage distributors to pay a redemption payment to CalRecycle for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.

4) Requires processors to take the actions necessary and approved by CalRecycle to "cancel" containers to render them unfit for redemption. Authorizes a processor to satisfy the cancellation requirements for beverage containers by washing a reusable beverage container or transferring a reusable beverage container for subsequent washing at a processor, as specified.

THIS BILL:

1) Requires a beverage manufacturer with annual gross sales of $1 million or more that sells, offers for sale, or distributes a beverage in the state that is bottled in the state (beverage manufacturer) to ensure that the percentage of the volume of beverages it bottles and sells in the state is bottled in reusable beverage containers that meet the following rates:

a) Not less than 5% by January 1, 2031;

b) Not less than 10% by January 1, 2033; and,

c) Not less than 25% by January 1, 2035.

2) Requires a beverage manufacturer to bottle beverages in reusable beverage containers that have been previously returned for reuse at the following rates:

a) Not less than 60% of the beverages it sells in reusable beverage containers by January 1, 2031;

b) Not less than 90% of the beverages it sells in reusable beverage containers by January 1, 2033; and,

c) Not less than 95% of the beverages it sells in reusable beverage containers by January 1, 2035.

3) By January 1, 2026, and annually thereafter, requires a beverage manufacturer to demonstrate compliance by submitting a report to CalRecycle that includes the percentage of the total volume of beverages produced and sold in reusable beverage containers and the number of single-use beverage containers and reusable beverage containers produced and sold in California in the previous calendar year, specified by the type of beverage, size of container, and container material type. Requires a beverage manufacturer to make the report publicly available on its website.

4) Requires CalRecycle to aggregate the data received and annually report on the total volume of beverages sold in reusable beverage containers in California each year and returned for reuse from 2025 through 2031.

5) Requires a beverage manufacturer to provide CalRecycle with any additional information requested to ensure the reliability of the data reported and to determine the progress made toward compliance.

6) Authorizes one or more beverage manufacturers to form a reusable beverage container management system (BCMS) for purposes of complying with the bill. Requires a BCMS to prepare and submit a plan to CalRecycle, which may include:

   a) A governance structure for the organization that provides equitable voting power for participants;

   b) An equitable financial structure;

   c) The roles and responsibilities of all responsible parties participating in the BCMS;

   d) How the BCMS plans to meet the reusable beverage container rates and any actions the BCMS may take related to consumer action;

   e) How the BCMS plans to provide efficient collection, washing, and redistribution of reusable beverage containers, including how the organization will promote maximum ease of return of reusable beverage containers by consumers; and,

   f) How the transportation needs of the BCMS plan will affect greenhouse gas (GHG) emissions.

7) Defines BCMS as an operational and financial arrangement in which beverage manufacturers cooperate with dealers, dealer cooperatives, processors, recycling centers, and other necessary actors to provide an efficient managed system for the collection, sorting, washing, refilling, and redistribution of reusable beverage containers.

8) Specifies that no reimbursement is required by the bill pursuant to Section 6 of Article XIII B of the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

1) **The Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program

accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing. The current overall recycling rate for the Bottle Bill is 70%.

2) **Eligible beverage containers**. Only certain containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are included. Containers for milk, medical food, or infant formula are excluded. While most beverages have been included in the Bottle Bill for many years, wine and distilled spirits were added to the program on January 1st of this year.

3) **Ways to redeem containers**. Consumers have a handful of options to redeem containers:

   - Return the container to a "convenience zone" recycling center located within ½-mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the Beverage Container Recycling Fund.

   - Return to "dealers," i.e., stores that sell CRV containers that accept them. In convenience zones without a convenience zone recycler, beverage dealers, primarily supermarkets, are required to either accept containers for redemption or pay CalRecycle an "in lieu" fee of $100 per day. The option to pay the in lieu fee sunsets on January 1, 2025. Few stores accept beverage containers for redemption.

   - Return the container to an "old line" recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services.

   - Beginning January 1, 2025, return containers to a dealer cooperative.

   - Consumers can also forfeit their CRV and "donate" their containers to residential curbside recycling collection. Curbside programs keep the CRV on these containers.

4) **Reuse**. Reuse is above recycling in the waste management hierarchy – reduce, reuse, recycle. Prior to the popularity of single-use plastic bottles and cans, refillable bottle systems were the most common delivery system for beverages. According to The Story of Stuff, the sponsor of this bill, reuse can reduce raw material needs by up to 40% for beverage container packaging. After three uses, reusable glass containers have lower GHG emissions than single-use glass, polyethylene terephthalate (PET), or aluminum containers. When used 25 times and recycled, reusable glass bottles reduce GHG emissions by 85% compared to single-use glass, 70% compared to PET bottles, and 57% compared to aluminum cans. According to a 2020 report by Oceana, *Just One Word: Refillables*, increasing the market share of reusable beverage containers by 10% in all coastal countries in place of single-use PET bottles would reduce PET bottle marine plastic pollution by 22%, or more than 4 billion containers and a 20% increase would reduce plastic pollution by 39%.

California's Bottle Bill defines refillable beverage containers and exempts them from most of the requirements of the Bottle Bill, including collection of the CRV, though beverage manufacturers are required to submit reporting information to CalRecycle, such as sales and returns. This exemption was intended to encourage reuse by enabling manufacturers who used refillable containers to continue the practice. Even still, refillable containers have dropped from around 15% of glass beverage containers in 1986 to less than 1% today.

While reuse is preferable to recycling, efforts to prevent fraud create challenges. Fraud in the program may occur in a number of ways, including bringing containers from out of state, for which no CRV was collected, for redemption. Another potential avenue for fraud exists if containers are collected for recycling, but instead of being recycled are redeemed again for CRV. To prevent this, CalRecycle regulations have historically required empty beverage containers to be "canceled" by being crushed, densified, shredded, otherwise altered to make reuse impossible, or exported out of state.

In order to encourage the reuse of containers included in the Bottle Bill, AB 962 (Kamlager), Chapter 502, Statutes of 2021, established a new definition for reusable beverage containers and a pathway for them to participate in the program. The bill specified that processors can fulfill the cancelation requirement in-state by washing a reusable beverage containers or sending it to an approved processor for washing. CalRecycle's regulations to implement AB 962 were approved by the Office of Administrative Law on January 22 of this year.

5) **This bill**. AB 2762 is intended to build on the efforts of AB 962 by requiring beverage manufacturers to increase the percentage of reusable beverage containers distributed in California. It does so by requiring that specified percentages of the overall volume of beverages sold must be in reusable beverage containers, in order to ensure that the reusable beverage containers are replacing single-use beverage containers. Additionally, this bill establishes minimum reuse rates for those containers to ensure that they are collected and reused. The bill authorizes beverage manufacturers to work together to achieve these requirements by forming a BCMS.

   Supporters of this bill point to the enormous environmental impacts of single-use beverage containers. The beverage industry uses over 580 billion polyethylene terephthalate containers a year worldwide – nearly 1 million per minute. Replacing a percentage of these with reusable glass containers would provide environmental benefits, including reducing the amount of raw materials and greenhouse gas emissions. Reuse also reduces litter and marine plastic pollution. Reuse used to be the standard for beverage containers in the United States, and over 170 countries currently have reusable beverage container systems for beverage containers.

   Opponents of the bill note that the state recently adopted a significant expansion of the Bottle Bill when it approved SB 1013 (Atkins), Chapter 610, Statutes of 2022. SB 1013 added wine and distilled spirits to the program and eliminated exemptions for large fruit and vegetable containers. Those containers were added to the program on January 1st of this year. SB 1013 also created a new option for beverage dealers to form cooperatives to redeem empty beverage containers that goes into effect on January 1, 2025. Opponents argue that AB 2762 adds another layer of cost and regulation before the program has had time to fully implement and adjust to the expansion.

6) **Author's statement**:

> Plastic bottles continue to litter our state's beautiful landscape. While global waste audits and beach clean-up data repeatedly reveal that beverage containers constitute one of the greatest sources of ocean-bound pollution. It is timely for California to take the opportunity to make the sustainable transition to reusable bottles which is imperative to reducing the devastating consequences that frontline communities experience due to plastic pollution.

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

- In order to allow beverage manufacturers time to achieve the requirements for the use of reusable beverage containers that have been previously sold and returned for reuse, the committee may wish to extend the dates by one year.

- Extend the due date for the initial beverage manufacturer report to CalRecycle from 2026 to 2030.

- Extend the date by which CalRecycle is required to post aggregated data from 2025 to 2031 to 2031 and thereafter.

- Make a related technical amendment.

REGISTERED SUPPORT / OPPOSITION:

Support

7th Generation Advisors
Beyond Plastics
Blue Ocean Warriors
Breast Cancer Prevention Partners
California Product Stewardship Council
Californians Against Waste
Center for Environmental Health
Clean Earth 4 Kids
Clean Production Action
Clean Water Action
Climate Action California
CupZero
Cyclei
Double Mountain Brewery
ECOlunchbox
Facts Families Advocating for Chemical and Toxics Safety
GAIA
Green Science Policy Institute
Indivisible Alta Pasadena
Northern California Recycling Association

NRDC
Occidental Arts and Ecology Center
Plastic Free Future
Plastic Pollution Coalition
Race to Zero Waste
Resource Renewal Institute
Rethink Disposable
Revolusation INC.
Santa Cruz Climate Action Network
Save Our Shores
Save the Bay
Sea Hugger
Surfrider Foundation
The 5 Gyres Institute
The Green Room Corporation
The Last Beach Cleanup
The Last Plastic Straw
The Story of Stuff Project
Zero Waste Sonoma

Opposition

American Beverage Association

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2776 (Rodriguez) – As Amended April 1, 2024

SUBJECT: Recovery from major federal disasters: funding priority

SUMMARY: Would authorize the California Office of Emergency Services (Cal OES), the Office of Planning and Research (OPR), and the Strategic Growth Council (SGC) to prioritize infrastructure and housing recovery projects in communities that suffered losses of population and business or have unmet recovery needs due to a major federal disaster.

EXISTING LAW:

1) Establishes the Regional Climate Collaborative Program, administered by SGC, to assist under-resourced communities within a region to access statewide public and other grant moneys. Authorizes eligible applicants to form a regional collaborative and submit one application for funding for climate change mitigation and adaptation projects. (Public Resources Code (PRC) 71130 *et seq*.)

2) Establishes the Affordable Housing and Sustainable Communities Program, administered by SGC, to reduce greenhouse gas (GHG) emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development, and that support related and coordinated public policy objectives, as specified. (PRC 75210 *et seq*.)

3) Establishes the Transformative Climate Communities Program, administered by SGC, to fund the development and implementation of neighborhood-level transformative climate community plans that include multiple, coordinated GHG emissions reduction projects that provide local economic, environmental, and health benefits to disadvantaged communities. (PRC 75240 *et seq*.)

4) Establishes the Community Resilience Center Program, administered by the SGC in coordination with OPR, to provide funding for the construction of new, or the retrofitting of existing, facilities that will serve as community resilience centers. Specifies that the centers serve as community emergency response facilities and aid in building long-term resilience, preparedness, and recovery operations for local communities. (PRC 75250 *et seq*.)

5) Establishes a grant program, administered by SGC, to fund research on reducing carbon emissions, including clean energy, adaptation, and resiliency. Specifies that grants are available to institutions, federal research laboratories, and private nonprofit colleges and universities located in the state to conduct research consistent with criteria established by SGC. Specifies that funds shall be available for liquidation until June 30, 2023. (Budget Act of 2019, AB 74 (Ting), Chapter 23, Statutes of 2019)

6) Establishes the Sustainable Lands Conservation Program, administered by SGC, to protect critical agricultural lands that are at risk of conversion to more energy intensive uses. (Budget Act of 2022, AB 154 (Ting), Chapter 43, Statutes of 2022 and AB 178 (Ting), Chapter 45, Statutes of 2022)

7) Establishes the federal Hazard Mitigation Grant Program (HMGP), administered by the Federal Emergency Management Agency (FEMA), to provide funding to state, local, tribal, and territorial governments to develop hazard mitigation plans and rebuild in a way that reduces or mitigates future disaster losses in their communities. Funding under this program is available after a presidentially declared disaster. (42 United States Code (USC) Section 5170c)

8) Establishes the federal Building Resilient Infrastructure and Communities (BRIC) Program, administered by FEMA, to support states, local communities, tribes, and territories as they undertake hazard mitigation projects to reduce risks from disasters and natural hazards. (42 USC Section 5133)

9) Establishes the California Disaster Resilience Act, administered by Cal OES, to provide funding for local agencies for the replacement and repair and/or restoration of real property used for essential government services, including buildings, levees, flood control works, channels, irrigation works, streets, roads, bridges, highways, and other public works that are damaged or destroyed by a disaster. (Government Code 8680 *et seq*.)

THIS BILL:

1) Authorizes Cal OES, OPR, and SGC to prioritize infrastructure and housing recovery projects in communities that:

   a) Suffered a loss in population and businesses due to a major federal disaster; and,

   b) Have unmet recovery needs as a result of a major federal disaster.

2) Authorizes OPR and SGC to prioritize funding and technical assistance to communities recovering from major federal disasters under the following programs:

   a) The Regional Climate Collaborative Program;

   b) The Affordable Housing and Sustainable Communities Program, including the Tribal Capacity Building Pilot Program;

   c) The Transformative Climate Communities Program;

   d) The Community Resilience Center Program;

   e) The Climate Change Research Program; and,

   f) The Sustainable Agricultural Lands Conservation Program.

3) Authorizes Cal OES to prioritize funding and technical assistance to communities recovering from major federal disasters under the following programs:

   a) The federal Hazard Mitigation Grant Program;

   b) The federal Building Resilient Infrastructure and Communities Program; and,

   c) The California Disaster Assistance Act.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. Since 2018, 27 major federal disasters have been proclaimed in California due to wildfires, floods, earthquakes, a hurricane, a tropical storm, and a pandemic. These major disasters have taken a heavy toll on lives, homes, communities, and public infrastructure throughout the state. These disasters came on the heels of the Covid-19 pandemic and unprecedented wildfires that lead to the deadliest wildfire in California's history.

   The impacts of these disasters cannot be understated, many lives were lost, thousands of homes were destroyed, and residents, in some cases entire communities, have been forced to relocate. Billions of dollars in damage was caused to homes, businesses, and infrastructure throughout the state. Many communities are now feeling the cumulative impact of several years of disasters and are still engaged in comprehensive, long-term recovery planning.

   Although the state has a robust and sophisticated emergency response and management system, individuals and communities may experience disasters that do not meet the criteria for federal or state disaster assistance programs. For example, several counties proclaimed a local emergency due to winter storms this year and have requested the Governor issue a state of emergency proclamation and recovery assistance under the California Disaster Assistance Act, but may not have extensive enough damages (in Cal OES's determination) to be granted assistance.

   The extent of damages to public infrastructure and residences within a county is one of the factors FEMA considers in evaluating a Governor's request for a major disaster declaration and requests for public and individual assistance programs. If the damages do not meet the federal criteria, the county, and individuals within the county, will not be eligible for disaster assistance.

2) **Author's statement**:

   > California is a disaster-prone state. The heightened intensity and scale of wildfires in recent years is a trend that shows no sign of slowing. On November 8, 2018, the Camp and Woolsey wildfires ignited in Butte, Los Angeles, and Ventura counties. Together, the Camp and Woolsey wildfires claimed 89 lives and burned more than 250,000 acres. These were some of the most destructive wildfires in California's history. On the heels of the historic fire season in 2017 and 2018, the 2020 wildfires claimed 31 lives, destroyed more than 10,000 buildings, burned more than 4% of the state's land mass, and prompted FEMA Individual Assistance declarations in 22 counties. California is also experiencing what climatologists have referred to as "climate whiplash," defined as a severe transition between very dry and very wet weather. The recent winter storms and successive atmospheric rivers have caused devastating floods, which resulted in major federal disasters being proclaimed in 2023 and 2024.
   >
   > There is also an ongoing risk of a catastrophic earthquake in the San Francisco Bay Area and Southern California. Planning scenarios for these catastrophic events estimate thousands of casualties, destroyed and damaged buildings, and

displaced residents. The major disasters experienced in recent years have further exacerbated the existing housing crisis in California.

Unfortunately, communities impacted by wildfires and floods had near zero housing vacancies prior to disasters, which limits options for disaster survivors to access both temporary and long-term shelter. High housing costs result in rent-burdened households and many who live precariously close to homelessness. For example, the Camp wildfire displaced 50,000 people from the communities of Paradise, Concow, Yankee Hill, and Magalia and destroyed almost 20,000 buildings. This tragic event resulted in the loss of about 14% of Butte County's housing stock. Housing affordability and availability dropped steeply after the wildfire. Before the fire, the rental market vacancy rate was about 3%. Following the fire, the vacancy rate fell to nearly 0%. Many evacuees resorted to buying trailers or RVs, renting individual bedrooms, or leaving the area completely.

3) **This bill**. This bill was introduced in response to an informational hearing on Communities Recovering from Disasters by the Assembly Emergency Management Committee on March 4, 2024. The hearing focused on the efforts and challenges of communities recovering from disasters. The hearing demonstrated that communities require significant and sustained support after a disaster. This bill would allow Cal OES, OPR, and SGC to prioritize funding for housing and infrastructure projects for communities that have suffered losses of population and businesses due to a major federal disaster or have unmet recovery needs as a result of a major federal disaster.

4) **Double referral**. This bill passed out of the Assembly Emergency Management Committee on April 8th with a vote of 7-0.

5) **Suggested amendment**. This bill includes a funding program dedicated toward climate research that does not provide funding for disaster response. *The committee may wish to amend the bill* to remove the reference to this program by striking lines 1-2 on page 4.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2815 (Petrie-Norris) – As Amended April 3, 2024

SUBJECT: Clean Transportation Program: electric vehicle charging stations

SUMMARY: Requires the State Energy Resources Conservation and Development Commission (CEC), on or before January 1, 2026, to provide funding through a new or existing program under the Clean Transportation Program for repair or replacement of nonoperational electric vehicle (EV) charging stations that meet specified criteria.

EXISTING LAW:

1) Establishes the Charge Ahead California Initiative that, among other things, includes the goal of placing at least one million zero emission vehicles (ZEV) and near-zero emission vehicles into service by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-income, and moderate income communities and consumers. (Health & Safety Code (HSC) 22458)

2) Establishes the goal of the state that 100% of in-state sales of new passenger cars and trucks will be zero-emission by 2035. (Executive Order (EO) No. N-79-20)

3) Establishes the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (now known as the Clean Transportation Program) and stablishes the Alternative and Renewable Fuel and Vehicle Technology Fund to provide the funding for implementation of the Act. (HSC 43018.9)

4) Requires the CEC, in consultation with the Public Utilities Commission, to develop uptime recordkeeping and reporting standards for EV chargers and charging stations by January 1, 2024. (Public Resources Code 25231.5)

THIS BILL:

1) Requires, on or before January 1, 2026, the CEC to provide funding for the repair or replacement of nonoperational EV charging stations through a new or existing program.

2) Requires eligibility for funding to be limited to owners and operators of an EV charging station that is at least five years old, that was installed before January 1, 2024, and that is located in a publicly available parking space.

3) Requires funding to be used only for the cost to repair or replace an EV charging station.

4) Requires at least 50% of funding to be allocated to low-income communities and disadvantaged communities.

5) Requires the CEC to require an applicant to provide matching funds or in-kind contributions as a condition of receiving funding. For funding allocated to low-income communities and

disadvantaged communities, the CEC is required to reduce the amount of matching funds or in-kind contributions the applicant is required to provide.

6) Requires an EV charging station that is repaired or replaced pursuant to this bill to meet the requirements adopted by the CEC.

7) Requires the CEC, to the extent feasible, to consider aligning eligibility, funding, technical standards, and other requirements for EV charging stations that receive funding pursuant to this section with existing incentive programs.

8) Sunsets this bill on January 1, 2036.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> California is a leader in the transition to zero-emission vehicles. To help meet our climate goals, it is essential that we have a reliable and fully operational public charging network. AB 2815, the EV Charging Modernization Act, will modernize legacy chargers to meet today's standards by making existing funding available to repair or upgrade chargers if it is cost effective to do so.

2) **ZEV goals**. California has some of the most ambitious greenhouse gas (GHG) reduction goals in the nation, which include goals to reduce petroleum use in California up to 50% from 2015 levels by 2030, phase out passenger combustion-engine cars by 2035, and reduce GHG emissions 85% below 1990 levels by 2045. The transportation sector represents about 40% of California's total GHG emissions portfolio, and replacing traditional gas-powered cars with ZEVs is a significant part of California's effort to reduce climate emissions. Governor Newsom's ZEV Executive Order N-79-20 set the following ZEV targets for California: 100% of in-state sales of new passenger cars and light-duty trucks will be zero emission by 2035; 100% zero-emission medium and heavy-duty vehicles in the state by 2045, where feasible, and by 2035 for drayage trucks; and, 100% zero-emission off-road vehicles and equipment operations by 2035, where feasible.

   As of today, more than 1.6 million ZEVs are on Californians roads – two years ahead of schedule – and 1 out of every 4 cars sold in California is zero emission.

3) **EV charging stations**. To charge electric cars, EV charging stations need to be readily available and accessible for California drivers. The CEC estimates that by 2030, California will require about 1.01 million public and shared private EV charging stations to accommodate the EVs to support the state's ZEV goals.

   According to the CEC's EV charging station dashboard, there are just more than 105,000 public and shared private EV charging stations across the state, which includes more than 10,000 direct current (DC) fast chargers.

   Like all technologies, EV charging stations need ongoing maintenance and repair. The CEC has included reliability requirements in EV charging grants since 2021, which set 97%

uptime standards, recordkeeping, and reporting requirements, and maintenance requirements. However, the lack of repair amongst some charging stations has prevented many EV drivers from conveniently charging their vehicles. EV charging stations operated by companies including ChargePoint, Electrify America, Blink, and EVgo don't work 20% to 30% of the time, according to studies from the University of California, Berkeley and data firm J.D. Power. Complicating the situation is a lack of data. While AB 2601 (Ting), Chapter 345, Statutes of 2022, directs the CEC to develop charger uptime recordkeeping standards and deliver biennial infrastructure reliability assessments starting in 2025, the CEC currently "lacks sufficient data on EV charging reliability to assess the reliability of the state's charging network," according to a September 2023 report, *Tracking and Improving Reliability of California's Electric Vehicle Chargers*.

Increasing consumer confidence in EVs depends on access to reliable EV chargers, and the state must understand whether publicly or ratepayer-funded EV chargers (or both) are reliable.

In 2023, CEC staff began to work closely with the Contractors State License Board (CSLB) to better understand licensing and the occupations associated with EV infrastructure construction, installation, and maintenance. The CEC acknowledges that of the 38,000 licensed electricians in the state, an understanding of the existing knowledge, skills, and preparedness required for EV charger work will be part of the necessary collaboration with CSLB, electricians, and electrical contractors.

4) **Clean Transportation Program**. The Clean Transportation Program was established at the CEC to provide grants, loans, and other financial support mechanisms to public and private entities to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. To-date, CEC has awarded more than $412 million in Clean Transportation Program funding for EV charging infrastructure.

   The National Electric Vehicle Infrastructure Formula Program established under the federal Infrastructure Investment and Jobs Act is expected to provide $384 million over five years to expand California's network of charging stations. The CEC is collaborating with the California Department of Transportation to administer the funds.

   As required by AB 126 (Reyes), Chapter 319, Statutes of 2023, which reauthorized the Clean Transportation Program to July 1, 2035, 50% of hydrogen and EV charging stations funded by the CEC must be located in or benefit low-income and disadvantaged communities by 2025.

5) **This bill**. AB 2815 requires the CEC to provide funding for the repair or replacement of nonoperational EV charging stations, and requires eligibility for funding to be limited to owners and operators of an EV charging station that is at least five years old, that was installed before January 1, 2024, and that is located in a publicly available parking space. Consistent with current law, the bill also requires at least 50% of the funding to be allocated to low-income communities and disadvantaged communities.

6) **Double referral**. This bill was heard in the Assembly Transportation Committee on April 15 and approved by a vote of 15-0. Conceptual amendments were discussed, but not taken, in that committee to ensure the chargers owned by charging network providers cannot receive

funding under this bill if they previously received public funding for the original installation. The author may wish to consider including clarification about which specific entities would be prohibited from receiving funding under this bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Advanced Energy United
California Electric Transportation Coalition
California New Car Dealers Association
Chargepoint, Inc.
Electric Vehicle Charging Association
Freewire Technologies
Orange County
Peninsula Clean Energy
Union of Concerned Scientists

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2851 (Bonta) – As Amended April 4, 2024

SUBJECT: Metal shredding facilities: fence-line air quality monitoring

SUMMARY: Requires the Department of Toxic Substances Control (DTSC), in consultation with local air districts, to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities, as specified.

EXISTING LAW:

1) Requires DTSC to enforce the standards within the Hazardous Waste Control Law (HWCL) and the regulations adopted by DTSC pursuant to the HWCL. (Health and Safety Code (HSC) 25180)

2) Authorizes DTSC to deny, suspend, or revoke any permit, registration, or certificate applied for, or issued pursuant to, the HWCL. (HSC 25186)

3) Authorizes DTSC, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and affected local air districts, to adopt regulations establishing management standards for metal shredding facilities for hazardous waste management activities within DTSC's jurisdiction as an alternative to the requirements specified in the HWCL. (The authority to adopt regulations for alternative management standards expired on January 1, 2018). (HSC 25150.82(c))

4) Authorizes DTSC to collect an annual fee from all metal shredding facilities that are subject to the requirements of the HWCL or to the alternative management standards adopted pursuant to HSC 25150.82. Requires DTSC to establish and adopt regulations necessary to administer this fee and to establish a fee schedule that is set at a rate sufficient to reimburse DTSC's costs to implement the HWCL as applicable to metal shredder facilities. Authorizes the fee schedule established by DTSC to be updated periodically as necessary and requires the assessment to be no more than the reasonable and necessary cost of DTSC to implement the HWCL, as applicable to metal shredder facilities. (HSC 25150.84 (a))

5) Defines “metal shredding facility” as an operation that uses a shredding technique to process end-of-life vehicles, appliances, and other forms of scrap metal to facilitate the separation and sorting of ferrous metals, nonferrous metals, and other recyclable materials from non-recyclable materials that are components of the end-of-life vehicles, appliances, and other forms of scrap metal. “Metal shredding facility” does not include a feeder yard, a metal crusher, or a metal baler, if that facility does not otherwise conduct metal shredding operations. (HSC 25150.82(b))

6) Requires air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by non-vehicular emission sources under their jurisdiction. (HSC 40001)

7) Authorizes each air district to adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the district may determine to be reasonable for the determination of the amount of such emission from such source. (HSC 41511)

8) Authorizes an air pollution control officer to require from an applicant for, or the holder of, any permit provided for by the regulations of the district board, such information, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which the permit was issued or applied. (HSC 42303)

9) Requires, pursuant AB 1647 (Muratsuchi), Chapter 589, Statutes of 2017, the owner or operator of all petroleum refineries in California to, on or before January 1, 2020, install, operate, and maintain a fence-line monitoring system in accordance with guidance provided by the appropriate air district, as specified. (HSC 42705.6)

THIS BILL:

1) Requires, on or before July 1, 2025, DTSC, in consultation with affected local air districts, to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities.

2) Provides that the requirements developed pursuant to this bill include, but are not limited to, the following:

    a) Monitoring of light fibrous material, lead, zinc, cadmium, nickel, and any other substance required to be monitored by DTSC;

    b) Monitoring at prescribed frequencies of the substances that are required to be monitored;

    c) Reporting on the results of the monitoring required pursuant to this bill to DTSC, the local air district, and the local public health department; and,

    d) A requirement on the local public health department, if the monitoring required pursuant to this bill indicates a potential adverse impact on air quality or public health, to issue a community notification to the public for the area in which the metal shredding facility is located that informs the public that the facility is causing the potential adverse impact on air quality or public health.

3) Requires all metal shredding facilities, subject to the HWCL, to implement the facility-wide fence-line air quality monitoring requirements developed pursuant to this bill.

4) Requires, on or before December 31, 2025, DTSC to oversee and enforce the implementation of the facility-wide fence-line air quality monitoring requirements developed pursuant to this bill.

5) Authorizes DTSC to be reimbursed for any regulatory costs incurred in implementing the provisions of this bill through the existing fee that DTSC can impose on metal shredding facilities under the HWCL.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. The shredding of scrap metal results in a mixture of recyclable materials (e.g., ferrous metals and nonferrous metals) and non-recyclable material (i.e., metal shredder waste). Aggregate is generated after the initial separation of ferrous metals and consists of nonferrous metals that can be further recovered and metal shredder waste. Metal shredder waste consists mainly of glass, fiber, rubber, automobile fluids, dirt and plastics in automobiles and household appliances that remain after the recyclable metals have been removed. Because scrap metal contains regulated hazardous constituents, it can contaminate and ultimately cause metal shredder waste to exhibit a characteristic of hazardous waste for toxicity. In a 2002 draft report on auto shredder waste, DTSC showed that metal shredder waste often exceeded the soluble threshold limit concentrations for lead, cadmium, and zinc.

   Based on the hazardous characteristics of metal shredder waste, in many instances, metal shredding facilities are hazardous waste generators and are thus subject to hazardous waste requirements, including permitting, transportation and disposal. In the late 1980's, in an effort to relieve metal shredding facilities of these requirements, the Department of Health Services (DHS) *(the predecessor of DTSC)* determined that the metal treatment fixation technologies were capable of lowering the soluble concentrations of metal shredder waste such that the treated metal shredder waste was rendered insignificant as a hazard to human health and safety, livestock and wildlife. Seven metal shredding facilities applied for and were granted nonhazardous waste classification letters by DHS and later DTSC if they used the metal treatment fixation technologies. The authority to issue these classifications is found in subdivision (f) of Section 66260.200 of Title 22 of the California Code of Regulations, and these determinations are now known as "f letters." These classifications ultimately allowed treated metal shredder waste to be handled, transported and disposed of as non-hazardous waste in class III landfills (i.e., solid (nonhazardous) waste landfills).

   In 2014, Senator Jerry Hill introduced SB 1249 based in part on concerns about metal shredder safety due to fires at metal shredding facilities in his district, but also in response to the historic concerns about metal shredding facilities and their potential impact on the environment. The intent of the bill was that the conditional nonhazardous waste classifications, as documented through the historical "f letters," be revoked and that metal shredding facilities be thoroughly evaluated and regulated to ensure adequate protection of the human health and the environment. SB 1249 authorized DTSC to develop alternative management standards (different from a hazardous waste facility permit) if, after a comprehensive evaluation of metal shredding facilities, DTSC determined that alternative management standards were warranted.

   DTSC's implementation of SB 1249 included: conducting a comprehensive evaluation of metal shredding facilities and metal shredder waste; determining if alternative management standards specific to metal shredding facilities could be developed to ensure that the management, treatment and disposal practices related to metal shredder waste are protective of human health and the environment; preparing an analysis of activities to which the alternative standards will apply and to make available to the public before any regulations are adopted; and, adopting emergency regulations establishing a fee schedule to reimburse DTSC's costs for the evaluation, analysis, and regulations for metal shredding facilities.

As part this implementation, in January 2015, DTSC developed a three-year work plan to implement SB 1249. The work plan includes development of a treatability study on metal shredder wastes to demonstrate the highest level of treatment that can be achieved with the current technology, and an assessment of the potential for treated or untreated metal shredder waste to migrate off-site and impact residents or business occupants in the areas surrounding metal shredding facilities and landfills that accept metal shredder waste.

As part of the work plan, DTSC approved air monitoring summary reports for metal shredding facilities located in Bakersfield, Redwood City, and Terminal Island. Air sampling was conducted at the facilities during October 2016 to assess the potential for offsite emissions associated with the metal shredding operations.

DTSC has inspected and taken various enforcement actions on metal shredder facilities, as well as metal recyclers. One facility to note is Schnitzer Steel (now known as Radius Recycling) located at the Port of Oakland, adjacent to the West Oakland community.

Operations at the Schnitzer/Radius facility include, but are not limited to: collecting, sorting, and transporting waste metallic containing materials using conveyor belts and heavy equipment; shredding end-of-life automobiles, appliances, and other recyclable metal containing items; shearing recyclable metals; preparing and sorting ferrous and non-ferrous metal recycling feedstock; stockpiling of unprocessed feedstock, metal shredder aggregate (partially sorted shredder output) and processed metal; chemically treating residue from the metal shredding and separation operations; and loading of processed materials for disposition.

In 2012, the Alameda County District Attorney's Office, in consultation with DTSC and the California Department of Fish and Wildlife, initiated an investigation of the area surrounding the facility in response to alleged releases of light fibrous material (LFM). On February 3, 2021, a Stipulation for Entry of Final Judgement and Order on Consent (Stipulation) was filed and approved by the Alameda County Superior Court. Schnitzer agreed to a $4.1 million settlement over allegations that it violated the state's environmental laws.

Due to concerns about ongoing releases of LFM, DTSC's Office of Criminal Investigations conducted an air monitoring study and collected samples of LFM from the ground in the areas surrounding the facility from December 2020 to May 2023.

On February 23, 2021, DTSC ordered Schnitzer, through a formal enforcement action, to clean up contamination both on site and within the surrounding community, modify the facility as needed to prevent releases, and submit a plan to control immediate threats from metal shredding practices.

On March 30, 2022, a joint letter from DTSC, the Attorney General's Office, and the Alameda County District Attorney's Office (the "People"), was sent to Schnitzer notifying them of continued off-site releases and deposition of LFM from the facility and how they are in violation of the February 3, 2021 Stipulation. The letter included actions Schnitzer Steel must take to stop these releases. After multiple rounds of communication and DTSC's observations that LFM releases are still occurring, a final cease and desist LFM letter was sent to Schnitzer Steel by the People on July 31, 2023.

On August 9, 2023, a fire started in an unprocessed scrap metal pile at the facility. The next morning, DTSC inspectors responded to investigate the fire and all hazardous waste generated as a result of the fire. DTSC inspectors interviewed facility personnel, inspected the scrap metal pile, and collected samples from the fire impacted metal pile and water runoff samples. DTSC issued violations to Schnitzer for failure to operate the facility to minimize the possibility of a fire and for failure to immediately notify the State Office of Emergency Services that the facility had a fire. DTSC's investigation is ongoing.

Currently Schnitzer's hazardous waste treatment operations are being conducted under an Interim Status authority overseen by DTSC. This allows Schnitzer to conduct hazardous waste treatment at the Facility until DTSC issues a decision on Schnitzer's permit application.

2) **Author's statement**:

> Metal shredding facilities are disproportionately located in our most vulnerable and underserved communities already suffering from a disproportionate amount of pollution exposure, and in turn, disparate health impacts. AB 2851 will push forward the state's commitment in advancing environmental justice and equity for those who are impacted the most by toxic emissions. AB 2851 is needed to help support the creation of standards for metal shredders. Fence-line monitoring will give local municipalities an awareness of the ongoing sources of potential pollution and the community notification will benefit all who are living in the surrounding neighborhoods

3) **Double referral**. This bill was approved by the Environmental Safety and Toxic Materials Committee on April 9 by a vote of 5-2.

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy
California Environmental Voters
Center on Race, Poverty & the Environment
CleanEarth4Kids.org
Natural Resources Defense Council
West Oakland Cultural Action Network
West Oakland Environmental Indicators Project
West Oakland Neighbors

Opposition

West Coast Chapter-Institute of Scrap Recycling Industries (unless amended)

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2870 (Muratsuchi) – As Amended April 15, 2024

SUBJECT: Low Carbon Fuel Standard regulations: carbon intensity calculation: avoided methane emissions from livestock manure: prohibition

SUMMARY: Prohibits the Air Resources Board (ARB) from including avoided methane emissions (i.e., any captured methane from livestock manure management) in the calculation of carbon intensity for purposes of evaluation of a fuel pathway in the Low Carbon Fuel Standard (LCFS) regulation.

EXISTING LAW:

1) Pursuant to Governor Schwarzenegger's Executive Order S-01-07, sets a statewide goal to reduce the carbon intensity (CI) of California's transportation fuels by at least 10% by 2020. The order required ARB to consider adopting a LCFS to implement this goal. In 2009, ARB adopted the LCFS as a regulation. The LCFS attributes CI values to a variety of fuels based on direct and indirect greenhouse gas (GHG) emissions. The LCFS permits producers of certain low CI fuels to opt in to LCFS regulation for the purpose of generating credits, which can be banked and used for compliance, sold to regulated parties, and purchased and retired by regulated parties. In addition, LCFS credits can be exported to other GHG emission reduction programs. (17 CCR 95840 *et seq.*)

2) Requires ARB to approve and implement the comprehensive short-lived climate pollutant (SLCP) strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases (HFCs), and a 50% reduction in anthropogenic black carbon, by 2030. (Health and Safety Code (HSC) 39730.5)

3) Requires ARB to adopt and implement regulations on or after January 1, 2024 to reduce methane emissions from dairy and livestock manure management operations, subject to a variety of conditions and requirements, including requiring ARB and the Public Utilities Commission (PUC) to establish energy infrastructure development and procurement policies for dairy biomethane projects, as specified. (HSC 39730.7(b))

4) Requires ARB, no later than January 1, 2018, to provide guidance on credits generated pursuant to the LCFS and cap-and-trade regulations from the methane reduction protocols described in the SLCP strategy and ensure that projects developed before the implementation of any dairy methane regulations receive credit for at least 10 years. (HSC 39730.7(e))

5) The LCFS regulation includes the following provision regarding avoided methane:

   95488.9(f) Carbon Intensities that Reflect Avoided Methane Emissions from Dairy and Swine Manure or Organic Waste Diverted from Landfill Disposal.
   (1) A fuel pathway that utilizes biomethane from dairy cattle or swine manure digestion may be certified with a CI that reflects the reduction of greenhouse gas emissions achieved by the voluntary capture of methane, provided that:

(A) A biogas control system, or digester, is used to capture biomethane from manure management on dairy cattle and swine farms that would otherwise be vented to the atmosphere as a result of livestock operations from those farms.
(B) The baseline quantity of avoided methane reflected in the CI calculation is additional to any legal requirement for the capture and destruction of biomethane.
(2) A fuel pathway that utilizes an organic material may be certified with a CI that reflects the reduction of greenhouse gas emissions achieved by the voluntary diversion from decomposition in a landfill and the associated fugitive methane emissions, provided that:
(A) The organic material that is used as a feedstock would otherwise have been disposed of by landfilling, and the diversion is additional to any legal requirement for the diversion of organics from landfill disposal.
(B) Any degradable carbon that is not converted to fuel is subsequently treated in an aerobic system or otherwise is prevented from release as fugitive methane. Upon request, the applicant must demonstrate that emissions are not significant beyond the system boundary of the fuel pathway.
(C) The baseline quantity of avoided methane reflected in the CI calculation is additional to any legal requirement for the avoidance or capture and destruction of biomethane.
(3) Carbon intensities that reflect avoided methane emissions from dairy and swine manure or organic waste projects are subject to the following requirements for credit generation:
(A) Crediting Periods. Avoided methane crediting for dairy and swine manure pathways as described in (f)(1) above, and for landfill diversion pathways as described in (f)(2) above, is limited to three consecutive 10 years crediting periods, counting from the quarter following Executive Officer approval of the application. The pathway holder must formally request each subsequent crediting period for the project through the LRT-CBTS.
(B) Notwithstanding (A) above, in the event that any law, regulation, or legally binding mandate requiring either greenhouse gas emission reductions from manure methane emissions from livestock and dairy projects or diversion of organic material from landfill disposal, comes into effect in California during a project's crediting period, then the project is only eligible to continue to receive LCFS credits for those greenhouse gas emission reductions for the remainder of the project's current crediting period. The project may not request any subsequent crediting periods.
(C) Notwithstanding (A) above, projects that have generated CARB Compliance Offset Credits under the market-based compliance mechanism set forth in title 17, California Code of Regulations Chapter 1, Subchapter 10, article 5 (commencing with section 95800) may apply to receive credits under the LCFS. However, the LCFS crediting period for such projects is aligned with the crediting period for Compliance Offset Credits, and does not reset when the project is certified under the LCFS.
(17 CCR 95488.9(f))

THIS BILL:

1) Prohibits ARB from including avoided methane emissions in the CI calculation for purposes of its evaluation or reevaluation of a LCFS fuel pathway.

2) Defines "avoided methane emissions" as any captured methane from livestock manure management.

3) Declares that Section 95488.9(f) of the LCFS regulation is null and void as it applies to fuels derived from livestock manure.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB to approve and implement the comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in HFCs, and a 50% reduction in anthropogenic black carbon, by 2030. SB 1383 establishes specific procedures to regulate dairy sources of methane. Specifically, regulations to reduce methane emissions from dairy and livestock manure management operations are subject to the following conditions:

   a) Reductions are limited to 40% below 2013 levels by 2030;

   b) Requires emission reduction regulations to be implemented on or after 2024;

   c) ARB must first complete specified steps, including stakeholder consultation, public meetings, and research;

   d) ARB must determine the regulations are technologically feasible, economically feasible, cost-effective, and minimize and mitigate potential leakage;

   e) Requires ARB to analyze progress toward the targets and authorizes ARB to reduce the 40% by 2030 goal if the analysis determines that progress has not been made due to insufficient funding, technical or market barriers;

   f) Requires ARB and PUC to establish energy infrastructure development and procurement policies for dairy biomethane projects, including directing gas utilities to implement at least five dairy biomethane pilot projects; and

   g) Enteric emission reductions shall be achieved only through incentive-based mechanisms until ARB determines that a cost-effective, considering the impact on animal productivity, scientifically proven means of reducing enteric emissions is available and that adoption of the enteric emissions reduction method would not damage animal health, public health, or consumer acceptance.

   Dairy and livestock methane emissions originate from two primary sources, manure management, and enteric fermentation. Manure methane emissions can be reduced through two primary methods – installation of an anaerobic digester and alternative manure management practices.

   Dairy and livestock are responsible for over half of California's methane emissions. Improved dairy manure management offers significant, near-term potential to achieve reductions in the state's methane emissions, and potential dairy and livestock enteric emissions reduction technologies offer longer-term potential for additional GHG emission reductions.

   To date, methane emissions from dairies remain unregulated in California, as well as in other states and provinces throughout North America, which are or may be sources of LCFS credits. As a result, avoiding dairy methane emissions through capture and/or destruction is

considered by ARB, in the LCFS regulation, to be "additional" to existing legal requirements.

2) **Author's statement**:

> The State of California should not be incentivizing the production of methane. Massive dairy methane farms are the biggest polluters in the San Joaquin Valley, which has the worst air quality in the nation. Aside from methane, these industrial dairy farms produce nitrous oxide, ammonia, and particulate pollution, as well as poisoning the water and land for low income and immigrant Valley residents. AB 2870 will end the state's practice of incentivizing dairy farms to increase their pollution and will end our misguided practice of offloading agricultural pollution to the transportation sector.

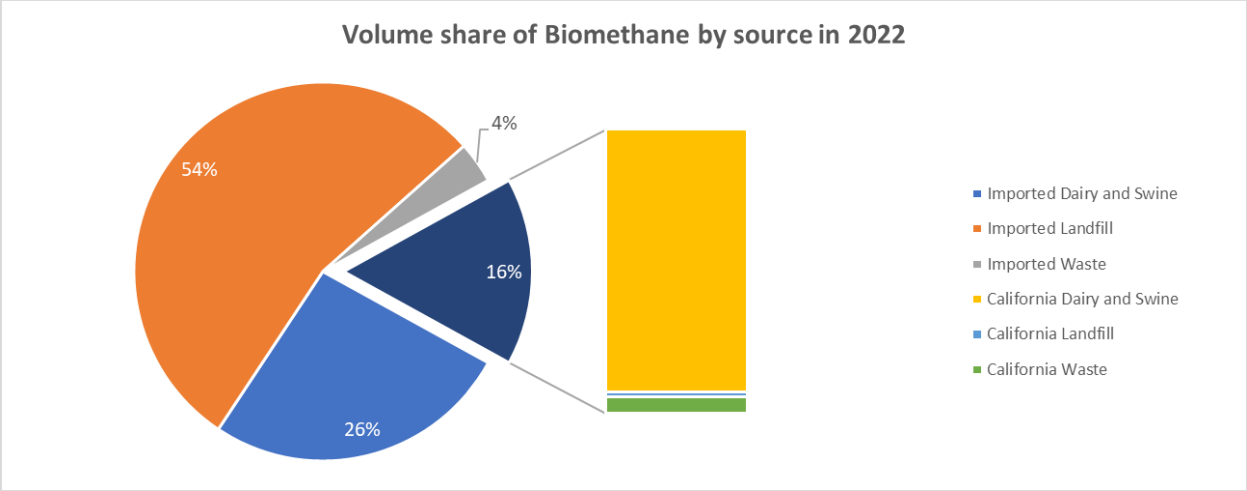
3) **Why does capturing methane from dairy sources count for so much in the LCFS**? As noted above, the relatively high value of capturing methane from dairy sources is a direct consequence of the absence of legal controls on these sources. Passed in 2016, SB 1383 aimed to create a path for regulation of dairy methane sources, as long as it wasn't before 2024. To date, ARB has not implemented such regulations. So both the sides of the avoided methane credit ledger are a result of ARB regulatory decisions.

   The existing LCFS regulation provides a "soft landing" in the event methane emissions become regulated, at least in California. Once "any law, regulation, or legally binding mandate requiring…greenhouse gas emission reductions from manure methane emissions from livestock and dairy projects" is adopted, a methane capture project would be eligible to continue receiving LCFS credits the remainder of the project's current (10-year) crediting period.

   In the current rulemaking updating the LCFS, ARB staff proposes the following provision to eventually deny avoided methane credit for new projects:

> For projects that break ground after December 31, 2029, staff is proposing that pathways for avoided methane crediting be available through 2040 for biomethane used as a transportation fuel, and through 2045 for biomethane used to produce hydrogen.

4) **Not just a California issue**. As the ARB table below shows, 84% of LCFS biomethane credits originate from sources outside California. The 16% from in-state in 2022 represents a significant increase, surpassing 10% for the first time based on several new in-state projects commencing. Notwithstanding the recent growth in in-state projects, which observers attribute to the avoided methane credit rules, the trend of out of state biomethane sources dominating the LCFS is likely to continue based on lower costs, weaker regulations, and less stringent pipeline injection standards in other states, combined with ARB's approach of indiscriminately allowing sources located anywhere in North America.



5) **Devaluing existing credits**. In contrast to ARB's "soft landing" and proposed 2040/2045 cutoff for new projects, this bill would terminate avoided methane credit on day one. The author may wish to consider providing a transition period for existing LCFS credits, rather than immediately eliminating all avoided methane credit the day the bill goes into effect.

6) **Double referral**. This bill has been double referred to the Agriculture Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Humboldt
350 Sacramento
350 Ventura County Climate Hub
Action Asian Pacific Environmental Network
ActiveSGV
Animal Legal Defense Fund
Arkansas Ozarks Waterkeeper
Asian Pacific Environmental Network
California Coastkeeper Alliance
California Environmental Voters
California Food and Farming Network
CAUSE
CCAEJ
CEJA Action
Center for Biological Diversity
Center for Food Safety
Center on Race, Poverty & the Environment
Central California Asthma Collaborative
Central California Environmental Justice Network
Central Valley Air Quality Coalition
Clean Earth 4 Kids
Clean Water Action
Climate Action California

Communities for A Better Environment
Community Water Center
Defensores Del Valle Central Para El Agua Y Aire Limpio
Dolores Huerta Foundation
Earthjustice
Environmental Health Coalition
Environmental Law Foundation
Food & Water Watch
Fresno Building Healthy Communities
Glendale Environmental Coalition
Leadership Counsel Action, a Project of Tides Advocacy
Leadership Counsel for Justice and Accountability
People's Collective for Environmental Justice
Physicians for Social Responsibility - Los Angeles
Pink Panthers
Planning and Conservation League
San Francisco Bay Area Physicians for Social Responsibility
San Francisco Physicians for Social Responsibility
San Joaquin Valley Democratic Club
Santa Cruz Climate Action Network
Scope
Scope LA
Sierra Club California
Socially Responsible Agriculture Project
The Climate Center
Union of Concerned Scientists
Valley Improvement Projects

Opposition

3degrees
3g CNG
Aemetis
Agricultural Council of California
Agricultural Energy Consumers Association
American Biogas Council
Amp Americas
Anew Climate
Athens Services
Berq RNG
Bioenergy Association of California
Bridge to Renewables
Brightmark
CalChamber
Calgren Dairy Fuels
California Bioenergy
California Dairies
California Dairy Campaign
California Farm Bureau

California Hydrogen Business Council
California Hydrogen Coalition
California Renewable Transportation Alliance
California Waste & Recycling Association
Clean Energy
Cleanfuture
Coalition for Renewable Natural Gas
Dairy Farmers of America
Dairy Institute of California
Digester Doc
Dominion Energy
E.J. Harrison and Sons
Efi USA
Envitec Biogas
Gevo
Gladstein Neandross & Associates
Hexagon Agility
Host Bioenergy Systems North America
Land O'Lakes
LF Bioenergy
Low Carbon Fuels Coalition
Maas Energy Works
Mead & Hunt
Milk Producers Council
Modern Hydrogen
Monarch Bio Energy
Napa Recycling and Waste Services
National Milk Producers Federation
National Pork Producers Council
National Ready Mixed Concrete Company
Newtrient
NLC Energy
Northern Recycling
Oberon Fuels
Outagamie Clean Energy Partners
Planet Biogas
Raven SR
Republic Services
Rev
Roeslein Alternative Energy
Rush Enterprises
Seaboard Foods RNG
Smart Policy Group
South San Francisco Scavenger Company
Southern California Gas Company
Swinerton Energy
The Transport Project
Truck and Engine Manufacturers Association
U.S. Energy

UGI Energy Services
US Renewable Energy Development Capital
Valkyrie Analytics
Valley Milk
Vespene Energy
Western Propane Gas Association
Western United Dairies
WM

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 2968 (Connolly) – As Amended April 15, 2024

SUBJECT: School safety and fire prevention: fire hazard severity zones: comprehensive school safety plans: communication and evacuation plans

SUMMARY: Requires each school in a high-risk zone to comply with specified defensible space zone fire safety standards, applicable to the area from school buildings to the area 100 feet from school buildings.

EXISTING LAW:

1) Provides that each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive. Requires each schoolsite council to write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school. (Education Code 32281)

2) 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 of Forestry and Fire Prevention (Board) to develop and update guidance for fuels management for defensible space compliance. (Public Resources Code 4291)

3) Requires the State Fire Marshal (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. Moderate, high, and very high FHSZs shall 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 51178)

THIS BILL:

1) Defines the following terms:

   a) "High-risk zone" means land identified by the SFM as a high or very high FHSZs.

   b) "School" means a public or private school, including a charter school, serving more than 50 pupils or students in kindergarten or any of grades 1 to 12, inclusive.

   c) "Zone 0" means the area from a school building to the area within five feet of the school building, or the property line, whichever is closer.

   d) "Zone 1" means the area from five feet of a school building to the area 30 feet from a school building, or the property line, whichever is closer.

   e) "Zone 2" means the area from 30 feet of a school building to the area 100 feet from a school building, or the property line, whichever is closer.

2) Requires, commencing with the 2026–27 fiscal year, each school in a high-risk zone to comply with the following defensible space zone standards:

   a) Keep Zone 0 clear by doing all of the following:

      i) Using hardscape, such as gravel, pavers, and concrete.

      ii) Removing all dead and dying plants, weeds, and debris from roofs, gutters, and stairways.

      iii) Limiting combustible items.

      iv) Replacing combustible fencing.

      v) Relocating recycling containers outside of Zone 0.

   b) Clear dead or dry vegetation and maintain space between trees in Zone 1 by doing all of the following:

      i) Removing all dead plants, grass, and weeds.

      ii) Removing dead or dry leaves and pine needles.

      iii) Trimming trees regularly to keep branches a minimum of 10 feet from other trees.

      iv) Creating a separation between trees, shrubs, and items that could catch fire, including furniture, wood piles, and swing sets.

   c) Reduce potential fuel in Zone 2 by doing all of the following:

      i) Limiting the maximum height of grass to four inches.

      ii) Maintaining horizontal space between shrubs and trees, and vertical space between grass, shrubs, and trees.

      iii) Limiting the maximum depth of fallen leaves, needles, twigs, bark, cones, and small branches to three inches.

      iv) Maintaining 10 feet of clearance around exposed wood piles down to mineral soil in all directions.

      v) Clearing areas around outbuildings and propane tanks.

3) Requires the fire department having jurisdiction within the school's boundary to annually certify school compliance with the defensible space requirements.

4) Requires a comprehensive school safety plan, commencing with the 2026–27 fiscal year, to establish a procedure to identify appropriate refuge shelter for all pupils and staff to be used in the event of a shelter-in-place order by local authorities and notify the fire department having jurisdiction within the school's boundary of this identified refuge, in order to first prioritize the safety of pupils and staff, and then the defense of that structure in the event of a

fire. Requires each school to coordinate the procedure with the fire department having jurisdiction within the school's boundary. For those schools under the jurisdiction of a school district or county office of education, the school district or county office of education shall be the entity that coordinates with the fire department having jurisdiction within each of the school's boundaries.

5) Requires a comprehensive school safety plan, to include the development by each public school that is in a high-risk zone of a communication and evacuation plan, to be used in the event of an early notice evacuation warning that allows enough time to evacuate all pupils and staff. Requires these plans to clearly identify a decision process to determine whether an evacuation order or a shelter-in-place order is appropriate.

6) Provides that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Wildfire evacuation plans in schools are crucial for ensuring the safety and well-being of students, staff, and faculty. This bill requires clear procedures for swiftly and efficiently transporting students and staff to a designated shelter, as well as improving defensible space standards to slow the threat of wildfire to a school structure. By establishing and practicing comprehensive wildfire safety protocols, schools can minimize panic, confusion, and potential injuries during emergency situations and effectively facilitate a safe wildfire evacuation.

2) **Defensible space**. In recent years, California has experienced a growing number of highly destructive wildfires. Of the 20 most destructive wildfires in California's recorded history (as measured by the number of structures lost), 13 have occurred since 2017. Together, these 13 fires caused tremendous damage, destroying nearly 40,000 structures, taking 148 lives, and charring millions of acres.

   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. A 2019 analysis done by the California Department of Forestry and Fire Protection (CAL FIRE) of the relationship between defensible space compliance and destruction of structures during the seven largest fires that occurred in California in 2017 and 2018 concluded that the odds of a structure being destroyed by wildfire were roughly five times higher for noncompliant structures compared to compliant ones.

   The defensible space for all structures within the state responsibility area and very high fire severity hazard zone (VHFHSZ) is 100 feet. CAL FIRE additionally 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. AB 3074 (Friedman), Chapter 259,

Statutes of 2020, established an ember-resistant zone within five feet of a structure as part of revised defensible space requirements for structures located in FHSZs. The Board has not yet promulgated regulations effectuating that defensible space requirement (known as Zone 0).

These requirements are statutory and apply to buildings or structures in, upon, or adjoining a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material.

SB 63 (Stern), Chapter 382, Statutes of 2021, requires CAL FIRE to adopt of all three FHSZs in the local responsibility area (LRA), which includes incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. Currently, only VHFHSZs are adopted for the LRA. Once all of the FHSZs are developed for the LRA, schools in those zones will be required to create defensible space. Those maps have not yet been adopted.

3) **Defensible Space Inspection Program**. Under CAL FIRE's Defensible Space Inspection Program, inspectors enforce California's defensible space rules, and work with residents to help them understand what specific steps they need to take to create defensible space for their home.

   Local agencies, such as county fire departments and fire protection districts—are primarily responsible for enforcing defensible space requirements in the VHFHSZs within their jurisdictions.

   This bill requires the fire department having jurisdiction within the school's boundary to annually certify school compliance with the defensible space requirements.

4) **Evacuation plans.** Under current law, each school district and county office of education is responsible for the overall development of comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12. The schoolsite council, which is a committee of teachers, parents, students, and school staff that works with the school principal to plan for the needs of the school, is required to write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school. Each schoolsite council consults with a representative from a law enforcement agency, a fire department, and other first responder entities to develop the school safety plan. Those school safety plans are required to include, among other things, an earthquake emergency procedure system, a school building disaster plan, procedures for safe ingress and egress of pupils, parents, and school employees to and from school, and procedures to assess and respond to reports of any dangerous, violent, or unlawful activity on campus.

   This bill additionally requires the school safety plan to include a procedure to identify appropriate refuge shelter for all pupils, students, and staff to be used in the event of a shelter-in-place order by local authorities, and requires each public school in a high-risk zone to develop a communication and evacuation plan, to be used in the event of an early notice evacuation warning, that allows enough time to evacuate all pupils, students, and staff.

5) **Double referral**. This bill was heard in the Assembly Education Committee on April 10, where it was approved by a vote of 7-0.

6) **Committee amendments**. The *Committee may wish to consider* amending the bill as follows:

   a) Strike the definitions and content related to defensible space zones in PRC 32277 (a), and subparagraphs (1)-(3) of subdivision (b), and replace with current statutory cross references to FHSZs and defensible space requirements in (b) as follows:

      Commencing with the 2026–27 fiscal year, and annually thereafter, each school in a high and very high fire hazard severity ~~risk~~ zone, identified pursuant to section 51178 of the Government Code and section 4204 of the Public Resources Code, shall comply with the ~~following~~ defensible space ~~zone~~ standards pursuant to 51182 of the Government Code and section 4291 of the Public Resources Code, and any subsequent regulations implementing those statutes

   b) Amend PRC 32277 (c) to change "certify" to "verify."

   c) Strike references to "high-risk zone, pursuant to section 32277," in Education Code 32282 and replace with "high and very high fire hazard severity zone, identified pursuant to section 51178 of the Government Code and section 4204 of the Public Resources Code."

REGISTERED SUPPORT / OPPOSITION:

Support

California Fire Chiefs Association
California Professional Firefighters
California School Employees Association
Fire Districts Association of California
Fire Safe Marin
Marin Wildfire Prevention Authority

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3019 (Bains) – As Introduced February 16, 2024

SUBJECT: Idle wells: Hazardous and Idle-Deserted Well Abatement Fund: legacy oil and gas wells: skilled and trained workforce.

SUMMARY: Requires the Division of Geologic Energy Management (CalGEM) to make specified amounts of funding available to a county in which there are at least 100 legacy oil and gas wells, as defined, and that attests to CalGEM that it can plug and abandon those wells more quickly than CalGEM can.

EXISTING LAW:

1) Establishes CalGEM in the Department of Conservation, under the direction of the State Oil and Gas Supervisor (supervisor), who is required to supervise the drilling, operation, maintenance, and abandonment of oil and gas wells, as provided. (Public Resources Code (PRC) 3000 *et seq*.)

2) Defines "idle well" as any well that for a period of 24 consecutive months has not either produced oil or natural gas, produced water to be used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. For the purpose of determining whether a well is an idle well, production or injection is subject to verification by CalGEM. (PRC 3008 (d))

3) 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. (PRC 3205.7)

4) 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 (a))

5) Establishes the Hazardous and Idle-Deserted Well Abatement Fund in the State Treasury to mitigate a hazardous or potentially hazardous condition, by well plugging and abandonment, decommissioning the production facilities, or both, at a well of an operator. (PRC 3206 (b))

6) Requires operators to maintain production facilities in good condition and in a manner to prevent leakage or corrosion and to safeguard life, health, property, and natural resources. (California Code of Regulations 1777 (a))

THIS BILL:

1) Requires CalGEM to make available at least 25% of the funds from the idle well fees to be expended each year to a county that meets both of the following requirements:

    a) There are at least 100 legacy oil and gas wells located in the county; and,

b) The county attests to CalGEM that it can plug and abandon those wells more quickly than CalGEM can.

2) Requires CalGEM, if multiple counties meet the specified conditions, to distribute the funds between those counties. Provides that if no counties meet the conditions, the funding requirements do not apply.

3) Requires CalGEM, upon becoming aware of liquid or gas leaking from a legacy oil and gas well, to immediately make available at least 10% of the funds to the county in which the well is located, if the county attests to CalGEM that it can plug and abandon the well more quickly than CalGEM can.

4) Requires CalGEM, if a county plugs and abandons a legacy oil and gas well that is leaking liquid or gas before receiving funds from CalGEM, to the extent allowable under existing law, to reimburse the county for all costs incurred from plugging and abandoning the well.

5) Provides that CalGEM is not required to expend more than 10% of the funds to reimburse a county, or multiple counties, for costs already incurred from plugging and abandoning legacy oil and gas wells that are leaking liquid or gas.

6) Authorizes CalGEM, if the cost to a county or to multiple counties to plug and abandon the legacy oil and gas wells that are leaking liquid or gas exceeds 10% of the funds, to reimburse the county for some or all of the costs incurred.

7) Requires CalGEM, if multiple counties meet the conditions, to immediately make available at least 10% of the funds to be expended each year the counties in which the leaking legacy oil and gas wells are located, to be distributed between those counties.

8) Requires the expenditure of any moneys pursuant to this bill to comply with the skilled and trained workforce requirements in the Public Contract Code.

9) Defines “legacy oil and gas wells” as wells where there is little or no information on the well’s abandonment procedure and there is no viable company with the responsibility to reabandon the well should it start leaking or pose a threat to the environment or to public health and safety.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author’s statement**:

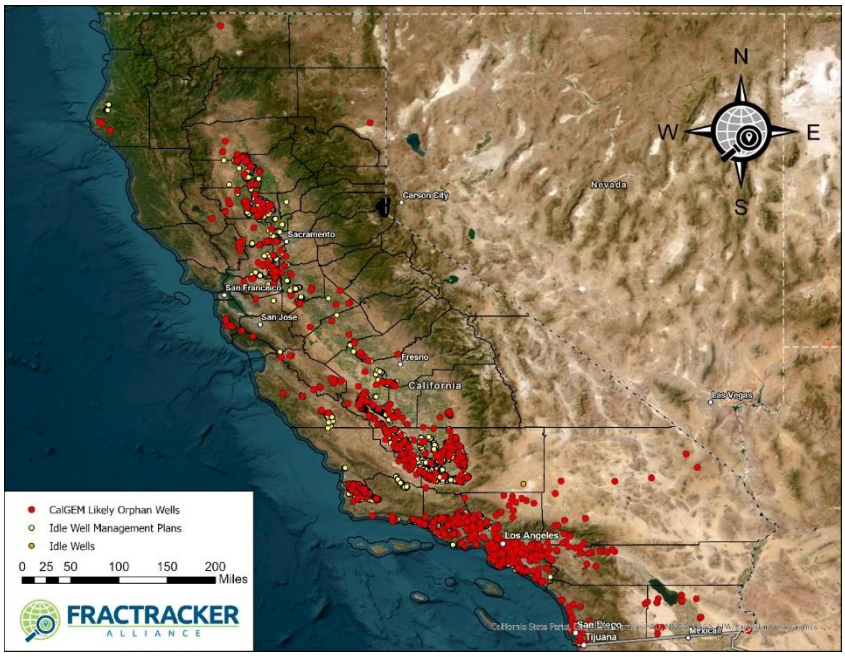
> As the producer of more than 70% of California oil, it is critical that our process to plug and seal leaking oils wells works quickly and efficiently to protect the health and safety of Kern County residents. While good actors have a history of quickly addressing leaks once they are detected, CalGEM is tasked with addressing leaks from wells where no responsible party has been identified. The state has dedicated significant financial resources for this purpose, but current procedures can leave local families exposed to known leaks for weeks. AB 3019

ensures that the state will partner with local governments to reduce this lag time to fix leaking wells as quickly as possible.

2) **Idle wells.** An idle well is a well that has not been used for two years or more and has not yet been properly plugged and abandoned (sealed and closed). Plugging and abandonment involves permanently sealing the well with a cement plug to isolate the hydrocarbon-bearing formation from water sources and prevent leakage to the surface. If a well is not properly sealed and closed, it may provide a pathway for hydrocarbons or other contaminants to migrate into drinking water or to the surface, and can leak pollutants into nearby communities. A 2020 California Energy Commission study found that 65% of the idle wells it surveyed were leaking methane, a potent greenhouse gas. Research shows that wells leaking methane are also likely leaking harmful substances that include benzene, a known carcinogen linked to blood cancers.

   In 2022, 45 oil wells leaked methane near homes in neighborhoods around Bakersfield. Several of those wells were found to be leaking methane at explosive rates greater than 50,000 parts per million, according to reports filed by the Governor's Office Emergency Services. FracTracker Alliance, a non-profit organization that provides data on hydrocarbon extraction, reports approximately 2.7 million Californians live within 3,200 feet of an oil well.

   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. This bill defines those wells as legacy wells.



   This map, provided by FracTracker Alliance, shows the orphaned and likely deserted wells across California.

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

According to CalGEM's August 2023 annual report on the idle well program, which covers the 2021 calendar year, there were 38,759 idle wells, of which 17,888 met the definition of long-term idle well (idle for eight years). In 2021, in lieu of filing the IWMP, 162 operators paid $4.9 million in idle well fees. All idle well fees are deposited into the Hazardous Idle Deserted Well Abatement Fund for CalGEM to use to cover the cost of orphan wells. The balance of the Fund, as of December 2021, was just more than $8 million.

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

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

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

4) **Financial impact of orphaned wells**. In the last five years, CalGEM has spent, on average, $2 million annually from the Administrative Fund and the Hazardous and Idle-Deserted Well Abatement Fund to remediate roughly 11 deserted wells per year. According to CalGEM, the cost to plug a well is highly variable depending on well and facility condition, size, location, and other factors, but a recent analysis found the average cost to be about $95,000 per well.

   AB 3019 would require CalGEM to annually provide up to 25% of the idle wells fees to a county or multiple counties that contain at least 100 legacy oil and gas wells and have the financial and technical ability to plug and abandon those wells more quickly than CalGEM can. Twenty-five percent of the current fund balance, $4.9 million, is $1.225 million.

   If a county meets the criteria in the bill, including attestation that it has the technical wherewithal to plug and abandon a well and can do it more expediently than the state, the bill would allow CalGEM to shift funds, paid for by the oil industry via the idle well fees, to the county to seal the leaking well.

   Also, use of the Hazardous and Idle-Deserted Well Abatement Fund may present legal challenges. Under Proposition 26, use of regulatory fees can only be spent to benefit the regulated entity paying the fee. The law states that "a charge imposed for a specific benefit conferred or privilege granted directly to the payor," and not provided to those not charged. It may not be known if the legacy wells covered under this bill had operators who paid the idle well fees. Therefore, there could be a lack of nexus between a plugged and abandoned well under this bill and the operator(s) who paid the fees.

5) **How many counties are eligible?** Los Angeles County has 1580 likely orphan wells, with about 145 wells within unincorporated County areas. Los Angeles County does not, however,

currently perform plugging and abandonment work. Kern County has 190 identified orphaned wells, but does not currently perform plugging & abandonment work. Ventura County has nearly 300 likely orphaned wells, yet the County itself does not perform plugging and abandonment.

There may be other counties with 100 or more orphaned wells with technical capacity to plug and abandon them, but for the bulk of counties with the primary lot of these wells, technical assistance may be needed to help position them to have the skills to do the work for/ahead of the state under this bill. Funds provided under this bill could be used to provide technical and potentially managerial assistance to those counties who wish to plug & abandon the orphan wells in their districts, alleviating the workload off CalGEM to do those operations. The author may wish to consider working with the counties and CalGEM to identify the appropriate way to support those counties who may need that guidance.

6) **Eliminating idle well fees.** AB 1866 (Hart) eliminates the idle well fees altogether and require well operators to submit idle well plans for eliminating idle wells with prioritization to those wells within 3,200 feet of compromised communities. That bill is referred to the Assembly Appropriations Committee.

   The author of this bill may wish to work with that author to reconcile the inherent conflict between the two bills or identify an alternative funding source.

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

   a) Reference idle-deserted well, as defined in in PRC 3251, in lieu of creating a new term for legacy wells by amending (b)(5) to replace "legacy well" with "idle-deserted well," and replacing the terms throughout the rest of the bill.

   b) Specify how CalGEM shall distribute the funds to multiple counties that meet the eligibility criteria as follows:

      i) In PRC 3206 (b)(2), require CalGEM to distribute the 25% of the funds amongst eligible counties based on the number of wells that would be plugged and abandoned by the county and based on the cost estimate to plug and abandon the well pursuant to PRC 3206.3 (a)(1)(C), unless information pursuant to PRC 3205.7 is available.

      ii) In PRC 3206 (b)(3), require CalGEM to distribute the 10% of funds for leaking wells amongst eligible counties based on the number of wells leaking and based on the cost estimate to plug and abandon the well PRC 3206.3 (a)(1)(C), unless information pursuant to PRC 3205.7 is available.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3023 (Papan) – As Amended April 16, 2024

SUBJECT: Wildfire and Forest Resilience Task Force: interagency funding strategy: state watershed restoration plans: forest resilience plans: grant program guidelines.

SUMMARY: Requires the Wildfire and Forest Resilience Task Force (Task Force) to align watershed restoration plans and initiatives with forest resilience actions to achieve more integrated and holistic outcomes.

EXISTING LAW:

1) Establishes, pursuant to Executive Order No. B-52-18, a Forest Management Task Force, now known as the Wildfire and Forest Resilience Task Force, involving specified state agencies to create the action plan for wildfire and forest resilience. (Public Resources Code (PRC) 4005)

2) Requires the Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state's *Wildfire and Forest Resilience Action Plan* issued by the Task Force in January 2021. (PRC 4771)

3) Directs California Natural Resources Agency (NRA) to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and establishing the 30x30 goal. (PRC 71450)

4) Declares that it is the policy of the state that The California Water Plan (State Water Plan), with any necessary amendments, supplements, and additions to the plan, is accepted as the master plan which guides the orderly and coordinated control, protection, conservation, development, management and efficient utilization of the water resources of the state. (Water Code (WC) 10005(a))

5) Establishes the Integrated Regional Water Management Act and authorizes a regional water management group to prepare and adopt an integrated regional water management plan (IRWMP) to protect and improve water supply reliability, drinking water quality, and to protect, restore, and improve stewardship of aquatic, riparian, and watershed resources within the region, among other things. (WC 10530-10540)

6) Establishes the Regional Forest and Fire Capacity (RFFC) Program to support regional leadership to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire adapted communities and landscapes by improving ecosystem health, community wildfire preparedness, and fire resilience. (PRC 4208.1)

7) Authorizes the director of the Department of Forestry and Fire Prevention (CAL FIRE) to provide grants 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 greenhouse gas emissions. (PRC 4799.05)

THIS BILL:

1) States the intent of the Legislature to better align ongoing planning and implementation of landscape treatments to address climate change, wildfire, watershed restoration, and biodiversity conservation actions.

2) Requires the Task Force, in developing the comprehensive implementation strategy and the accompanying expenditure plan, to develop, in partnership with NRA, an interagency funding strategy to help coordinate and align implementation of state watershed restoration plans and initiatives, including, but not limited to, the State Water Plan, integrated regional water management plans, associated regional water planning initiatives, and the California Salmon Strategy for a Hotter, Drier Future, with forest resilience planning efforts, including RFFC program efforts and CAL FIRE's unit fire plans, to achieve more integrated and holistic outcomes.

3) Requires NRA and other relevant state entities to review and update grant guidelines for climate change, biodiversity, conservation, fire, and watershed restoration programs to encourage projects that advance plans and goals in an integrated fashion. Requires, if feasible and appropriate, similar grant programs to develop a shared, consolidated application process. Requires grant programs to include, but not be limited to, all of the following:

    a) CAL FIRE's forest health grant program, the Fire Prevention Grants Program, and the Wildfire Resilience Program;

    b) The Department of Water Resources' (DWR) integrated regional water management grant program and other grant programs that support watershed restoration planning and implementation;

    c) The RFFC Program;

    d) The Department of Fish and Wildlife's (CDFW) watershed restoration, planning, and protection programs; and,

    e) The Wildlife Conservation Board (WCB), state conservancies, and other relevant conservation funding programs.

4) Requires the aforementioned programs in a) – e) to review and revise relevant grant guidelines to reinforce the program alignment in order to integrate conservation action with landscape restoration actions to ensure that landscapes are protected and well managed for climate, biodiversity, water security, and fire resilience.

5) Provides that the grant guideline review only applies to grant programs that receive funding through the Budget Act of 2024, or later, or a general obligation bond.

6) Requires, to the extent feasible, the interagency funding strategy to coordinate and align state and federal investments in forest and watershed protection programs.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> California is facing multiple interrelated crises: extreme wildfires, protecting our water resources, reducing greenhouse gasses, and preventing the decline our State's unique biodiversity. However, the remedies are largely the same – restoration, prudent management, and conservation of our diverse forests and landscapes. Yet our strategies and implementation efforts are siloed. AB 3023 would require better coordination of planning and alignment of grant programs so that we are able to tackle the challenge with synergy and maximum efficiency. It's time that we approach these efforts holistically, and recognize the interrelated nature of both the problem and the solution.

2) **Watersheds**. Every stream, tributary, or river has an associated watershed, and small watersheds aggregate together to become larger watersheds. Because water moves downstream in a watershed, any activity that affects the water quality, quantity, or rate of movement at one location can change the characteristics of the watershed at locations downstream. For this reason, the Department of Conservation states that everyone living or working within a watershed needs to cooperate to ensure good watershed conditions.

Watersheds cross every part of the state. According to Pacific Forest Trust, California's key watersheds provide clean drinking water for more than 28 million Californians and support the state as the nation's leading agricultural producer.

The Natural Resources Conservation Service within the U.S. Department of Agriculture maps watersheds across the United States for its watershed assistance program. Their map, at left, shows California's vast watershed network.

On April 2, DWR released the final California Water Plan Update 2023, which begins with the vision: "All Californians benefit from water resources that are sustainable, resilient to climate change, and managed to achieve shared values and connections to our communities and the environment." To tackle this vision, the 2023 Update focuses on three intersecting themes: addressing climate urgency, strengthening watershed resilience, and achieving equity in water management.

Droughts and extreme heat exacerbate fires and threaten ecosystems, fires threaten water supply and water quality, changes in hydrology simultaneously increase risks of flooding and reduce groundwater and surface water supplies, and intense flood events overwhelm stormwater and wastewater systems. Less runoff and snowpack in forests are also heightening wildfire risk and diminishing long-term forest health. Wildfires lead to increased sedimentation of rivers, lakes, and reservoirs, and higher flood risk.

This bill's findings declare that 25% of the seven million acre area that supplies California's three largest reservoirs burned between 2012 and 2022, and that more than 43% of that fire was damaging, high-intensity fire.

Additionally, most, if not all, of the anticipated climate change impacts are on a trajectory to continue to disproportionately affect California's frontline communities, those that experience the "first and worst" of environmental consequences, in part, owing to inequities in water management and thus greater susceptibility to future negative changes.

Since 2002, IRWMPs have been used as a collaborative effort to identify and implement water management solutions on a regional scale that increase regional self-reliance, reduce conflict, and build water and climate resilience, while concurrently achieving social, environmental, and economic objectives. This approach delivers higher value for investments by considering all interests, providing multiple benefits, and working across jurisdictional boundaries, often on a watershed scale.

Climate change is pushing the state to continue to adapt its policy for natural resource protection. Federal fishery managers have cancelled all commercial and recreational salmon fishing off the coast of California for the second year in a row in order to protect California's dwindling salmon populations after drought and water diversions left river flows too warm and sluggish for the state's Chinook salmon to thrive. In response, Governor Newsom announced the California Salmon Strategy for a Hotter, Drier Future, which specifies six priorities and 71 actions to build healthier, thriving salmon populations in California, which will require coordination amongst state, federal, local, and tribal partners to implement.

3) **California's forests**. California possesses vast and valuable forest resources. It has a wide range of climates, topographies, habitats, geological features, and 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. California's 33 million acres of forestland capture and clean much of the water supply.

   Given California's history of devastating wildfires, the state has lofty goals for maintaining forest health and increasing treatment to prevent the prevalence and severity of future wildfires. The management of these lands also greatly influences the quantity and quality of water, along with timing and distribution of water for downstream uses. Forested watersheds are the origin of most of the state's water supply for urban, agricultural, and environmental use. Forest health and watershed management, therefore, go hand in hand.

4) **Wildfire and Forest Resilience Action Plan.** The Task Force was established in 2018 to develop a framework for establishing healthy and resilient forests that can withstand and adapt to wildfire, drought, and a changing climate. The Task Force developed the Action

Plan to integrate recommendations from existing state and federal plans that tackle various aspects of the state's forest health and wildfire crisis.

One of the key actions from the Action Plan included development of a statewide forest ecosystem monitoring system to analyze how forest management and timber harvest practices impact forest health so that NRA can establish an approach to track forest ecosystem conditions over time at a watershed scale. The work has now been linked to efforts to establish a comprehensive understanding of restoration needs and prioritize investment opportunities that will improve watershed function and resilience, water quality and supply reliability, forest carbon stores, wildlife habitat, and climate adaptation.

This bill requires the Task Force, in developing the comprehensive implementation strategy and the accompanying expenditure plan, to develop an interagency funding strategy to help coordinate and align state watershed restoration plans and initiatives, including DWR's State Water Plan, IRWMPs, associated regional water planning initiatives, and the California Salmon Strategy for a Hotter, Drier Future, with forest resilience planning efforts, including RFFC program efforts, which strategically sets up the social and operational infrastructure in fire-prone areas to carry out the Action Plan, and CAL FIRE's unit fire plans, to achieve more integrated and holistic outcomes.

5) **State agency coordination on watershed management.** This bill requires NRA and other relevant state entities, to further the goals of the interagency strategy, to review and update grant guidelines for climate change, biodiversity, conservation, fire, and watershed restoration programs to encourage projects that advance plans and goals in an integrated fashion.

   With California's ambitious goals to achieve 30x30, carbon neutrality by 2045, and the treatment of a million acres of forest, among many other environmental restoration and protection initiatives, more robust coordination between natural resource programs could be beneficial across the programs.

REGISTERED SUPPORT / OPPOSITION:

Support

American River Conservancy
California Environmental Voters
California Native Plant Society
California State Association of Counties
California State Parks Foundation
California Trout
Carbon Cycle Institute
Endangered Habitats League
Environmental Defense Fund, Inc.
Pacific Forest Trust
Peninsula Open Space Trust
Planning and Conservation League
Sempervirens Fund

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3057 (Wilson) – As Amended April 8, 2024

SUBJECT: California Environmental Quality Act: exemption: junior accessory dwelling units ordinances

SUMMARY: Expands a long-standing California Environmental Quality Act (CEQA) exemption for city or county adoption of an ordinance facilitating granny flats and accessory dwelling units (ADUs) to also include adoption of an ordinance facilitating junior ADUs (JADUs).

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 includes many statutory exemptions for redidential projects, including the adoption of an ordinance by a city or county to implement specified provisions of the Planning and Land Use Law authorizing approval of granny flats and ADUs. (PRC 21080.17)

3) Authorizes any city, including a charter city, county, or city and county, until January 1, 2007, to issue a zoning variance, special use permit, or conditional use permit for construction of an attached or detached dwelling unit on a parcel zoned for a single-family residence, if the dwelling unit is intended for the sole occupancy of one adult or two adult persons who are 62 years of age or over, and the area of floorspace of the attached dwelling unit does not exceed 30 percent of the existing living area or the area of the floorspace of the detached dwelling unit does not exceed 1,200 square feet. (Government Code (GC) 65852.1)

4) Authorizes a local agency to provide, by ordinance, for the creation of ADUs in areas zoned to allow single-family or multifamily dwelling residential use, as specified. (GC 66314 *et seq.*)

5) Authorizes a local agency to provide, by ordinance, for the creation of JADUs in single-family residential zones. (GC 66333 *et seq.*)

6) Defines a JADU as a unit that is no more than 500 square feet in size and contained entirely within a single-family residence, which unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. (GC 66403)

THIS BILL adds a CEQA exemption for the adoption of a local ordinance regarding JADUs.

FISCAL EFFECT: Non-fiscal

COMMENTS:

1) **Background**. CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines, for a wide range of residential projects. Since 1978, CEQA has included statutory exemptions for housing. There are now at least 15 distinct CEQA exemptions for housing projects. The majority of residential projects are approved via exemption or negative declaration under CEQA, or through ministerial permits where CEQA does not apply. The exemption for ordinances facilitating granny flats and ADUs has been in effect for 40 years.

   JADUs are smaller accessory units created entirely within the envelope of existing single family homes. There is no evidence to support the premise that CEQA review or litigation is a deterrent to the construction of JADUs. Nonetheless, this bill provides a non-controversial technical fix. The author indicates that no amendments are planned.

2) **Author's statement**:

   > The expansion of ADU development in recent years has led to the creation of thousands of affordable rental properties throughout California. AB 3057 is a technical fix designed to ensure local JADU regulations receive the same exemption from environmental assessments as is already afforded to conventional ADUs. JADUs are small living areas situated within existing single-family residences. However under current law, only ADUs are exempt from CEQA. Allowing JADU ordinances to qualify for the same CEQA exemption is a much-needed step towards thousands of new, budget-friendly rental properties throughout California.

3) **Double referral**. This bill has been double-referred to the Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Abundant Housing LA
Apartment Association of Greater Los Angeles
California Apartment Association
California Association of Professional Scientists
California Building Industry Association
California Chamber of Commerce
California Hispanic Chambers of Commerce
California Rental Housing Association
California YIMBY
Circulate San Diego
City of Rancho Cucamonga
Fieldstead and Company
Fremont for Everyone
Housing Action Coalition
MidPen Housing
San Diego Housing Commission

SPUR
YIMBY Action

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3155 (Friedman) – As Introduced February 16, 2024

SUBJECT: Oil and gas wells: health protection zones: civil liability

SUMMARY: On and after January 1, 2025, makes an operator or owner of an oil or gas production facility or well with a wellhead presumptively, jointly and severally liable for a respiratory ailment in a senior or child, a preterm birth or high-risk pregnancy suffered by a pregnant person, and a person's cancer diagnosis, if specified requirements are met, including the senior, child, pregnant person, or person diagnosed with cancer domiciled more than 24 cumulative months in a health protection zone and was diagnosed after January 1, 2025.

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, as provided. (Public Resources Code (PRC) 3000 *et seq*.)

2) Requires the operator of any well, before commencing the work of drilling the well, to file with the supervisor or the district deputy a written notice of intention (NOI) to commence drilling. (PRC 3203)

3) Prohibits, as of January 1, 2023, CalGEM from approving any NOI within a health protection zone, except for approvals of NOIs necessary for any of the following purposes: to prevent or respond to a threat to public health, safety, or the environment; to comply with a court order finding that denying approval would amount to a taking of property, or a court order otherwise requiring approval of an NOI; or, to plug and abandon or reabandon a well, including an intercept well necessary to plug and abandon or reabandon a well. (PRC 3281)

4) Defines "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)

5) Provides that for the breach of an obligation not arising from contract, the measure of damages, except where otherwise expressly provided by law, is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not. (Civil Code 3333 *et seq*.)

THIL BILL:

1) Defines the following terms:

    a) "Best available technology" as state-of-the-art technology used in the drilling, completion, and reduction of wells; transportation; spill response; leak detection; and,

remediation that eliminates, reduces, or prevents air pollution, soil and water contamination, and waste to the maximum degree of protection possible in health protection zones that is commercially available.

b) "Domicile" as that place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever the person is absent, the person has the intention of returning. Provides that at any given time, a person may have only one domicile.

c) "Health protection zone" as the area within 3,200 feet of a sensitive receptor. The measurement shall be made from the property line of the receptor unless the receptor building is more than 50 feet set back from the property line, in which case the measurement shall be made from the outline of the building footprint to 3,200 feet in all directions.

d) "Sensitive receptor" as any of the following:

i) A residence, including a private home, condominium, apartment, and living quarter;

ii) An education resource, including a preschool, school maintaining transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, daycare center, park, playground, university, and college. Where a university or college is the only sensitive receptor within 3,200 feet of the operator's wellheads or production facilities, the university or college is not a sensitive receptor if the operator demonstrates to CalGEM's satisfaction that no building with nominal daily occupancy on the university or college campus is located within 3,200 feet of the operator's wellheads or production facilities;

iii) A community resource center, including a youth center;

iv) A health care facility, including a hospital, retirement home, and nursing home;

v) Live-in housing, including a long-term care hospital, hospice, prison, detention center, and dormitory; and,

vi) Any building housing a business that is open to the public.

2) Requires, after January 1, 2025, an operator or owner of an oil or gas production facility or well with a wellhead to presumptively be jointly and severally liable for a respiratory ailment in a senior or child, a preterm birth or high-risk pregnancy suffered by a pregnant person, and a person's cancer diagnosis if all of the following apply:

a) The senior, child, pregnant person, or person diagnosed with cancer domiciled more than 24 cumulative months in a health protection zone;

b) The senior, child, pregnant person, or person was diagnosed after January 1, 2025, and the complaint alleges the claim accrued after January 1, 2025; and,

c) The operator or owner of an oil or gas production facility or well with a wellhead that is located in the same health protection zone where the senior, child, pregnant person, or person with a cancer diagnosis domiciled for more than 24 cumulative months.

3) Requires an operator or owner of an oil or gas production facility or well with a wellhead to have both of the following available as a complete affirmative defense in an action brought against the owner or operator:

    a) After January 1, 2025, or for the duration of the time the senior, child, pregnant person, or person diagnosed with cancer domiciled in the health protection zone, the oil or gas production facility or well with a wellhead complied with both of the following:

        i) The full deployment of the best available technology and remediation efforts proven to prevent respiratory ailments in seniors and children, preterm births and high-risk pregnancies in pregnant persons, and cancer in persons, where that technology and efforts include leak detection and emission response.

        ii) The technology and remediation efforts operated without interruption and at full capacity for the entire time the senior, child, pregnant person, or person diagnosed with cancer domiciled in the health protection zone.

    b) An operator or owner of an oil or gas production facility or well with a wellhead shall be permitted to present evidence and argument that the oil or gas production facility or well with a wellhead was not, in whole or in part, the cause of the respiratory ailments in seniors and children, preterm birth and high-risk pregnancies suffered by the pregnant person, or cancer.

4) Authorizes the Attorney General, a district attorney, a county counsel, or a city attorney, in addition to any other remedy, to bring a civil action seeking reimbursement and reasonable interest pursuant to this section for health care-related expenditures incurred by state or local taxpayer funded health care programs for treatment of respiratory illness suffered by seniors and children, preterm birth and high-risk pregnancies suffered by pregnant persons, and residents diagnosed with cancer.

5) Requires, in addition to any other remedy, that a civil penalty of not less than $250,000 and not more than $1 million per senior, child, pregnant person, or person diagnosed with cancer to be imposed on an operator or owner of an oil or gas production facility or well with a wellhead in an action brought against the owner or operator.

6) Authorizes the court to double or triple the penalties if a trier of fact in an action brought pursuant to this bill makes a specific finding that penalties greater than those provided in this bill are necessary to deter an operator or owner of an oil or gas production facility or well with a wellhead from causing, in whole or in part, respiratory ailments in seniors and children, preterm births and high-risk pregnancies suffered by pregnant persons, and cancer in persons, or is necessary to encourage operations to meet the specified requirements.

7) Prohibits, if a settlement or motion to dismiss an action brought by a person or entity that is not a public prosecutor, the settlement or motion to dismiss from, in the case of the settlement, being effective or, in the case of a motion, be heard, until 30 days after a copy of the settlement or notice of motion has been served on the Attorney General, the city attorney, county counsel, and district attorney with jurisdiction over the health protection zone involved in the action.

8) Provides that a settlement of an action brought that, in whole or in part, prohibits, conditions, or restrains a person from disclosing the existence or terms of the settlement or reporting any allegations contained in the action to a federal, state, or local government official is contrary to public policy and is void and unenforceable.

9) Provides that any waiver of this bill is contrary to public policy and is void and unenforceable.

10) Provides that if any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this bill are severable.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Of the approximately five and a half million Californians who live within a mile of one or more oil and gas wells, one-third live in areas that are the most burdened by environmental pollution and 92% of Californians living in these overburdened neighborhoods are people of color. Moreover, this proximity brings disastrous health implications including, increased risk of asthma and other respiratory illnesses, pre-term births and high-risk pregnancies, and cancer.
>
> In 2015, the California Council on Science and Technology reviewed existing scientific studies and determined that, from a public health perspective, the most significant exposures to toxic air contaminants occur within one-half mile of a well, and recommended that the State of California develop science-backed setback requirements for wells to limit these exposures. The Legislature followed that guidance with the passage of SB 1137 in 2022.
>
> In California, more than 28,367 operational oil and gas wells are located within 3,200 feet of a home, hospital, school, or other sensitive receptor. The number of existing wells, and of potential new wells, near these sensitive receptors is a serious public health concern. For these reasons, it is imperative that the oil and gas industry implement the best available technology to prevent future harm to Californian's vulnerable populations. The oil and gas industry is not oblivious to science and should be held accountable for the negative health outcomes caused due to their oil and gas production in health protective zones.
>
> AB 3155 creates a liability presumption to hold the oil and gas industry accountable for the harm they have caused to Californians that reside within 3,200 feet of their wellheads or production facilities.

2) **Impacts of living near oil and gas wells**. About 95% of the 5,300 orphan wells identified by CalGEM are "potentially deserted wells," meaning they have no solvent owner or operator to pay for and oversee the plugging and abandonment (permanent sealing) of these wells, which

would eliminate these sources of ongoing pollution. Many of these wells are located in urban areas throughout the state and some are labeled as "critical wells," which means they are within 300 feet of a building or an airport runway and 100 feet of a street or highway, body of water, public recreational facility, or wildlife preserve.

Approximately 2.7 million Californians currently live within 3,200 feet of an oil well. In the Los Angeles Basin alone, more than 200,000 people live within 2,500 feet of an oil well, and more than 32,000 within 328 feet of an oil well. 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.), 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.

Various studies have evaluated the public health and environmental impacts of living near oil and gas production across California. *Proximity to Oil Refineries and Risk of Cancer: A Population-Based Analysis* (S.Williams et al.) found that living within the vicinity of an oil refinery was associated with a statistically significantly increased risk of incident cancer diagnosis across all cancer types, and people residing within 0-10 miles were statistically significantly more likely to be diagnosed with lymphoma than individuals who lived farther away. Similarly, a review conducted at the International Agency for Research on Cancer (IARC) also provides evidence that petroleum industry workers and residents living near petroleum facilities are at an increased risk of developing several different cancer types.

Another study, published in the journal Environmental Health Perspectives, analyzed nearly three million births in California of women living within 6.2 miles of at least one oil or gas well. The authors concluded that living near those wells during pregnancy increased the risk of low-birthweight babies. Stanford researchers found in 2022 study that pregnant women who lived near oil wells in the San Joaquin Valley were up to 14% more likely to experience a spontaneous preterm birth, the leading cause of infant death, and that the repercussions were most pronounced among Latina and Black women.

In 2019, Governor Newsom announced the start of what was intended to become a regulatory process to update public health and safety protections for communities near oil and gas production operations. As part of that effort, CalGEM convened a panel of public health and other experts on the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel (Panel). The Panel found 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. The Panel also concluded that "studies consistently demonstrate evidence of harm at distances less than 1 [kilometer (km)] and some studies also show evidence of harm linked to oil and gas development activity at distances greater than 1 km." In response, the Legislature enacted SB 1137 (Gonzales) Chapter 365, Statutes of 2022, to prohibit permits for most new oil and gas wells being drilled in health protection zones.

3) **Best available technology**. Under current law, CalGEM regulations impose stringent testing requirements to protect public health and safety and the environment. The regulations require state-supervised testing, which includes fluid tests every 24 months, casing pressure tests (timing based on depth and pressure (psi)), and cleanout testing. Based on results, wells must be repaired or permanently closed. Wells that cannot be physically accessed must be documented and a hazard-reduction and monitoring plan submitted that considers threats to life, health, property, and natural resources.

   Pursuant to SB 1137, all operators of oil or gas wells are required to additionally develop a continuously operating emissions leak detection to identify target chemical constituents, including methane and hydrogen sulfide, and other potential toxins of highest concerns identified by California Air Resources Board, and develop response plan for their wells and attendance production facilities in the health protection zones. SB 1137 also requires those operators to do chemical analyses for all produced water transported from the oil field where it was produced, and to contact property owners and tenants within a health protection zone with a record of delivery and offer to sample and test water wells or surface water on their property before drilling and specifies process for conducting sampling.

   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. If voters uphold the law, operators will need to employ additional technologies to meet these leak detection and water testing requirements.

   This bill requires an operator or owner of an oil or gas production facility or well with a wellhead to make information available, for an affirmative defense, with regards to the owner or operator's full deployment of the best available technology and remediation efforts proven to prevent the public health impacts that would support an action brought pursuant to this bill. Meeting the requirements of SB 1137 would better position the oil industry to protect the public from the harms posed by oil and gas production.

4) **Presumption of liability**. This bill presumes an operator or owner of an oil or gas production facility or well with a wellhead to be liable for a respiratory ailment in a senior or child, a preterm birth or high-risk pregnancy suffered by a pregnant person, and a person's cancer diagnosis if the owner's wellhead is located in the same health protection zone as the senior, child, pregnant person who lived there for at least two years.

   The harms at the core of this presumption are those that the author believes the research has established are associated with proximity to oil and gas development. More than 60 public health, environmental justice, and environmental organizations write in support of the bill that, "if oil and gas companies are going to continue to endanger the health of California residents, it is only fair they pay the costs when those residents get sick."

   While proximity to oil and gas wells has a long documented correlation to negative public health impacts, cancers and other physical ailments can also arise from genetic factors, medical background, occupational hazards of the individual, indoor toxicants (i.e. volatile organic compounds, lead in drinking water pipes); and, other environmentally significant pollution contributors. The State Building and Construction Trades Council, AFLCIO, expresses concern that "[i]f enacted, this bill would create a legal catastrophe as energy

production facilities and personnel would be held liable for health conditions that many reasons could cause."

Presumptive liability essentially places the burden on the defendant to produce evidence that rebuts that presumption. This bill requires that the operator or owner of the oil or gas production facility or wellhead be permitted to present evidence and argument that the facility or well was not, in whole or in part, the cause of the respiratory ailments, pre-term birth and high-risk pregnancies suffered, or cancer.

Nalleli Cobo, an environmental justice advocate in Los Angeles who grew up 30 feet from an oil well and was diagnosed with a rare and aggressive reproductive cancer, stated, "[this] legislation would essentially shift the burden of proof from communities to polluters. If oil drillers choose to continue to ignore the scientific evidence that they're sickening surrounding communities, they would assume the risk of significant legal and financial penalties."

5) **Double referral**. This bill was heard in the Assembly Judiciary Committee on April 16 and approved by a vote of 7-3.

REGISTERED SUPPORT / OPPOSITION:

Support

1000 Grandmothers for Future Generation
350 Bay Area Action
350 Conejo / San Fernando Valley
350 South Bay LA
350 Ventura County Climate Hub
Azul
Breast Cancer Action
Breast Cancer Prevention Partners
California Environmental Voters
California Nurses for Environmental Health and Justice
Calpirg
CCAEJ
Center for Biological Diversity
Center on Race, Poverty & the Environment
Central California Environmental Justice Network
Central Valley Air Quality Coalition
Citizens Climate Lobby
Cleanearth4kids.org
Climate Action California
Climate First: Replacing Oil & Gas (CFROG)
Climate Hawks Vote
Communities for A Better Environment
Consumer Attorneys of California
Consumer Watchdog
Elders Climate Action Norcal Chapter
Elders Climate Action Socal Chapter
Elected Officials to Protect America - Code Blue

Environmental Defense Center
Environment California
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 Marin
National Association of Hispanic Nurses - Golden Gate (SF Bay Area) Chapter
Natural Resources Defense Council
Oil & Gas Action Network
Parents Against Santa Susana Field Lab
Patagonia
Presente.org
Protect Playa Now!
Physicians for Social Responsibility, Los Angeles
Redeemer Community Partnership
Resource Renewal Institute
Santa Cruz Climate Action Network
Sierra Club California
Socal 350 Climate Action
Solidarityinfoservice
Stand.earth
Sunflower Alliance
Sustainable Mill Valley
The Climate Center
Transformative Wealth Management LLC
Vote Solar
West Berkeley Alliance for Clean Air and Safe Jobs

Opposition

Afghan American Business Alliance
African American Farmers of California
Asian Food Trade Association
Bizfed Central Valley
California Chamber of Commerce
California Hispanic Chamber of Commerce
California Independent Petroleum Association
California Manufacturers & Technology Association
Carson Chamber of Commerce
Central City Association of Los Angeles
Central Valley Yemen Association
Civil Justice Association of California
Coalition of Filipino American Chambers of Commerce
Coastal Energy Alliance

County of Kern
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Inland Empire Economic Partnership
Kern Citizens for Energy
Long Beach Area Chamber of Commerce
Los Angeles County Business Federation
Moorpark Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
Nisei Farmers League
Port Hueneme Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Santa Paula Chamber of Commerce
Si Se Puede
State Building & Construction Trades Council of California
Tri County Chamber Alliance
Valley Industry & Commerce Association
Valley Industry and Commerce Association
Ventura Chamber of Commerce
Ventura County Coalition of Labor, Agriculture and Business
Ventura County Taxpayers Association
West Ventura County Business Alliance
Western States Petroleum Association

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3227 (Alvarez) – As Amended April 15, 2024

SUBJECT: California Environmental Quality Act: exemption: stormwater facilities: routine maintenance

SUMMARY: Establishes an exemption from the California Environmental Quality Act (CEQA) for routine maintenance of public stormwater facilities, as specified.

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 includes statutory exemptions for emergency projects, as follows:

   a) Emergency repairs to public service facilities necessary to maintain service.

   b) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor.

   c) Specific actions necessary to prevent or mitigate an emergency.

   (PRC 21080)

3) The CEQA Guidelines include an exemption for maintenance of existing facilities involving negligible or no expansion of existing or former use. (CEQA Guidelines 15301)

THIS BILL:

1) Provides that CEQA does not apply to routine maintenance of public stormwater facilities that are fully concrete or have a conveyance capacity of less than a 100-year storm event if all of the following conditions are met:

   a) The project does not increase the designed conveyance capacity of the stormwater facility.

   b) The project is undertaken or approved by a public agency that has adopted, by ordinance, procedures that apply to the project to minimize the impacts of construction equipment, debris, sediment, and other pollutants.

   c) The project is not likely to result in adverse impacts to tribal cultural resources.

2) Provides that a determination that a stormwater maintenance project is exempt is not eligible for appeal to the agency's elected decisionmaking body if the project is approved by the nonelected decisionmaking body of a city with a population of at least 1,000,000.

3) Requires the lead agency claiming exemption to file a notice with the State Clearinghouse in the Office of Planning and Research and with the county clerk of the county in which the project is located.

4) Sunsets the exemption January 1, 2030.

FISCAL EFFECT: Unknown

COMMENTS:

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

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

   This bill stems from litigation against the City of San Diego dating back more than 10 years, which challenged the City's approval of stormwater maintenance projects via exemption. Though the litigation was ultimately settled, the result was a lengthier review and approval process for these maintenance projects, which combined with a lack of attention and funding over the years, has led to a significant backlog in maintenance of stormwater facilities. Now the City is facing damage claims from flood victims for failure to properly maintain its stormwater facilities.

2) **Author's statement**:

   > On January 22, 2024, the City of San Diego experienced catastrophic flooding from nearly 3 inches of rain in less than 8 hours, which impacted over 800 households with over five feet of floodwaters in low-lying areas. The cause of the flooding was largely due to storm water channels that had not been maintained, in part because of administrative delays.
   >
   > AB 3227 proposes specific exemptions to CEQA for routine maintenance of storm water channels and facilities that are fully concrete or have a conveyance capacity of less than a 100-year storm event. Given the increasing frequency and intensity of rain events in

California, it is imperative to minimize administrative delays in channel maintenance to prevent catastrophic flooding.

This bill will not only ensure the safety and well-being of communities but also facilitate local agencies' ability to perform required municipal services. Local agencies would still be responsible for completing required mitigation to offset impacts at required by CEQA, this measure would simply allow for clearing to occur when notice of a severe storm event is present to better prepare against disasters.

3) **Urgency please**. Pending approval by the Rules Committee, the author proposes to add an urgency clause to this bill.

REGISTERED SUPPORT / OPPOSITION:

Support

City of San Diego (sponsor)

Opposition

None on file

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

Date of Hearing: April 22, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 3238 (Garcia) – As Amended April 17, 2024

SUBJECT: Electrical infrastructure projects: endangered species: natural community conservation plans

SUMMARY: Establishes several limitations on environmental review intended to facilitate development of electrical transmission lines and associated infrastructure.

EXISTING LAW:

1) Requires, pursuant to the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA includes several statutory exemptions, as well as categorical exemptions in the CEQA Guidelines. (Public Resources Code (PRC) 21000 *et seq.*)

2) Defines "project" as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, including an activity that involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (PRC 21065)

3) Defines "responsible agency" as a public agency, other than the lead agency, which has responsibility for carrying out or approving a project by, for example, issuing a permit necessary for a project. (PRC 21069)

4) Defines "trustee agency" as a state agency that has legal jurisdiction over natural resources affected by a project that are held in trust for the people of California. (PRC 21070)

5) Requires, under CEQA, a lead agency to consult with responsible and trust agencies prior to determining whether or not a negative declaration or EIR is required for a proposed project. (PRC 21080.3)

6) For projects subject to state agency review, requires the lead state agency to establish time limits that do not exceed one year for completing and certifying EIRs and 180 days for completing and adopting negative declarations. Requires these time limits to be measured from the date on which an application is received and accepted as complete by the state agency. (PRC 21100.2)

7) Requires the CEQA Guidelines to include a list of classes of projects that have been determined by the Secretary of the Natural Resources Agency to not to have a significant effect on the environment and that shall be exempt from CEQA. (PRC 21084)

   The list of "categorical exemptions" includes:

a) Repair and maintenance of existing public or private facilities, involving negligible or no expansion of use, including existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. (Guidelines 15301)

b) Replacement or reconstruction of existing facilities on the same site with the same purpose and capacity, including existing utility systems and/or facilities involving negligible or no expansion of capacity. (Guidelines 15302)

c) New construction or conversion of small structures, including electrical, gas, and other utility extensions of reasonable length to serve such construction. (Guidelines 15303)

8) Requires the Public Utilities Commission (PUC) to certify the "public convenience and necessity" require a transmission line over 200 kilovolts (kV) before an investor-owned utility (IOU) may begin construction (Certificate of Public Convenience and Necessity, or CPCN). The CPCN process includes CEQA review of the proposed project. A CPCN confers eminent domain authority for construction of the project. A CPCN is not required for the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations. (Public Utilities Code (PUC) 1001)

9) Requires an IOU to obtain a discretionary permit to construct (PTC) from the PUC for electrical power line projects between 50-200 kV. A PTC may be exempt from CEQA pursuant to PUC orders and existing provisions of CEQA. IOU electrical distribution line projects under 50 kV do not require a CPCN or PTC from the PUC, nor discretionary approval from local governments, and therefore are not subject to CEQA. (PUC General Order (GO) 131-D)

10) Requires the PUC, by January 1, 2024, to update GO 131-D to authorize IOUs to use the PTC process or claim an exemption under GO 131-D Section III(B) to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above 200 kV. (PUC 564)

11) States that any person, or any local, state, or federal agency, independently, or in cooperation with other persons, may undertake a Natural Communities Conservation Plan (NCCP) (FGC 2809)

12) Defines "conserve," "conserving," and "conservation" to mean to use, and the use of, methods and procedures within the NCCP plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to the California Endangered Species Act (CESA) are not necessary, and for covered species that are not listed pursuant to CESA, to maintain or enhance the condition of a species so that listing pursuant to CESA will not become necessary. (FGC 2805)

13) Provides the scope of findings that the Department of Fish and Wildlife (DFW) must make to approve an NCCP and requires that an NCCP include an implementation agreement that contains provisions specifying procedures for amendments to the NCCP and the implementation agreement. (FGC 2820)

14) Grants CEC the exclusive authority to license thermal powerplants 50 megawatts (MW) and larger (including related facilities such as fuel supply lines, water pipelines, and electric transmission lines that tie the plant to the bulk transmission grid). The CEC must consult with specified agencies, but the CEC may override any contrary state or local decision. The CEC process is a certified regulatory program (i.e., the functional equivalent of CEQA), so the CEC is exempt from having to prepare an EIR. Defines "electric transmission line" as any electric powerline carrying electric power from a thermal powerplant located within the state to a point of junction with any interconnected transmission system (PRC 25500 *et seq.*).

15) Authorizes additional facilities not subject to the CEC's thermal powerplant licensing process to "opt-in" to a CEC process for CEQA review until June 30, 2029, in lieu of review by the appropriate local lead agency. These opt-in permitting procedures apply to the following energy-related projects:

    a) A solar photovoltaic or terrestrial wind electrical generating powerplant with a generating capacity of 50 MW or more and any facilities appurtenant thereto;

    b) An energy storage system capable of storing 200 MW hours or more of electrical energy;

    c) A stationary electrical generating powerplant using any source of thermal energy, with a generating capacity of 50 MW or more, excluding any powerplant that burns, uses, or relies on fossil or nuclear fuels;

    d) A project for the manufacture, production, or assembly of an energy storage, wind, or photovoltaic system or component, or specialized products, components, or systems that are integral to renewable energy or energy storage technologies, for which the applicant has certified that a capital investment of at least $250 million will be made over a period of five years; and

    e) An electric transmission line carrying electric power from an eligible solar, wind, thermal, or energy storage facility to a point of junction with any interconnected electrical transmission system.

    (PRC 25545–25545.13)

16) Establishes the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90% of all retail sales of electricity by December 31, 2035; 95% of all retail sales of electricity by December 31, 2040; 100% of all retail sales of electricity by December 31, 2045; and 100% of electricity procured to serve all state agencies by December 31, 2035 (Public Utilities Code § 454.53).

THIS BILL:

1) Defines "electrical infrastructure project" as a project for the construction and operation of an electrical transmission line and associated infrastructure for purposes of this bill.

2) Requires DFW, when reviewing a request to amend an approved NCCP, to establish a rebuttable presumption that the mitigation and conservation measures provided in the

previously approved plan have been, or are being successfully implemented, and to only impose new mitigation and conservation measures that are necessary to address potential impacts to any newly listed species under CESA or any new or more substantial impacts to covered species under the approved plan.

3) Exempts projects that expand existing public right-of-way across state-owned land to accommodate the construction, expansion, modification, or update of electrical infrastructure from CEQA until January 1, 2035.

4) Designates the PUC as the lead agency under CEQA for an electrical infrastructure project. Provides the following regarding the PUC's environmental review of an electrical infrastructure project pursuant to CEQA:

   a) The PUC shall prescribe procedures for an applicant's preparation, under PUC supervision, of the following environmental documents: an EIR, negative declaration, mitigation negative declaration, addendum, or analysis of applicability of a CEQA exemption;

   b) The PUC may provide guidance for, and assist in, preparation of environmental documents;

   c) The PUC shall independently evaluate environmental documents and take responsibility for their contents;

   d) Applicant may submit with its application an administrative draft of an EIR, mitigated negative declaration, negative declaration, addendum, or draft analysis of applicability of a CEQA exemption in lieu of an initial study or proponent's environmental assessment; and

   e) The PUC shall use environmental documents submitted by an applicant when exercising its independent judgment to determine whether a project is exempt from CEQA or necessitates preparation of an EIR.

5) Defines "resource agency" as the State Lands Commission, the San Francisco Bay Conservation and Development Commission (BCDC), DFW, the California Coastal Commission, State Water Resources Control Board (State Water Board), or an applicable regional water quality control board.

6) Requires a resource agency to only consider an environmental effect of an electrical infrastructure project that occurs within the resources agency's jurisdiction and is subject to the resource agency's discretionary approval related to the project.

7) Requires an application for an electrical infrastructure project to be in a form prescribed by the PUC and accompanied by information required by the PUC to support the preparation of necessary environmental documents.

8) Requires the PUC to consult with BCDC for an electrical infrastructure project located in the geographic jurisdiction of BCDC for purposes of coordinating the processing and sequencing of the applications to expedite the permitting process.

9) Requires BCDC to assume permitting authority for processing and issuing marsh development permits using the local protection programs as guidance in the Suisun Marsh Secondary Management Area and the portions of the Primary Management Area with a local protection program.

10) Requires BCDC, the State Water Board, or the applicable regional water quality control board to take final action on the electrical infrastructure project within 90 days of the PUC's approval if the applicant has filed a complete application for a permit or waste discharge requirement with those agencies before the approval by the PUC.

11) Requires the PUC to certify necessary environmental documents for, and to approve, an electrical infrastructure project within 270 days of receiving a complete application, except under specified circumstances.

12) Exempts projects that would require a CPCN and any other electrical infrastructure projects from existing requirements to compare prospective projects with cost-effective alternatives such as energy efficiency, distributed generation, and demand response resources.

13) Provides that the following apply to an electrical infrastructure project that has been approved by the Independent System Operator (ISO) in its transmission plan:

    a) The statement of objectives sought by the project applicant, including the underlying purpose and project benefits, required by CEQA, shall be those identified by the ISO's approved transmission plan;

    b) The range of reasonable alternatives analyzed under CEQA shall be alternative routes or locations for the construction of the project approved in the relevant ISO's approved transmission plan;

    c) Any statement of overriding considerations shall be those identified by the ISO's approved transmission plan; and

    d) There shall be a rebuttable presumption that there is an overriding economic, legal, social, technological, or other benefit of the project that outweighs the significant effect on the environment if the project has been identified by the ISO in a transmission plan.

14) Defines "necessary electrical infrastructure project" for purposes of this bill as either of the following:

    a) A project approved by the ISO in a transmission plan prepared by the ISO; or

    b) The project is necessary to serve an actual or forecasted electrical demand increase associated with transportation or building electrification or is a distributed energy project, energy storage project, or renewable generation source where the electrical line facilities or substation would support the interconnection of the project or source to the electrical grid.

15) Provides that the PUC has the exclusive power to approve and site a "necessary electrical infrastructure project."

16) Establishes an in lieu permit process at the PUC whereby the approval and siting of a "necessary electrical infrastructure project" pursuant to this bill is in lieu of any approval, concurrence permit, certificate, or similar document required by any state, local, or regional agency, or federal agency to the extent permitted by the federal law, for the use of the site and related facilities.

17) Provides that the in lieu permit process shall not apply to the authority of the State Lands Commission to require leases and receive lease revenue, or BCDC, the State Water Board, or regional water quality control boards.

18) Includes a declaration that provisions of this bill relative to the approval of "necessary electrical infrastructure projects" address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

19) Sunsets the PUC permit and CEQA streamlining provisions of this bill on January 1, 2035.

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 requires state and local lead agencies to establish time limits of one year for completing and certifying EIRs and 180 days for completing and adopting negative declarations. These limits are measured from the date on which an application is received and accepted as complete by the lead agency. Agencies may provide for a reasonable extension in the event that compelling circumstances justify additional time and the project applicant consents.

   As noted above, electrical transmission line projects are eligible for a number of CEQA exemptions pursuant to the CEQA Guidelines and GO 131-D. Only larger, high-voltage projects over 200 kV, which also require a CPCN, are consistently subject to complete CEQA review, including an EIR. According to PUC data, from 2012 to 2023, 608 projects have been exempted from CEQA, 29 projects have been approved via negative declaration, and 27 have required an EIR.

GO 131-D specifically addresses the procedures to be followed in applications for siting of electric transmission infrastructure. GO 131-D establishes the distinction in the levels of review based on the voltage level of the project (under 50 kV, 50 to 200 kV, and above 200 kV) as described above. The PUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to CEQA, and (2) the review of project need and costs pursuant to PUC 1001 *et seq*. and GO 131-D.

Prior to the re-adoption of GO 131-D in 1994, the construction of projects below 200 kV did not require utilities to obtain a permit. In GO 131-D, the PUC lowered that threshold to 50 kV, requiring most projects rated between 50-200 kV to obtain a permit to construct.

SB 529 (Hertzberg), Chapter 357, Statutes of 2022, directed the PUC to revise GO 131-D to authorize a utility to use the PTC process or claim an exemption to seek approval to construct an extension, expansion, upgrade, or other modification to its existing transmission facilities regardless of the voltage level by January 1, 2024. In May 2023, the PUC opened a rulemaking to solicit comments that would revise the GO 131-D rules. Based on the feedback, the assigned commissioner determined the issues to be considered in the proceeding should be separated into two phases.

Phase 1 includes consideration of changes to GO 131-D necessary to conform it to the requirements of SB 529 and updates to outdated references. Phase 2 includes consideration of all other changes to GO 131-D that may be proposed by PUC staff or other stakeholders during the course of this proceeding. Phase 1 was completed on December 14, 2023.

In September 2023, Southern California Edison, Pacific Gas & Electric, and San Diego Gas & Electric filed a proposed settlement agreement on behalf of several stakeholders that proposes numerous reforms to GO-131 D. It is important to note that the changes submitted to PUC by this bill's sponsor and others are proposed and not yet final. PUC is expected to complete Phase 2 of the process mandated by SB 529 later this year. This bill incorporates some of the changes to GO 131-D contained in the proposed settlement agreement, but also proposes changes that go well beyond those in the proposed settlement.

For additional background related the PUC provisions of the bill, see the prior analysis prepared by the Utilities and Energy Committee. For additional background related to DFW, NCCP, and CESA, see the prior analysis prepared by the Water, Parks and Wildlife Committee.

2) **Author's statement**:

> California is on the precipice of a clean energy transition that is poised to bring vast new clean energy projects, jobs, and economic development to the state. Achieving the state's ambitious climate goals will require unprecedented construction of electrical infrastructure to provide reliable renewable energy to electrify homes, commercial buildings, and transportation. Unfortunately, our existing permitting and environmental review processes – necessary steps in thoughtfully building electrical infrastructure – are inefficient and lead to unnecessary delays. We need to build a runway for electrical infrastructure projects to move efficiently through the permitting and environmental review processes so they can reach operation quickly and begin serving our citizens. AB

3238 removes unnecessary red tape and provides clear direction to the agencies working hard to help the state reach its climate goals.

3) **Suggested amendments**. In order to focus this bill more precisely on the purpose of supporting development of environmentally benign or beneficial transmission projects, and related facilities, needed to support delivery of renewable and zero-carbon electricity, *the author and the committee may wish to consider* the following amendments:

   a) Limit scope of CEQA exemption for right-of-way expansion as follows:

      i) The project is limited to acquisition of right-of-way, and any future project will be reviewed pursuant to CEQA before any approval that would authorize physical changes to land covered by the right-of-way.

      ii) The existing right-of-way is held by the applicant for a purpose consistent with the potential future development, such as electrical transmission lines and associated facilities.

      iii) The proposed expanded right-of-way is not dedicated to conservation purposes that may be incompatible with potential future development within the right-of-way.

      iv) The total width of right-of-way does not exceed 200 feet.

      v) The lead agency is the PUC or a state agency owning or managing the property, including the State Lands Commission, the Department of Parks and Recreation, DFW, the Department of Transportation, Department of Water Resources, and the Department of General Services.

      vi) The lead agency files a notice of exemption with the Office of Planning and Research.

      vii) Sunset January 1, 2030.

   b) Limit eligible projects to PUC-jurisdictional projects, i.e., those that that require discretionary approval by the PUC pursuant to PUC 1001 or GO 131-D (or an order succeeding GO 131-D).

   c) Clarify that limitations on state agency CEQA review applies to responsible agency (those with a discretionary approval) and does not limit the authority of trustee agencies to participate in CEQA review.

   d) Provide that limitations on consideration of project alternative, and the rebuttable presumption in favor of overriding mitigation of significant environmental impacts, requires approval by a public agency (i.e., the PUC).

   e) Strike out Article 3 (Sections 2846 and 2846.1).

4) **Triple referral**. This bill was approved by the Utilities and Energy Committee, with amendments, by a vote of 13-1 on April 3, and by the Water, Parks and Wildlife Committee, with amendments, by a vote of 13-0 on April 16.

REGISTERED SUPPORT / OPPOSITION:

Support

Advanced Energy United
San Diego Gas and Electric Company
Silicon Valley Leadership Group

Opposition

California Coastal Protection Network
California Farm Bureau Federation (unless amended)
California Native Plant Society
Center for Biological Diversity
CleanEarth4Kids.org
Defenders of Wildlife
Endangered Habitats League
Environmental Center of San Diego
Environmental Defense Fund (unless amended)
Environmental Protection Information Center
Friends of Hedionda Creek
Friends of Hellhole Canyon
Friends of Rose Creek
Natural Resources Defense Council
Planning and Conservation League
San Diego Audubon Society
Sierra Club California

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