California State Assembly

NATURAL RESOURCES

ISAAC G BRYAN
CHAIR

AGENDA

Monday, June 17, 2024
2:30 p.m. -- State Capitol, Room 447

BILLS HEARD IN SIGN-IN ORDER

** = Bills Proposed for Consent

1.	****SB 941**	Skinner	California Global Warming Solutions Act of 2006: scoping plan: industrial sources of emissions.
2.	SB 951	Wiener	California Coastal Act of 1976: coastal zone: coastal development.
3.	****SB 972**	Min	Methane emissions: organic waste: landfills.
4.	****SB 1014**	Dodd	Wildfire safety: The California Wildfire Mitigation Strategic Planning Act.
5.	SB 1045	Blakespear	Composting facilities: zoning.
6.	SB 1073	Skinner	State acquisition of goods and services: low-carbon cement or concrete products.
7.	SB 1077	Blakespear	Coastal resources: local coastal program: amendments: accessory and junior accessory dwelling units.
8.	SB 1092	Blakespear	Coastal resources: coastal development permits: appeals: report.
9.	****SB 1101**	Limón	Fire prevention: prescribed fire: state contracts: maps.
10.	SB 1113	Newman	Beverage container recycling: pilot projects: extension.
11.	****SB 1136**	Stern	California Global Warming Solutions Act of 2006: report.
12.	SB 1159	Dodd	California Environmental Quality Act: roadside wildfire risk reduction projects.
13.	****SB 1176**	Niello	Wildfires: workgroup: toxic heavy metals.
14.	SB 1182	Gonzalez	Master Plan for Healthy, Sustainable, and Climate-Resilient Schools.
15.	****SB 1207**	Dahle	Buy Clean California Act: eligible materials.
16.	SB 1280	Laird	Waste management: propane cylinders: reusable or refillable.
17.	SB 1308	Gonzalez	Ozone: indoor air cleaning devices.
18.	SB 1342	Atkins	California Environmental Quality Act: infrastructure projects: County of San Diego.
19.	SB 1402	Min	30x30 goal: state agencies: adoption, revision, or establishment of plans, policies, and regulations.
20.	****SB 1425**	Gonzalez	Oil revenue: Oil Trust Fund.(Urgency)
21.	****SB 1433**	Limón	Gravity-Based Energy Storage Well Pilot Program.

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 941 (Skinner) – As Amended May 16, 2024

SENATE VOTE: 31-5

SUBJECT: California Global Warming Solutions Act of 2006: scoping plan: industrial sources of emissions

SUMMARY: Requires the Air Resources Board (ARB), in the next update to its climate change scoping plan, to include a discussion of the availability of zero-emission alternatives to industrial sources of greenhouse gas (GHG) emissions.

EXISTING LAW requires ARB to prepare and approve a scoping plan at least once every five years for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs. (Health and Safety Code 38561)

THIS BILL:

1) Requires ARB, in the next scoping plan update, to include both of the following:

    a) A discussion of industrial sources of emissions of greenhouse gases for which there are zero-emission alternatives currently technologically available.

    b) A discussion of industrial sources of emissions of greenhouse gases for which there are no zero-emission alternatives currently technologically available.

2) Becomes inoperative on July 1, 2028, and sunsets January 1, 2029.

FISCAL EFFECT: According to the Senate Appropriations Committee, unknown, potentially significant one-time costs (Cost of Implementation Account) for ARB to contract for a study on industrial decarbonization.

COMMENTS:

1) **Background**. According to ARB's GHG Emission Inventory (the same set of emissions which the scoping plan is intended to address), the "industrial sector" includes the following sources: combined heat and power for industrial customers, landfills, manufacturing, mining, off-road, oil & gas production and processing, petroleum marketing, petroleum refining and hydrogen production, solid waste treatment, solvents & chemicals, transmission and distribution, and wastewater treatment.

    In the latest version of the Emission Inventory, industrial emissions account for 22% of total GHG emissions, the second largest sector after transportation at 39%. Looking just at contributors of industrial emissions, three sub-sectors—petroleum refining (31%), manufacturing (20%), and oil & gas production and processing (15%)—account for two-thirds of the entire sector.

The 2022 Scoping Plan Update identified several actions to reduce emissions from the industrial sector, including to: Use clean and renewable hydrogen for 25 percent of process heat by 2035 and 100 percent by 2045 for the chemicals and allied products and pulp and paper sectors; use carbon capture and storage (CCS) at refineries, with most operations covered by 2030; retire all combined-heat-and-power plants by 2040; use CCS on 40 percent of stone, clay, glass, and cement making by 2035 and on all such facilities by 2045, and reduce some emissions through changing input materials; electrify/decarbonize the rest of industrial demand by 2045 where possible, with target varying by sector; leverage energy efficiency and renewable technology programs; prioritize these transitions in communities most in need; create markets for low-carbon products and recycled materials; and revise utility gas and electricity rate design to create an incentive to electrify and reduce industrial sector fossil gas use.

2) **Author's statement**:

As California continues to successfully decarbonize buildings and transportation, industrial processes and facilities are becoming responsible for a growing percentage of California's GHG emissions. To achieve the state's goal of carbon neutrality by 2045, reducing industrial GHG emissions must be prioritized. SB 941 directs ARB to include industrial decarbonization in its next scheduled scoping plan. By doing so, SB 941, allows ARB, within their currently scheduled scoping plan update, to identify and evaluate available zero emission alternatives to industrial processes as well for any emerging technologies that have the potential to lower emissions from those industrial practices for which there are no currently no available zero emission alternatives.

REGISTERED SUPPORT / OPPOSITION:

Support

E2

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 951 (Wiener) – As Amended June 5, 2024

SENATE VOTE: 37-0

SUBJECT: California Coastal Act of 1976: Coastal Zone: coastal development.

SUMMARY: Applies specified rezoning standards for any necessary local coastal program (LCP) updates for jurisdictions located within the Coastal Zone and exempts a local government that is both a city and county from the provision relating to the appeal of developments approved by a coastal county.

EXISTING LAW:

Pursuant to the Planning and Zoning Law (Government Code (GC) 65000 *et seq*.):

1) Requires the housing element to consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. (GC 65583)

2) Requires, among other things, in order to make adequate provision for the housing needs of all economic segments of the community, the program to identify actions that will be taken to make sites available, and, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period, to be completed no later than three years after either the date the housing element is adopted or the date that is 90 days after receipt of comments from the department, whichever is earlier, unless the deadline is extended. (GC 65583(c)(1)(A))

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

1) 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 (CDP). (PRC 30600)

2) Requires each local government lying, in whole or in part, within the Coastal Zone to prepare an LCP for that portion of the Coastal Zone within its jurisdiction. Authorizes any local government to request, in writing, the California Coastal Commission (Commission) to prepare an LCP or a portion thereof, for the local government. (PRC 30500)

3) Provides that no LCP is required to include housing policies and programs. (PRC 30500.1)

4) 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)

5) Authorizes, after certification of its LCP, an action taken by a local government on a CDP application to be appealed to the Commission for only the following types of developments:

   a) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance;

   b) Developments approved by the local government not included within (a) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff;

   c) Developments approved by the local government not included within paragraph (a) or (b) that are located in a sensitive coastal resource area;

   d) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or approved zoning district map; or,

   e) Any development which constitutes a major public works project or a major energy facility. (PRC 30603)

6) Provides that it is important for the 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))

THIS BILL:

1) Requires, for a jurisdiction within the Coastal Zone that has not identified adequate sites to accommodate the locality's housing need for a designated income level, completion of any necessary LCP amendments related to land use designations, changes in intensity of land use, zoning ordinances, or zoning district maps.

2) Prohibits, after certification of its LCP, an action taken by a local government on a CDP application to be appealed to the Commission for projects by a local government that is both a city and county. (The City and County of San Francisco is the only local government that is covered under this definition.)

3) Finds and declares that the proposed changes to the Planning and Zoning law addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this bill applies to all cities, including charter cities.

4) Finds and declares that, with respect to the proposed changes to the Coastal Act, a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the special circumstances of certain coastal areas of the state that are both a city and a county.

5) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, within the meaning of Section 17556 of the Government Code.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in unknown, but likely significant ongoing costs, potentially up to $2 million annually (General Fund), for the Commission to work directly with the Department of Housing and Community Development (HCD) and the coastal cities and counties within each district to pre-coordinate on necessary zoning designation changes in the Coastal Zone, and coordinate on the preparation of LCP amendments. Additional unknown, potentially significant ongoing costs (General Fund) for HCD to work closely with the Commission and implement the provisions of this bill.

COMMENTS:

1) **Author's statement**:

> SB 951 will refine the California Coastal Commission's role in local permitting and housing element compliance while maintaining full coastal resource protection. California is facing a severe housing crisis, which is particularly acute in San Francisco. San Francisco has the longest housing approvals process in the state and recently faced an historic audit. SB 951 mandates that LCPs amendments originating from rezonings under housing element law must be completed on the same timeline as the rezoning itself, providing synchronicity with housing element law and Coastal Act compliance.SB 951 also clarifies that the Commission cannot appeal a project based solely on use, if that use is permitted within a LCP. Given LCPs are approved by the Commission, all listed uses, not just the principal use, should not be subject to appeal. These changes will ensure San Francisco, and other jurisdictions, have the tools needed to comply with state housing law.

2) **California's housing crisis**. After decades of underproduction, housing supply is far behind need and housing and rental costs are soaring. Only 27% of households can afford to purchase the median priced single-family home – 50% less than the national average. More than half of renters, and 80% of low-income renters, are rent-burdened, meaning they pay more than 30% of their income towards rent.

   HCD has determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA). This represents more than double the housing needed in the 5th RHNA cycle and would require production of more than 300,000 units a year. By contrast, housing production in the past decade has been less than 100,000 units per year – including less than 10,000 units of affordable housing per year.

   According to the Senate Housing Committee analysis, California's high and rising and costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. Higher density housing is a critical part of the solution as having multiple living units, such as

apartment complexes and even accessory dwelling units, are more affordable, take up less land space, and use city infrastructure more efficiently.

3) **Housing development in the Coastal Zone**. According to the Legislative Analysists Office, California is a desirable place to live, yet not enough housing exists in the state's major coastal communities to accommodate all of the households that want to live there. A shortage of housing along California's coast means households wishing to live there compete for limited housing. This competition bids up home prices and rents. High home prices also push homeownership out of reach for many. Faced with expensive housing options, workers in California's coastal communities commute 10% further each day than commuters elsewhere, largely because limited housing options exist near major job centers.

   According to 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 can represent an increase of 13–21%.

   To facilitate more multi-family housing, the Legislature passed SB 10 (Wiener) Chapter 163, Statutes of 2021, to authorize a local government to adopt an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area or an urban infill site. This law allows coastal jurisdictions to override other local restrictions on adopting zoning ordinances enacted by the jurisdiction that limit the legislative body's ability to adopt zoning ordinances, but SB 10 cannot be used to override certified LCP policies to enact an upzoning ordinance.

4) **Development in the Coastal Zone**. The Commission administers the Coastal Act and regulates proposed development along the coast and in nearby areas. 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 Act exists to provide additional protections for the Coastal Zone, which represents only 1% of California's landmass, because this resource is unique, irreplaceable, relied on by various sources of income, and utilized for myriad recreational activities.

   Generally, any development activity in the Coastal Zone requires a CDP from the Commission or local government with a certified LCP. About 73% 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.

   LCPs are a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) sensitive coastal resources areas, which, when taken together, meet the

requirements of, and implement the provisions and policies of, the Coastal Act at the local level.

Under the Planning and Zoning Law, each local government must adopt a housing element as a portion of their general plan. This housing element helps local governments plan for their future housing supply, and can, in certain circumstances, require a jurisdiction to rezone land and increase their zoned capacity to allow an adequate supply of housing. Rezoning required under a housing element must be completed within a specified timeframe, typically one to three years, to remain compliant with state law. However, this rezoning also requires an amendment to a coastal jurisdiction's LCP. Misalignment between the state-mandated timeline and the Commission's review process can result in local governments falling out of compliance with either housing element law or the Coastal Act.

SB 951 provides that updates to LCPs originating from required rezonings under housing element law must be completed on the same timeline as the rezoning itself. According to the author, this change creates a timeline, typically one to three years, for both compliance with the relevant housing element programs as well as compliance with the Coastal Act.

5) **Development appeals**. The Coastal Act allows an action taken by a local government on a CDP application to be appealed to the Commission, on the grounds the action is inconsistent with the LCP or public access laws, on certain types of development, including those in designated areas between the sea and the first public road; developments located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; developments located in a sensitive coastal resource area; and, major public works project or a major energy facility.

   The author states that the Commission's ability to appeal projects is partly dependent on whether a project's use is within the principally permitted uses of a parcel, as defined in the LCP. However, the author believes the Commission's interpretation leads to a situation where if a parcel is permitted for both commercial and residential uses, and a project seeks to alter a parcel from commercial use to residential use, the Commission may file a months-long appeal, even though both the former and the proposed use are allowed by the Commission-approved LCP. Given that modern zoning often includes various uses, this interpretation can restrict the ability of local governments to swiftly move forward on projects that are within the listed permitted uses.

   This bill exempts the City and County of San Francisco from this appeal process. According to the author, the affordable housing shortage is particularly acute in San Francisco, which has the longest housing approvals process in the state by far and recently faced a historic state audit of its broken housing approvals process. As the city works to meet its state housing goal of producing 82,000 homes over the next eight years, it needs authority over permitting in the urbanized areas where affordable housing is most needed. Therefore, the author is proposing this unique exemption for San Francisco.

6) **Double referral**. This bill is also referred to the Assembly Housing and Community Development Committee.

7) **Committee amendment**. Since there is no specific email address provided, nor is there a standardized electronic submission system yet, *the Committee may wish to* amend the bill to qualify the reference to e-mail in PRC 30603 (d):

> (d) (1) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail, or by electronic mail pursuant to paragraph (2), within seven calendar days from the date of taking the action.
>
> (2) (A) In order for a local government to notify the commission via electronic mail of an action on a coastal development permit, the notification must be sent from a verifiable local government electronic mail account, and must be received in the electronic mailbox designated by the commission on its Internet website for receipt of such notification.
>
> (B) For the purpose of determining the 10th working day from the date of receipt of notice by the commission under subdivision (c), notice received by the commission by electronic mail after the close of business shall be considered received on the next working day.

8) **Related legislation**:

AB 2560 (Alvarez) 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 be permitted notwithstanding the Coastal Act under specified conditions. This bill is referred to the Senate Natural Resources and Water 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 Assembly Natural Resources Committee.

SB 1092 (Blakespear) requires the Commission to perform a study on CDP appeals. This bill is referred to the Assembly Natural Resources Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Abundant Housing LA
Bay Area Council
California Apartment Association
California Community Builders
Civicwell
Housing Action Coalition
Spur
Yimby Action

Opposition

City of Encinitas
Livable California
Save Lafayette

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 972 (Min) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Methane emissions: organic waste: landfills

SUMMARY: Requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop procedures for local jurisdictions to request technical assistance with meeting the state's organic waste recycling requirements. Requires CalRecycle to submit two reports to the Legislature providing the status of the state's progress with meeting the state's organic waste recycling targets and the state's ability to meet those targets.

EXISTING LAW:

1) Requires the Air Resources Board (ARB) to develop a comprehensive strategy to reduce the emissions of short-lived climate pollutants (SLCP) to achieve a 40% reduction in methane emissions, 40% reduction in hydrofluorocarbon gases, and 50% reduction in anthropogenic black carbon below 2013 levels by 2030. (Health and Safety Code (HSC) 39730-39730.5)

2) Requires the state to reduce the disposal of organic waste by 40% from the 2014 level by 2020 and 75% by 2025 to help achieve the state's methane reduction goal. (HSC 39730.6)

3) Requires CalRecycle, in consultation with ARB, to adopt regulations to achieve the targets for reducing the disposal of organic waste in landfills. (Public Resources Code (PRC) 42652.5) The regulations include:

    a) Requirements for local jurisdictions to impose requirements on generators and authorize local jurisdictions to impose penalties for noncompliance with those requirements.

    b) A process for local jurisdictions facing penalties for violations of these requirements to obtain relief by submitting a notice of intent to comply that includes an explanation of why they were unable to comply and a description of the proposed actions to come into compliance in a timely manner.

    c) Specifications that penalties for the organic waste procurement target established by CalRecycle shall be imposed on a phased schedule.

    d) A process for rural jurisdictions to obtain a rural exemption from the organic procurement targets until January 1, 2026, and a provision for rural counties to have an extended organic procurement schedule on and after January 1, 2027.

    e) Waivers for low population, elevation, and rural local jurisdictions.

    f) Enforcement provisions. (14 California Code of Regulations 18981.1 *et seq*.)

4) Requires CalRecycle, in consultation with ARB, to provide assistance to local jurisdictions for organic waste diversion programs, including regulations. (PRC 42655)

THIS BILL:

1) Requires CalRecycle to develop procedures for local jurisdictions to request technical assistance regarding the state's SLCP reduction requirements, including any related regulations adopted by CalRecycle. Requires the procedures to be posted on CalRecycle's website.

2) Requires CalRecycle to provide technical assistance to support local jurisdictions, including considering providing technical assistance before exercising its enforcement authority if the local jurisdiction has submitted a technical assistance request. Specifies that the technical assistance may include data reporting, education programming, local program development, procurement target clarification support, and coordination of the state policy goals.

3) Authorizes CalRecycle to offer technical assistance at a regional scale to multiple local jurisdictions.

4) Requires CalRecycle to submit a report to the Legislature on or before January 1, 2028, on:

   a) The status of current implementation efforts to achieve the state's organic waste reduction goals;

   b) The status of compliance related to the state's SLCP reduction regulations;

   c) The status of compliance with this bill's technical assistance requirements; and,

   d) Recommendations to continue advancing "the program," including the coordination and implementation of policies by CalRecycle, ARB, the State Water Resources Control Board, and the California Environmental Protection Agency (CalEPA) that affect the disposal of organic waste.

5) Requires CalRecycle to submit a report to the Legislature on or before January 1, 2031, on the state's ability to meet the targets for reducing the disposal of organic waste and any recommendations to modify the program to achieve the goals.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Unknown, potentially significant ongoing costs (Greenhouse Gas Reduction Fund) for CalRecycle to implement the provisions of this bill.

- Unknown ongoing costs, potentially in the hundreds of thousands of dollars annually (General Fund, Greenhouse Gas Reduction Fund, Cost of Implementation Account, or other special fund) for CalRecycle, ARB, CalEPA, and other departments to coordinate activities, contribute to the report to be submitted to the Legislature on status of program implementation, make additional recommendations related to organic waste management and progress toward achieving methane reduction targets, and support CalRecycle technical assistance, among other things.

COMMENTS:

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

   SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB to approve and implement a comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon, by 2030. In order to accomplish these goals, the law specifies that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste, including food, 50% by 2020 and 75% by 2025 from the 2014 level. SB 1383 also requires that by 2025, 20% of edible food that would otherwise be sent to landfills is redirected to feed people.

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

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

   Though California has made significant progress toward achieving its SLCP reduction goals, more needs to be done. Since the program's implementation in 2022, 75% of California communities (464 out of 616 jurisdictions) report that they have residential organic waste collection in place. According to CalRecycle, California now has 206 organic waste processing facilities and is building 20 more, and CalRecycle has invested over $220 million in grants and loans for organics processing infrastructure. CalRecycle states that the state needs approximately 50 to 100 new or expanded organics facilities to recycle the additional 20-25 million tons of organic waste that will be collected to meet the SB 1383 organic waste reduction targets. Expanding collection and siting new facilities is a challenge for many local jurisdictions.

2) **Local assistance**. The Local Government Central page on CalRecycle's website provides information for local governments relating to various programs and responsibilities, including information about the state's organic waste recycling requirements. The website includes contacts for designated staff assigned to each local jurisdiction to provide local assistance.

   CalRecycle also has a Resources for Jurisdictions page on their website to assist local governments with complying with the state's organic waste recycling requirements. The site provides an overview of requirements for local governments with guidance on collection, education and outreach, edible food recovery, procurement requirements, capacity planning, recordkeeping, and reporting.

   While CalRecycle has made efforts to provide local jurisdictions with assistance to understand and implement the statutory and regulatory requirements associated with SB 1383, many local governments are still struggling to achieve them.

3) **This bill**. This bill is intended to amplify CalRecycle's local assistance efforts by requiring CalRecycle to establish a process for local jurisdictions to request technical assistance and to provide technical assistance when requested. This bill further requires CalRecycle to submit two reports to the Legislature. One, due in 2028, to provide the status of organic waste reduction targets, technical assistance provided, and recommendations to continue the reduction of organic waste disposal. The second, due in 2031, to provide an update on the state's ability to achieve the state's SLCP targets and recommendations to modify the program to achieve the intended goals. This bill also requires CalRecycle to take into account whether a jurisdiction has requested technical assistance before commencing enforcement action.

4) **Author's statement**:

   > Methane emissions are about 80 times more powerful than CO2 emissions, and a large portion of these emissions come from organic waste in landfills. In 2016, California enacted SB 1383, which established goals to reduce both the organic waste in our landfills and methane emissions. While the goals created in SB 1383 are commendable, the implementation to achieve these goals has been slow and difficult for some local jurisdictions. In June 2023, the Little Hoover Commission released a report showing how California has missed its methane reduction goals for 2020 and is on track to miss its 2025 goals as well. SB 972 will bolster our organic waste reduction efforts by providing more technical assistance to local jurisdictions. Additionally, the bill requires CalRecycle to provide progress reports on implementation, enforcement, and technical assistance provided for the program.

5) **Cumulative impacts**. A number of bills relating to organic waste management have been introduced this year. While viewed individually, these bills have modest impacts on the state's efforts to achieve its SLCP reduction goals; however, added together, they may result in further hindering the state's ability to reduce these critical greenhouse gas emissions. As the bills move through the process, the authors should work together and with CalRecycle, stakeholders, and the relevant policy committees to ensure that the bills are complimentary

and not duplicative or conflicting and that they do not negatively affect the state's SLCP reduction efforts. The bills include:

AB 2311 (Bennett) adds edible food recovery activities to the activities eligible for funding from CalRecycle's grant program that provides financial assistance to promote the development of organic waste infrastructure and waste reduction programs (infrastructure grant program). This bill has been referred to the Senate Environmental Quality Committee.

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

AB 2514 (Aguiar Curry) exempts small counties with a population less than 70,000 from the state's organic waste reduction requirements. This bill defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen. This bill also requires CalRecycle to include hydrogen and pipeline biomethane converted from organic waste as eligible for procurement credit by local jurisdictions and requires CalRecycle to consider life cycle impacts when providing incentives to facilitate progress toward the organic waste reduction targets. This bill has been referred to the Senate Environmental Quality Committee.

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

SB 1045 (Blakespear) requires the Office of Planning and Research, in consultation with CalRecycle, to develop a model zoning ordinance that facilitates the siting of compost facilities and requires local jurisdictions, when amending a zoning ordinance to also amend an appropriate zoning ordinance based on the model ordinance. This bill also requires district or regional water boards to act on permits for compost facilities within 30 days. This bill has been referred to the Assembly Natural Resources Committee and the Assembly Local Government Committee.

SB 1046 (Laird) requires CalRecycle to develop a Program Environmental Impact Report for small and medium sized compost facilities by January 1, 2027. This bill has been referred to the Assembly Appropriations Committee.

SB 1175 (Ochoa Bogh) requires CalRecycle to consider alternatives to census tracts when establishing the boundaries for a low-population or elevation waiver from the state's organic waste reduction requirements. This bill has been referred to the Assembly Appropriations Committee.

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

   a) This bill requires one of the reports to make recommendations to continue to advance "the program," but does not specify what program. The committee may wish to replace "the program" with "reductions in organic waste disposal" on page 2, line 10 of the bill.

   b) Replace "disposal" with "management" on page 2, line 14.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Voters
California State Association of Counties
Californians Against Waste
City of Chino Hills
League of California Cities
Republic Services, Inc.
Stopwaste

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1014 (Dodd) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Wildfire safety: The California Wildfire Mitigation Strategic Planning Act.

SUMMARY: Requires the Deputy Director of Community Wildfire Preparedness and Mitigation (Deputy Director) within the Office of the State Fire Marshal (OSFM), on or before January 1, 2026, and every three years thereafter, to prepare a Wildfire Risk Mitigation Planning Framework (Framework) sufficient to quantitatively evaluate wildfire risk mitigation actions, as provided.

EXISTING LAW:

1) Establishes the OSFM in the Department of Forestry and Fire Protection (CAL FIRE) and establishes the Deputy Director within the OSFM. (Public Resources Code (PRC) 4209)

2) Makes the Deputy Director responsible for fire preparedness and mitigation missions of CAL FIRE, as provided. (PRC 4209.1)

3) Requires each electrical corporation to construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Requires each electrical corporation to annually prepare and submit a wildfire mitigation plan (WMP) for review and approval. Requires the WMP to cover at least a three-year period. (Public Utilities Code 8386)

THIS BILL:

1) Defines the following terms:

   a) "Risk to spend efficiency" as the net present value of monetized reduction in wildfire consequences per dollar of risk mitigation expenditure.

   b) "Wildfire risk mitigation action" as an action undertaken by a private or public actor with the stated purpose of reducing either the chances of a wildfire ignition or the consequences of a wildfire ignition after one occurs, excluding fire suppression activities.

2) Requires, on or before January 1, 2026, and every three years thereafter, the Deputy Director to prepare a Framework sufficient to quantitatively evaluate wildfire risk mitigation actions as determined by the Deputy Director.

3) Requires the Framework to allow for geospatial evaluation and comparison of wildfire risk mitigation actions sufficient to direct coordinated mitigation efforts and long-term collaborative mitigation planning.

4) Provides that the Framework may incorporate, for each wildfire mitigation action, near-term and long-term estimates and projections, as determined to be appropriate by the Deputy Director, all of the following:

   a) The entity or entities responsible for the wildfire risk mitigation action;

   b) Risk events and consequences targeted, including cost and other appropriate metrics of unmitigated damages;

   c) Cost of the wildfire risk mitigation action;

   d) Methodologies for evaluating, and estimates of risk to spend efficiency of, the wildfire risk mitigation action;

   e) Geographic areas to which the wildfire risk mitigation action applies;

   f) Interactions, cobenefits, and joint impacts with other wildfire risk mitigation activities;

   g) Interactions and joint impacts with climate change, drought, past wildfires, and other environmental factors and environmental metrics, as appropriate;

   h) Effects on stakeholders and other affected parties;

   i) Personnel requirements to effectuate the wildfire risk mitigation action; and,

   j) Other factors as determined to be appropriate by the Deputy Director.

5) Requires the Deputy Director to make the Framework available as a planning tool for all entities planning and likely to engage in statewide wildfire risk mitigation actions, including state agencies, federal agencies, electric utilities, municipalities and local governments, nongovernmental organizations, and private actors seeking funding.

6) Requires the Deputy Director, each year the Framework is completed, to submit a copy of the framework to the Legislature, the Office of Energy Infrastructure Safety, and the Public Utilities Commission (CPUC) for review and consideration.

7) Requires, to the maximum extent possible, the Deputy Director to make the factual and analytical basis for the Framework available to the public on its internet website.

8) Authorizes the Deputy Director to contract with a private consultant or a public university with special expertise in the quantitative assessment of wildfire risk and risk mitigation to conduct quantitative wildfire and community risk modeling and for preparation of reports.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill would result in unknown, potentially significant fiscal impact, likely ranging in the hundreds of thousands of dollars, for the Community Wildfire Preparedness and Mitigation division to complete and regularly update the Framework (General Fund).

COMMENTS:

1) **Author's statement**:

> Catastrophic wildfire imposes enormous costs on the State of California and its residents. In the aftermath of the Camp Fire, AB 1054 (Holden, Chapter 79, Statutes of 2019, created a framework under which electric utilities evaluate their wildfire risk and plan for their wildfire mitigation investments and activities, overseen by the Office of Electric Infrastructure Safety within the California Natural Resources Agency. These utility Wildfire Mitigation Plans (WMPs) comprehensively quantify utility-related wildfire risk and help to ensure that utility spending is both adequate and cost-effective in reducing wildfire risks from utility ignition. In addition to Utility WMPs the federal, state, and local governments invest significant amounts of funding in wildfire prevention programs. However, there is not an overriding roadmap as to how private and public investments can be best coordinated for maximum effectiveness in reducing wildfire risk. SB 1014 seeks to create that roadmap.

2) **Wildfires**. In recent years, California has experienced a growing number of highly destructive wildfires. Of the 20 most destructive wildfires in California's recorded history, 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. California's Fourth Climate Change Assessment projects that by 2100, if climate change continues on this trajectory, the frequency of extreme wildfires would increase, and the average area burned statewide would increase by 77%.

   To address the threats posed by climate change, it is estimated that as many as 15 million acres of California forests need some form of treatment to maintain or restore forest health and prevent risk of wildfires. The state and United States Forest Service (USFS) have a collective goal to treat one million acres of land annually to reduce fire risk by 2025. CAL FIRE completed about 105,000 acres of fuel treatment, including 36,000 acres of prescribed burns during the 2023 fiscal year, according to state data. The USFS conducted about 312,000 acres of combined treatment and burns.

3) **Utility lines**. Electrical infrastructure is a common ignition point for wildfires. Other common sources of ignition include arson, campfires, equipment use, lightning, and vehicles. In 2019, 10% of wildfires and 65% of acres burned were caused by electrical equipment. In 2018, 9% of wildfires and 23% of acres burned were caused by electrical equipment. While high winds can blow vegetation into utility lines from far distances, removing vegetation in contact with utility lines has been found effective in reducing fire starts.

   The 2021 Dixie Fire started on July 13, 2021, and ignited after a Douglas fir tree fell and struck energized conductors owned and operated by PG&E. In 2024, CPUC penalized PG&E with a $45 million settlement for violating the Public Utilities Code and CPUC's rules, regulations, orders, or decisions.

   In 2022, PG&E reached a $117 million settlement agreement in connection with the 2017 North Bay fires and the 2018 Camp fire. A dozen fires that ripped through Northern California in October 2017 were sparked by downed power lines owned by PG&E, according to CAL FIRE. The fires burned across Napa, Sonoma, Humboldt, Butte, and Mendocino

counties and killed 19 people. A year later, the Camp fire was sparked in Butte County by faulty electrical equipment operated by PG&E. The fire decimated several communities, including the town of Paradise. In total, 85 people died in the fire, making it the deadliest blaze in the state's history.

Electric utilities are required to implement WMPs assessing their level of wildfire risk and providing plans for wildfire risk reduction. The six investor owned utilities currently employ an enhanced sensor technology that can sense a disturbance on an energized distribution line and turn the circuit off. If an object makes contact with an energized line, such as a tree that falls on a line as a result of high winds, or an animal chews through the line, the sensor trips the line off.

4) **Wildfire risk mitigation**. In 2019, the Legislature enacted SB 209 (Dodd), Chapter 405, Statutes of 2019, to establish the state's Wildfire Forecast and Threat Intelligence Integration Center (Center), which requires Office of Emergency Services (Cal OES) and CAL FIRE to jointly establish a first-of-its-kind center focused on wildfire forecasting; wildfire risk, hazard, and threat assessments; fire weather and fire behavior; and, intelligence gathering, analysis, and dissemination. The Center began operations on July 1, 2022, and is developing a statewide wildfire forecast and threat intelligence strategy to improve how wildfire threats are identical, understood, and shared in order to reduce threats to residents, businesses, and governments.

   AB 9 (Wood), Chapter 225, Statutes of 2021, created the Community Wildfire Preparedness and Mitigation Division within the OSFM. The Deputy Director is responsible for fire preparedness and mitigation missions of CAL FIRE, including oversight of the Fire Prevention Grants Program, defensible space requirements, the California wildfire mitigation financial assistance program, the establishment of fire hazard severity zones, consultation with the Office of Energy Infrastructure Safety regarding wildfire mitigation plans, general plan safety element review, wildland building code standards, and implementation of the minimum fire safety standards.

   This bill requires the Deputy Director to prepare a Wildfire Risk Mitigation Planning Framework sufficient to quantitatively evaluate wildfire risk mitigation actions. The Framework will be required to allow for geospatial evaluation and comparison of wildfire risk mitigation actions, include near-term and long-term estimates and projections for each wildfire mitigation action, and be available as a planning tool for all entities planning and likely to engage in statewide wildfire risk mitigation actions. Those entities include state and federal agencies and electrical utilities, such as PG&E.

5) **Double referral**. This bill was heard in the Assembly Emergency Management Committee on June 10 and approved 7-0.

6) **Relevant legislation.** SB 1101 (Limón) requires CAL FIRE, on or before January 1, 2026, to identify and map a comprehensive network of potential operational delineations that can be used for strategic wildfire response or the proactive use of prescribed fire. This bill is referred to the Assembly Natural Resources Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Choice Association
El Dorado Irrigation District
Pacific Gas and Electric Company
San Diego Gas & Electric
Southern California Edison

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1045 (Blakespear) – As Amended April 29, 2024

SENATE VOTE: 32-7

SUBJECT: Composting facilities: zoning

SUMMARY: Requires the Office of Planning and Research (OPR) to develop a technical advisory on best practices to facilitate the siting of compost facilities.

EXISTING LAW:

1) Requires the Air Resources Board (ARB) to develop a comprehensive strategy to reduce the emissions of short-lived climate pollutants (SLCP) to achieve a 40% reduction in methane emissions, 40% reduction in hydrofluorocarbon gases, and 50% reduction in anthropogenic black carbon below 2013 levels by 2030. (Health and Safety Code (HSC) 39730-39730.5)

2) Requires the state to reduce the disposal of organic waste by 40% from the 2014 level by 2020 and 75% by 2025 to help achieve the state's methane reduction goal. (HSC 39730.6)

3) Requires the Department of Resources Recycling and Recovery (CalRecycle), in consultation with the Air Resources Board (ARB), to adopt regulations to achieve the targets for reducing the disposal of organic waste in landfills. (Public Resources Code (PRC) 42652.5)

4) Establishes the Permit Streamlining Act (PSA), which requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. (Government Code (GC) 65921)

    a) Establishes timelines for agencies responding to permits under the PSA, including:

        i) An agency has 30 days after an application is submitted to inform an applicant whether or not the application is complete. If the agency does not inform the applicant within that 30-day period, the application is "deemed complete." The 30-day period restarts with a re-submission of an application. (GC 65943).

        ii) Once an aplication is deemed complete, specified public agencies must approve or disapprove the permit within a specified time limit (between 60 and 180 days), or the permit is "deemed approved." (GC 65956).

5) Requires, under the California Environmental Quality Act (CEQA), lead agencies with the principal responsibility for carrying out or approving a project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for the project, unless the project is exempt from CEQA. (PRC 21000 *et seq*.)

THIS BILL:

1) Requires OPR to develop, in consultation with CalRecycle, a technical advisory that reflects best practices to facilitate the siting of composting facilities to meet the state's organic waste reduction goals by June 1, 2026.

2) Specifies that the technical advisory include sample general plan goals, policies, and implementation measures and a model ordinance.

3) Requires OPR to consult with representatives of urban, suburban, and rural counties and cities, operators of composting facilities, and private and public waste services throughout the development of the technical advisory.

4) Upon a substantive revision of a land use element on or after January 1, 2028 and after the technical advisory is posted, requires a city, county, or city and county to consider:

   a) The best practices reflected in the technical advisory; and,

   b) Updating the land use element to identify areas where composting facilities may be appropriate as an allowable use, which may vary based on the types or sizes of the facilities.

5) Specifies that no reimbursement is required by the bill pursuant to Section 6 of Article XIIIB of the California Constitution, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee:

1) OPR estimates costs of approximately $448,000 annually for 2.0 PY of staff to conduct outreach and consult with CalRecycle and other interested parties, and to research and draft the technical advisory. Staff notes that these costs would be incurred through 2025-26, but there would be some measure of ongoing costs to provide the technical assistance to local agencies that would be siting composting facilities. (General Fund)

2) CalRecycle indicates that any costs to provide consultation to OPR in the development of the technical advisory would be absorbable. (Integrated Waste Management Account)

3) Unknown local costs for cities and counties to consider identifying areas where composting facilities may be appropriate when updating land use elements in their General Plans. These local costs would not be state-reimbursable as local agencies have the authority to charge various fees and charges to offset the costs of any new planning mandates. (local funds)

COMMENTS:

1) **Organic waste management**. SB 1383 (Lara), Chapter 395, Statutes of 2016, requires ARB to approve and implement a comprehensive SLCP strategy to achieve, from 2013 levels, a 40% reduction in methane, a 40% reduction in hydrofluorocarbon gases, and a 50% reduction in anthropogenic black carbon by 2030. In order to accomplish these goals, the law specifies that the methane emission reduction goals include targets to reduce the landfill disposal of organic waste 50% by 2020 and 75% by 2025 from the 2014 level. SB 1383 also requires that by 2025, 20% of edible food that would otherwise be sent to landfills is

redirected to feed people.

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

Though California has made significant progress toward achieving its SLCP reduction goals, more needs to be done. Since the program's implementation in 2022, 75% of California communities (464 out of 616 jurisdictions) report that they have residential organic waste collection in place. According to CalRecycle, California now has 206 organic waste processing facilities and is building 20 more, and CalRecycle has invested over $220 million in grants and loans for organics processing infrastructure. CalRecycle states that the state needs approximately 50 to 100 new or expanded organics facilities to recycle the additional 20-25 million tons of organic waste that will be collected to meet the SB 1383 organic waste reduction targets.

2) **CEQA**. CEQA is intended to make government agencies and the public aware of the environmental impacts of a proposed project, ensure the public can take part in the review process, and identify measures to mitigate a project's environmental impacts. CEQA is enforced by civil lawsuits.

   The CEQA process begins with an initial study to determine the level of environmental review required for a project. If a project has no significant effects on the environment, or if those effects can be fully mitigated, the project can move forward with a ND or MND. If the initial study finds that the project has potential significant effects on the environment, an EIR is conducted to analyze the significant environmental impacts of a project and to identify mitigation measures for any significant effects identified.

3) **Compost facility permitting**. In addition to CEQA review, new composting facilities, depending on size and feedstock, are required to obtain local and state permits to operate. While these various permits provide important environmental protections, the layers of regulatory oversight and overlapping requirements make siting new compost facilities complex and costly. According to the California Compost Coalition, siting new compost facilities can take more than a decade to complete. Moreover, many local governments have not incorporated organic waste recycling facilities into their land use planning.

   Local air districts regulate stationary sources of air pollution. Actively composting piles of organic feedstock emit volatile organic compounds (VOCs), which can react in the atmosphere with oxides of nitrogen (NOx) to make ground-level ozone, a criteria pollutant. VOCs can also react with ammonia to create particulate matter (PM 2.5), another criteria pollutant. The amount of emissions released during composting appears to be highly variable, and is influenced by the types of feedstock, types of facilities, and even climate. The relationships between the types of gases being emitted at any one time are complicated and remain poorly understood. Air districts rules and regulations for compost facilities can

include detailed operational criteria, such as temperature and pressure requirements for composting aeration systems, and control efficiency rates for VOC and ammonia emissions.

The State Water Resources Control Board and regional boards are charged with issuing waste discharge requirements (WDRs) for composting facilities. In 2015, the Water Board developed and adopted its General Waste Discharge Requirements for Composting Operations (Composting General Order), which is intended to protect against potential threats to water quality from discharges from composting operations, and establishes general criteria that can be applied to composting facilities across the state in order to streamline the permitting process for composting operations that have similar materials and operations.

4) **Permit Streamlining Act**. The PSA was enacted in 1977 to expedite permit processing for development projects. The PSA sets timelines for government agencies to approve or deny permits. Under the PSA, an agency has 30 days after an application is submitted to respond to the applicant and tell them whether or not the application is complete. If the agency doesn't respond to the applicant in that timeframe, the application is deemed complete.

   After an application is deemed complete, the PSA sets time limits for development project permit applications. The timeline depends on the level of environmental review required under CEQA for the project. If a project is eligible for an exemption from CEQA, the lead agency has 60 days to approve or deny the development permit. If the project requires more environmental review than needed for an exemption, the lead agency has 30 days after the project application is completed to conduct an initial study, which determines whether to require the preparation of an EIR or ND. Following the completion of the initial study, the lead agency has 60 days for a ND or 180 days for an EIR. The time limits for approval of applications may be extended up to 90 days by mutual agreement between the applicant and the public agency. If the agency fails to act within the specified timeline, the permits are deemed approved.

5) **Author's statement**:

   Organic materials make up half of what Californian's send to landfills and emit 20% of the state's methane. CalRecycle estimates that the state still needs approximately 50 to 100 new or expanded organic waste recycling facilities, such as composting facilities, for sufficient capacity to successfully implement SB 1383.

   The siting and permitting of composting facilities is currently complicated and time-consuming – taking over a decade to finalize, in some cases. We recognize that state and local officials are balancing a complex web of important environmental regulations. However, as responsible policymakers acting on behalf of the state, we must prioritize the development of new organic waste recycling infrastructure to meet our SB 1383 goals. Otherwise, the state risks sending thousands of tons of recyclable food waste to our landfills to decompose and release damaging methane into the atmosphere for years to come. And according to CalRecycle, methane is a climate super pollutant 84 times more potent than carbon dioxide, which will further intensify the climate crisis.

6) **Cumulative impacts**. A number of bills relating to organic waste management have been introduced this year. While viewed individually, these bills have modest impacts on the state's efforts to achieve its SLCP reduction goals; however, added together, they may result in further hindering the state's ability to reduce these critical greenhouse gas emissions. As the bills move through the process, the authors should work together and with CalRecycle, stakeholders, and the relevant policy committees to ensure that the bills are complimentary and not duplicative or conflicting and that they do not negatively affect the state's SLCP reduction efforts. The bills include:

   AB 2311 (Bennett) adds edible food recovery activities to the activities eligible for funding from CalRecycle's grant program that provides financial assistance to promote the development of organic waste infrastructure and waste reduction programs (infrastructure grant program). This bill has been referred to the Senate Environmental Quality Committee.

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

   AB 2514 (Aguiar Curry) exempts small counties with a population less than 70,000 from the state's organic waste reduction requirements. This bill defines pyrolysis as the thermal decomposition of organic material at elevated temperatures in the absence of oxygen. This bill also requires CalRecycle to include hydrogen and pipeline biomethane converted from organic waste as eligible for procurement credit by local jurisdictions and requires CalRecycle to consider life cycle impacts when providing incentives to facilitate progress toward the organic waste reduction targets. This bill has been referred to the Senate Environmental Quality Committee.

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

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

   SB 1046 (Laird) requires CalRecycle to develop a Program Environmental Impact Report for small and medium sized compost facilities by January 1, 2027. This bill has been referred to the Assembly Appropriations Committee.

   SB 1175 (Ochoa Bogh) requires CalRecycle to consider alternatives to census tracts when establishing the boundaries for a low-population or elevation waiver from the

state's organic waste reduction requirements. This bill has been referred to the Assembly Appropriations Committee.

7) **Double referral**. This bill has also been referred to the Assembly Local Government Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Compost Coalition
California State Grange
Californians Against Waste
Recology
Republic Services, Inc.
Republic Services, Western Region
Resource Recovery Coalition of California
Rural County Representatives of California
Upper Valley Disposal Recycling
Waste Connections, Inc.
WM

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1073 (Skinner) – As Amended April 29, 2024

SENATE VOTE: 37-0

SUBJECT: State acquisition of goods and services: low-carbon cement or concrete products

SUMMARY: Authorizes state agencies to enter into forward contracts to purchase low-carbon cement or concrete products up to 10 years in advance.

EXISTING LAW:

1) Requires the Air Resources Board (ARB) to develop a comprehensive strategy for the state's cement sector to achieve net-zero emissions of greenhouse gases (GHGs) associated with cement used within the state, as specified. (Health and Safety Code (HSC) 38561.2)

2) Establishes the California Climate Crisis Act, which establishes the policy of the state to, among other things, achieve zero GHG emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter. (HSC 38562.2)

3) Requires ARB, by July 1, 2025, to develop a framework (that may include a market-based crediting system) for measuring and reducing the carbon intensity of building materials used in the construction of new buildings, including for residential uses. Requires ARB to develop a comprehensive strategy for the state's building sector to achieve a 40% net reduction in GHGs of building materials no later than December 31, 2035. (HSC 38561.3)

4) Buy Clean California Act requires the Department of General Services (DGS) to establish and publish Global Warming Potential (GWP) limits for four categories of materials used in eligible projects: carbon steel rebar (used to reinforce concrete), flat glass, mineral wool insulation, and structural steel. Requires awarding authorities for eligible projects to include in specifications for bids that the facility-specific GWP for those materials does not exceed the limits established by DGS. (Public Contract Code 3500 *et seq*.)

5) Directs DGS to minimize the state government's carbon footprint and to develop and implement sustainable purchasing policies to prioritize the procurement of environmentally preferable goods and services. (Executive Order N-19-19)

THIS BILL:

1) Authorizes state agencies to enter into forward contracts to purchase low-carbon cement or concrete products up to 10 years in advance to facilitate the commercialization of concrete, cement, and supplementary cementitious materials in furtherance of any of the following:

   a) The comprehensive strategy for the state's cement sector;

   b) The policy of the California Climate Crisis Act; and,

c) The framework and comprehensive strategy for reducing the average carbon intensity of building materials.

2) States related legislative findings and declarations.

FISCAL EFFECT: According to the Senate Appropriations Committee, unknown potentially significant ongoing costs pressures, to the extent state agencies electing to enter into forward contracts to purchase low-carbon cement or concrete products increases state contracting costs or other procurement workload (General Fund and various special funds).

DGS notes that should it or other state agencies enter into a contract of this type, it would require additional limited-tem staff resources to develop policies, procedures, and statewide guidance to use this procurement method. Ongoing costs may include additional full-time staff resources to ensure contractors fulfill obligations and provide consultation or guidance to other state agencies utilizing forward contracts to purchases of low carbon concrete. These total one-time and ongoing costs are indeterminate at this time, but may range into the hundreds of thousands of dollars.

The actual fiscal impact of this bill to DGS and other state agencies would depend on, among other things, the extent that state agencies will utilize this procurement method as well as the type, scale, and duration of any associated projects.

COMMENTS:

1) **Forward contracts**. A forward contract is a customized contract to buy or sell a commodity at a specified price on a future date. In the procurement world, a forward contract is as a contractual agreement between a government entity and a supplier, whereby the government commits to purchasing a significant and specified quantity of a product at predetermined terms and prices years in advance.

   This funding mechanism is useful to encourage the development of new products when the cost of research and development is too high to be worthwhile for the private sector. It has been used successfully in the development of certain vaccines. This approach has the benefit of guaranteeing a reliable, predictable buyer for firms developing a new product; however, it creates the potential for overpaying for the product. For example, the contracted price may end up being more than the market price at the time of purchase.

2) **Cement and concrete**. California is the second largest cement producing state after Texas, accounting for approximately 10-15% of the cement production and industry employment in the United States (US). In 2019, there were eight cement plants in California and more than 300 concrete manufacturing plants. Most of the cement used in California is produced in-state and cement and clinker production is expected to increase significantly in California as the population and economy grow.

   Concrete is a mixture of cement (a binder usually made from lime or calcium silicate), aggregates (sand, rock, etc.), water, and air. In a typical concrete mix, cement represents 10-15% of the concrete by volume.

Cement is made by grinding clinker, an intermediary nodular material produced from heating limestone and clay in a rotary kiln to about 2700°F. Most of the energy used, and emissions generated, by cement manufacturing are in clinker production. Approximately 40% of the GHG emissions from cement production are from energy use (for heating and driving the processing) and 60% from the chemical reaction that occurs when limestone is heated at high temperatures to make cement, known as "process emissions." Additional emissions comes from quarrying, transporting, and preparing the other raw materials.

Cement is responsible for 80-90% of the life cycle GHG emissions for concrete, 1.8% of the California's overall GHG emissions, and 7% of GHG emissions worldwide. It is considered one of the most challenging industrial sectors to decarbonize.

Cement plants are also the largest consumer of coal in the state. In 2015, 51% of fuel combustion and energy for California's cement industry came from coal, while 12% came from electricity. Due to the high heat required, full electrification of these plants is difficult. GHG emissions dropped 20% between 2000 and 2015, mainly due to a drop in production; however, they have slowly been rising since. Achieving the state's GHG emission reduction goals will require GHG reductions in heavy industry, like cement producers.

3) **Decarbonizing cement**. The US Department of Energy 2023 report, *Pathways to Commercial Liftoff: Low-Carbon Cement*, identifies four tracks to commercial liftoff for low-carbon cement:

- Currently deployable measures, including clinker substitution, energy efficiency, and alternative fuels;
- Carbon capture and storage retrofits and integration into new plants;
- Alternative production methods, including alternative feedstocks and alternatives to traditional rotary kiln production; and,
- Alternative binder chemistries (i.e., alternatives to clinker).

The report states that government procurement drives approximately 50% of US demand, "giving the public sector an outsized role in accelerating decarbonization." However, features of the cement market make it difficult to create a clear demand signal. The report includes recommendations to make the demand signal for low-carbon cement bankable for investors and to enable financing at a larger scale, including:

- A direct, legally enforceable contract between cement producers and a creditworthy end customer, such as a government entity;
- Guaranteed offtake for most of all of a plant's production for the investment period, with a price guarantee; and,
- Active management of intermediators in the supply chain to ensure low-carbon cement is used in the construction process.

4) **State efforts**. The state has established a clear preference for low-carbon products, including cement and concrete. The Buy Clean California Act requires DGS to establish and publish Global Warming Potential (GWP) limits for four categories of materials used in public works projects: carbon steel rebar (used to reinforce concrete), flat glass, mineral wool insulation, and structural steel.

AB 2446 (Holden), Chapter 352, Statutes of 2022, requires ARB to develop a framework to measure and reduce the embodied carbon of building materials, primarily at the materials production stage. The bill established a 40% GHG emission reduction target by 2035. AB 43 (Holden), Chapter 316, Statutes of 2023, built upon the foundation of AB 2446 by providing ARB the authority to establish an embodied carbon trading system to achieve the target.

5) **This bill**. This bill is intended to address a key barrier to achieving GHG emissions reductions in the building sector by allowing for clear, contractual commitments for low-carbon concrete and cement before those materials are commercially available. According to the author, this commitment is needed to enable the investments necessary to bring them to market.

6) **Author's statement**:

> The cement and concrete industry is one of the most difficult industries to decarbonize. Cement and concrete production currently accounts for about 8 percent of global carbon emissions. SB 1073 will help lower carbon emissions from cement and concrete by giving state agencies the option to purchase low-carbon cement and concrete through advance procurement agreements. Advance procurement agreements provide a market signal that can promote the production of new and innovative carbon and cement technologies, additionally advance procurement agreements provide stability and clarity for agencies and suppliers in California. By ensuring that California prioritizes low-carbon cement purchases, we can build on the great progress California has made to achieve our 2045 zero-emission goals.

7) **Previous legislation**.

SB 682 (Skinner, 2023) would have made it the policy of the state to purchase or specify at least 10% of cement and concrete meet or exceed a specified benchmark for low-carbon cement by 2030 and to exclude the purchase of all fossil-based supplementary cementious materials from that 10% by 2035. This bill was held in the Senate Appropriations Committee.

AB 1250 (Friedman, 2023) would have required the Secretary of Transportation, in consultation with the Department of Transportation (Caltrans), to submit a report to the Legislature regarding the global warming potential of asphalt, cement, and concrete used in transportation projects and the availability of lower-carbon alternatives. This bill would have also required Caltrans to require bidders of specified projects to submit valid environmental product declarations for asphalt and concrete used in a project. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Blue Planet Systems
Brimstone Energy
Carbonbuilt
CleanEarth4Kids.org

Opposition, unless amended

California Legislative Conference of Plumbing, Heating, and Piping Industry
Construction Employers Association
National Electrical Contractors Association
United Contractors
Western Line Construction Chapter, Inc.

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1077 (Blakespear) – As Amended May 20, 2024

SENATE VOTE: 36-0

SUBJECT: Coastal resources: local coastal program: amendments: accessory and junior accessory dwelling units.

SUMMARY: Requires the California Coastal Commission (Commission) to develop and provide guidance for local governments to facilitate the preparation of amendments to a local coastal program (LCP) to clarify and simplify the permitting process for accessory dwelling units (ADU) and junior accessory dwelling units (JADU) within the Coastal Zone.

EXISTING LAW:

Pursuant to the Planning and Zoning Law (Government Code (GC) 65000 *et seq*.):

1) Defines ADU as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. (GC 66313)

2) Authorizes a local agency to provide for the creation of ADUs in areas zoned for residential use, as specified. (GC 66314)

3) Authorizes a local agency to provide for the creation of JADUs in single-family residential zones, as specified. (GC 66333)

4) Requires each local agency, by January 1, 2025, to develop a program for the preapproval of ADU plans and requires the program to comply with specified requirements. (GC 65852.27)

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

1) Requires each local government lying, in whole or in part, within the Coastal Zone to prepare a local coastal program (LCP) for that portion of the Coastal Zone within its jurisdiction. Authorizes any local government to request, in writing, the Commission to prepare an LCP or a portion thereof, for the local government. Prohibits amendments to an LCP for the purpose of developing a certified LCP from constituting an amendment of a general plan. (PRC 30500)

2) Provides that no LCP is required to include housing policies and programs. (PRC 30500.1)

THIS BILL:

1) Requires, by an unspecified date, the Commission, in coordination with the Department of Housing and Community Development (HCD), 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 ADUs and JADUs within the Coastal Zone.

2) Requires the Commission, in coordination with HCD, to convene at least one public workshop to receive and consider public comments on the draft guidance before the finalization of the guidance document. Requires the Commission to post the draft guidance on its internet website at least 30 days before the public workshop, and provide notice of the public workshop to all cities and counties within the Coastal Zone. Requires the final guidance document to be posted on the Commission's internet website.

3) 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 pursuant to the Government Code.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in one-time costs potentially in excess of $50,000 (General Fund) for the Commission to prepare, circulate, revise, and distribute the guidance document as required by this bill. Whatever deadline is ultimately adopted in the bill could impact the actual costs of this bill.

COMMENTS:

1) **Author's statement**:

> Restrictive land use policies have fueled our current housing shortage, which disproportionately pushes Californians with low incomes and Californians from marginalized ethnic groups into housing instability and homelessness. Make no mistake, this is a humanitarian crisis. Because almost 75 percent of developed land in California is zoned for single family housing, simplifying the regulatory process for adding ADUs and JADUs can provide much of the housing our communities need while mitigating perceived impacts on community character and natural resources. Local governments report that ADU permitting-related state mandates enforced by HCD and the California Coastal Commission conflict with one another, hamstringing locals' ability to permit ADU projects on appropriate timelines. SB 1077 will direct Commission and HCD to collaboratively develop, solicit feedback, and publish unified guidance for local governments on how to plan for and permit ADUs in accordance with state law. This will provide clarity to local governments and reduce administrative barriers to ADU production in the Coastal Zone.

2) **California's housing crisis**. After decades of underproduction, housing supply is far behind need and housing and rental costs are soaring. Only 27% of households can afford to purchase the median priced single-family home – 50% less than the national average. More than half of renters, and 80% of low-income renters, are rent-burdened, meaning they pay more than 30% of their income towards rent.

HCD has determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA). This represents more than double the housing needed in the 5th RHNA cycle and would require production of more than 300,000 units a year. By contrast, housing production in the past decade has been less than 100,000 units per year – including less than 10,000 units of affordable housing per year.

According to the Senate Housing Committee analysis, California's high and rising land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. Higher density housing is a critical part of the solution as having multiple living units, such as apartment complexes and even accessory dwelling units, are more affordable, take up less land space, and use city infrastructure more efficiently.

3) **Development in the Coastal Zone**. The Commission administers the Coastal Act and regulates proposed development along the coast and in nearby areas. The Coastal Act requires local governments develop LCPs that can carry out policies of the Coastal Act at the local level. LCPs are land use planning documents that lay out a framework for development and coastal resource protection within a city or county's Coastal Zone area. They are prepared by the local jurisdiction and submitted to the Commission for certification.

About 73% of local jurisdictions in the Coastal Zone have approved LCPs. In the remaining jurisdictions that do not have an approved LCP, coastal development permits (CDPs) are issued by the Commission directly. Additionally, permitting decisions made by a local government with an approved LCP can be appealed directly to the Commission under specified circumstances. In reviewing the permit, Commission generally must defer to those standards outlined in the LCP.

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 Act exists to provide additional protections for the coast because it is unique, irreplaceable, relied on by various sources of income, and utilized for myriad recreational activities.

According to 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 Coastal Act, according to HCD, raises the price and rental income of multifamily housing units located within the Coastal Zone. 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.). The Coastal Act, according to HCD, raises the price and rental income of multifamily housing units located within the Coastal Zone.

The production of ADUs is an important strategy in the effort to reduce the cost of housing and build greater housing density across the state.

Local governments are required to comply with the Planning and Zoning laws for ADUs/JADUs and the Coastal Act. HCD has an oversight and approval role to ensure that local ADU ordinances are consistent with state law, similar to the Commission's review of LCPs.

4) **The more the merrier – encouraging ADUs and JADUs**. The Legislature has long identified ADUs, also known as second units, in-law apartments, or "granny flats," as a valuable form of housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. ADUs are an affordable type of home to build because they do not require paying for land, major new infrastructure, structured parking, or elevators.

   California cities can get credit for ADUs in their RHNA obligations. In addition, ADUs allow jurisdictions to increase their housing supply through urban infill, which helps limit sprawl, conserve undeveloped land, and use existing infrastructure efficiently.

   According to a 2020 report by the Center for Community Innovation, the majority of local jurisdictions (87%) have adopted at least one ADU ordinance, and many regions with high rates of ADU ordinance adoption also built a large share of ADUs between 2018-2019. Overall, 92% of ADUs are built on parcels zoned for single-family residential homes, but about 2% are being built on lots with duplexes, triplexes, or fourplexes. Additionally, more than 3,300 ADUs have been built on parcels of less than 5,000 square feet, suggesting that eliminating minimum lot sizes could have a meaningful impact on state housing production.

5) **Confusing rules for ADUs/JADUs**. The Legislature has passed a multitude of laws to encourage the creation of ADUs, specifically by reforming how local jurisdictions regulate their approval and development. Since 2002, nearly a dozen laws have been enacted to allow ADUs, determine where ADUs can be zoned, limit where ADUs can be permitted, establish size and set-back requirements, change requirements on how local governments can and cannot regulate ADUs and JADUs, and more.

   Another Center for Community Innovation report found that more than 200 local ADU ordinances were assessed both for consistency with state law and the user-friendliness of the jurisdiction's ADU programs for homeowners and found that local ADU policies are complicated by the difficulty for staff in interpreting the state-level ADU legislation itself. In addition to the number of changes and speed at which these statutory changes were enacted, most jurisdictions also reported having difficulty implementing the new ADU legislation due to a lack of clarity. Commonly cited areas of confusion include the actions triggered by different sizes of ADUs, the regulations for multifamily residences, setbacks, JADUs, and the definitions of certain elements such as single-family homes, efficiency kitchens, and multifamily dwellings. City and county staffers were, in many cases, overwhelmed because they did not have the capacity needed to process and implement the new legislation, including: interpreting the various sections of the legislation, incorporating these changes into the jurisdiction's codes, and then communicating changes to homeowners with ADU permits in the pipeline. In addition to the lack of clarity in the legislation, city employees

expressed frustration that they did not know who to contact at the state-level with any ADU questions or clarification needs.

In April 2020, the Commission sent a memo to all the planning directors of coastal cities and counties providing general guidance for local governments with fully certified LCPs. The Commission is generally responsible for Coastal Act review of ADUs in areas that are not subject to fully certified LCPs.

Where LCP policies directly conflict with the new statutory provisions or require refinement to be consistent with those laws, those LCPs should be updated to be consistent with the new ADU provisions to the greatest extent feasible while still complying with Coastal Act requirements.

6) **This bill**. SB 1077 requires 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 ADUs and JADUs within the Coastal Zone.

7) **Double referral**. This bill is also referred to the Assembly Housing & Community Development Committee.

8) **Committee amendments**. The bill currently has a blank for the date by which the Commission and HCD are required to provide guidance for local governments. The *Committee may wish to consider* adding in a completion date of July 1, 2026, to give the state 18 months once the bill takes effect.

> 30500.5. (a) By *July 1, 2026*, the commission shall, in coordination with the Department of Housing and Community Development, coordinate to develop and provide guidance for local governments to facilitate the preparation of amendments to a local coastal program to clarify and simplify the permitting process for accessory dwelling units and junior accessory dwelling units, as defined in Section 66313 of the Government Code, within the Coastal Zone.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
California State Association of Counties
City of Long Beach
Enterprise Community Partners, INC.

Opposition

Save Lafayette

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1092 (Blakespear) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Coastal resources: coastal development permits: appeals: report

SUMMARY: Requires the California Coastal Commission (Commission), on or before December 31, 2025, to provide a report to the Legislature that provides information regarding appeals of local government coastal development permits (CDPs) to the Commission, including, among other things, the percentage of local government CDP actions that were appealed to the Commission.

EXISTING LAW, pursuant to the California Coastal Act (Coastal Act) (Public Resources Code (PRC) 30000 *et seq*.):

1) Requires each local government lying, in whole or in part, within the Coastal Zone to prepare a local coastal plan (LCP) for that portion of the Coastal Zone within its jurisdiction. Authorizes any local government to request, in writing, the Commission to prepare an LCP or a portion thereof, for the local government. (PRC 30500)

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 CDP. (PRC 30600)

3) Authorizes, prior to certification of its LCP, any action taken by a local government on a CDP application to be appealed by the executive director of the Commission, any person, including the applicant, or any two members of the Commission to the Commission. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed and is not deposited with the Commission within the time prescribed. (PRC 30602)

4) After certification of its LCP, an action taken by a local government on a CDP application may be appealed to the Commission only for specified types of developments, and provides that the grounds for an appeal is limited to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in Coastal Act. (PRC 30603)

THIS BILL:

1) Requires, on or before December 31, 2025, the Commission to provide a report to the Legislature that provides the following information regarding appeals of local government CDP actions to the Commission that were filed pursuant to Section 30602 or 30603 between January 1, 2021, and December 31, 2024, inclusive:

    a) The percentage of local government CDP actions that were appealed to the Commission;

b) The amount of time, in business days, between when each appeal was filed and when the Commission took a final action on the appeal;

c) The percentage of appeal applications that the Commission exercises its authority to hear and, of those appeals accepted, the percentage for which the Commission decides to issue the permit and the percentage for which it decides to deny the permit; and,

d) For appeals in the top quartile for the longest period between filing and final action, information on the factors that contributed to the above-average amount of time these appeals required to be processed by the Commission.

2) Requires the report to be submitted in compliance with Section 9795 of the Government Code.

3) Sunsets the reporting requirement on January 1, 2028.

FISCAL EFFECT: According to the Senate Appropriations Committee, the Commission estimates one-time costs of about $48,000 (General Fund) to compile the relevant data regarding local CDPs and CDP appeals for multifamily housing projects in specified urban areas.

COMMENTS:

1) **Author's statement**:

> Affordable housing and market-rate developers report that they still experience uncertainty in the timelines for the CDP process, which is required to develop in California's Coastal Zone. Closer analysis reveals that while there is relatively sufficient certainty on the timeline for initial decisions local governments make on CDPs, the timeline for the appeals process can be highly variable. In some cases, these appeals have taken years to be resolved. SB 1092 will direct the Commission to study the timeline uncertainty developers have identified and provide a report to the Legislature on its findings. With this information, the Legislature can take evidence-based actions to better align the CDP appeals process with its housing production priorities.

2) **Development in the Coastal Zone**. The Commission administers the Coastal Act and regulates proposed development along the coast and in nearby areas in the Coastal Zone. Generally, any development activity in the Coastal Zone requires a CDP from the Commission or local government with a certified LCP. About 73% of local jurisdictions in the Coastal Zone have approved LCPs. In the remaining jurisdictions that do not have an approved LCP, CDPs are issued by the Commission directly. Additionally, permitting decisions made by a local government with an approved LCP can be appealed directly to the Commission under specified circumstances. In reviewing the permit, Commission generally must defer to those standards outlined in the LCP.

3) **CDP appeals.** The Coastal Act appeal process is intended to ensure that statewide interests in coastal resources are protected and appropriately balanced with competing local interests.

Coastal Act Section 30603 provides for the appeal to the Commission of certain CDP decisions by cities and counties that have Commission-certified LCPs. Any locally-approved

development project between the first public road and the sea; within 300 feet of a beach or the mean high tideline where there is no beach; within 300 feet of a coastal bluff edge; within 100 feet of a wetland, estuary, or stream; or, on tidelands, submerged lands, or public trust lands is appealable to the Commission. The approval or denial of a major public works project or energy facility, regardless of its location, is also appealable.

Any applicant or person who participates in the local permitting process for a project may file an appeal. An appellant must have exhausted all local appeals unless the local government charges a fee to appeal, restricts the class of people who can file appeals, or fails to follow the hearing and notice requirements for issuing a coastal development approval. For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP and/or to Coastal Act public access provisions.

The Commission's consideration of appeals is a two-step process. The first step is determining whether the appeal raises a substantial issue that the Commission, in the exercise of its discretion, finds to be significant enough to warrant the Commission taking jurisdiction over the CDP application. The Commission is required to begin its hearing on an appeal, addressing at least the substantial issue question, within 49-working days of the filing of the appeal, unless the applicant has waived that requirement, in which case there is no deadline.

The average time for appeals that do not raise a substantial issue is two to three months. For appeals that raise a substantial issue, it takes approximately six to eight months on average to reach a final decision. According to the Commission, it does its best to process appeals as quickly as possible, generally in the order they are received. Informational needs, complexity of issues, extent of public interest, applicant responsiveness, and staff workload all affect the timing of the appeal process.

Of the almost 4,000 local CDPs for 2021 – 2023, inclusive, 2,395 (about 61%) were appealable to the Commission. About 5% of the total local CDPs – 190 – were actually appealed to the Commission. Data provided by the author to the Senate show that there are some appeals that take extended periods to reach resolution – in some instances as long as years.

SB 1092 requires the Commission, by December 31, 2025, to report to the Legislature with information regarding appeals of local government CDPs to the Commission, including, among other things, the percentage of local government CDP actions that were appealed to the Commission.

4) **Double referral**. This bill is also referred to the Assembly Local Government Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
City of Long Beach
Housing Action Coalition

Opposition

Livable California

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1101 (Limón) – As Amended June 10, 2024

SENATE VOTE: 38-0

SUBJECT: Fire prevention: prescribed fire: state contracts: maps.

SUMMARY: Requires the Department of Forestry and Fire Protection (CAL FIRE), on or before January 1, 2026, to identify and map a comprehensive network of potential operational delineations (PODs) that can be used for strategic wildfire response or the proactive use of prescribed fire.

EXISTING LAW:

1) Requires all contracts entered into by any state agency for the acquisition of goods or elementary school textbooks; services, whether or not the services involve the furnishing or use of goods or are performed by an independent contractor; the construction, alteration, improvement, repair, or maintenance of property, real or personal; or, the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the Department of General Services (DGS). Provides specified exemptions to this requirement. (Public Contract Code (PCC) 10295)

2) Requires a state agency to secure at least three competitive bids or proposals for each contract. Provides specified exemptions to the three-bid minimum requirement. (PCC 10340)

3) Establishes CAL FIRE within the California Natural Resources Agency, and establishes various programs for the prevention and suppression of wildfires at CAL FIRE, as provided. (Public Resources Code (PRC) 701)

4) Authorizes CAL FIRE to enter into cooperative agreements with specified entities under such terms as CAL FIRE deems advisable for the prevention and suppression of forest fires. (PRC 4141)

THIS BILL:

1) Exempts from DGS approval a contract entered into by CAL FIRE for the purpose of providing logistical support for large-scale prescribed fire operations, including, but not limited to, meals, lodging, hired equipment, onsite preparatory equipment, and land use agreements, or any related subcontract.

2) Exempts from the three-bid minimum contract requirement a contract entered into by CAL FIRE for the purpose of providing logistical support for large-scale prescribed fire operations, including, but not limited to, meals, lodging, hired equipment, and land use agreements, or any related subcontract.

3) Requires, on or before January 1, 2026, CAL FIRE, in coordination with the United States Forest Service (USFS) and other relevant state, federal, tribal, local, and private cooperators,

to identify and map a comprehensive network of PODs that can be used for strategic wildfire response or the proactive use of prescribed fire. Requires this effort to use existing tools, including, but not limited to, open-source tools, and to build on existing plans, including, but not limited to, community wildfire protection plans, CAL-FIRE unit fire plans, and PODs for wildfires of the USFS.

4) Requires the map to comply with both of the following:

   a) Be included in outreach efforts for state programs related to fire planning and community engagement efforts, such as, but not limited to, the Regional Forest and Fire Capacity Program; and,

   b) Be assessed for potential impacts on tribal cultural resources and sensitive species in areas where there will be significant ground disturbance. Requires CAL FIRE, through local units of the department, to engage with and consult tribal entities in the region for input on the potential network of delineations. Tribal leadership in this process shall be supported and engaged with to the extent feasible. Authorizes, if an appropriation by the Legislature has been made for these purposes, state resources to be used to support tribal engagement in developing, reviewing, and assessing proposed locations.

5) Requires, in order to provide a nuanced understanding of post-fire conditions, on or before July 1, 2025, and updated annually thereafter, the Fire and Resource Assessment Program in CAL FIRE to develop maps of the severity of impacts from wildfires that includes fires of significant size across all land ownerships. Requires, to the extent feasible, in developing the maps, CAL FIRE to collaborate with the USFS, the United States Geological Survey (USGS), and other relevant-parties, and, where appropriate, use data from existing sources, including from the Burn Severity Portal maintained by the USGS. For purposes of complying with this paragraph, CAL FIRE may contract with a third party.

6) Requires CAL FIRE to make the maps available to the public on its internet website.

7) Requires CAL FIRE to annually review the effects of recent fires in the context of community safety and ecological restoration goals to identify priority opportunities for prescribed fire that can further manage hazardous fuel conditions.

FISCAL EFFECT: According to the Senate Appropriations Committee, CAL FIRE estimates, for an earlier version of the bill as it was introduced, ongoing costs of $475,000 in the first year, $559,000 in the second year, and $543,000 annually thereafter (General Fund) for the mapping as required by the bill. This bill was subsequently amended on 4/1. However, staff do not expect that the amendments would significantly alter costs, and estimate that the bill in its current version would cost about the same.

COMMENTS:

1) **Author's statement**:

   This bill will allow the state to be more proactive in addressing the threats of catastrophic wildfire by streamlining the contracting and procurement process for beneficial fire through CAL FIRE. It will also expand pre-fire planning to support

wildfire management and controlled burns, and it requires mapping of fire severity to improve understanding of the effects of fires.

2) **Prescribed burning**. California's landscapes are among the most naturally fire-dependent on Earth. One study suggests that prior to 1800, approximately 4.5 million acres of the state burned annually. Native Americans were likely responsible for a significant portion of this acreage. With colonization, many of these practices were significantly reduced or eliminated, fundamentally altering fire scope and intensity across the state.

   Science strongly points to the need to re-establish more frequent fire across a significant part of the state. In significant parts of California, reintroduction of fire in controlled circumstances can limit the scope of catastrophic wildfire and improve ecosystem resilience. In many ecosystems, beneficial fire may be the only restoration tool available.

   Prescribed burning is the controlled application of fire to the land to reduce wildfire hazards, clear downed trees, control plant diseases, improve rangeland and wildlife habitats, and restore natural ecosystems. Prescribed fires are typically conducted in compliance with a written prescribed fire plan that outlines the conditions necessary for the burn to be "within prescription."

   Approximately 125,000 acres of wildlands are treated each year in California using prescribed burning, and the rate of treatment is expected to rise as this tool is used more frequently to reduce the risk of catastrophic wildfires. Current estimates indicate that between 10 and 30 million acres in California would benefit from some form of fuel reduction treatment.

   In August 2020, California and the USFS agreed to scale up vegetation treatment and maintenance to one million acres of federal, state, and private forest and wildlands annually by 2025. CAL FIRE is expanding its fuels reduction and prescribed fire programs to treat up to 100,000 acres on its 13.3 million acre jurisdiction by 2025.

3) **Wildfire operational mapping**. California possesses vast and valuable forest resources that include a wide range of climates, topographies, habitats, geological features, vegetation conditions, and is home to thousands of species of trees, plants, fish, and wildlife, all making the state's forest resources incredibly diverse, ecologically rich, and important to protect and manage carefully.

   Wildfires challenge the state's ability to protect those forest resources and efforts for sustainable forest health management. Decades of fire suppression, coupled with the increasing impacts of climate change, have dramatically increased wildfires' size and intensity throughout the state. The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time. More than four million acres burned across the state, double the previous record.

   Complicating forest management and wildfire prevention and suppression is the patchwork of local, state, and federal jurisdiction. More than 47% of California's forests are overseen by the federal government, 39% are under private ownership, and approximately 13% (33 million acres) are managed by the state.

Since fires don't obey human-made jurisdictional boundaries, coordination between the various state, local, and federal (and private) entities is essential. Currently, California and the USFS have a Shared Stewardship Agreement whereby both agree to develop shared tools, coordinated processes, and innovative approaches to increase the pace, scale, and effectiveness of forest and rangeland stewardship in California. This coordination includes the development of a coordinated, statewide, 20-year project plan for forest and vegetation management. This plan is based on landscape level analysis, risk assessment and other relevant methods and will be updated at five-year intervals. This plan is captured on a master map that includes recently completed, ongoing and planned vegetation management and forest thinning projects across all landowners. The state and USFS consult with, and seek input from, tribal governments, local governments, other state and federal agencies, nonprofits and other stakeholders in developing and updating this map. This map will be shared publicly to foster coordinated planning, dialogue and feedback among community and environmental stakeholders.

4) **Potential Operational Delineations**. The combination of the PODs and fire severity mapping can be used to further community and ecological restoration goals. PODs function as a pre-suppression planning tool that use complex modeling, informed by fire risk, to devise a tactical response to fires. PODs are built using a spatial risk model developed from a baseline surface of expected impacts to all measured highly valued resources and assets, such as homes, community infrastructure, watersheds, and wildlife habitats. Fire severity mapping can be used as part of the same spatial risk model and include updates to reflect changes from wildfires, which would require realignment of the pre-fire baseline risk framework. PODs have boundaries defined by potential control features that can be leveraged for fire containment during a wildfire or prescribed fire. When paired with risk assessments, PODs can be used to quantify and summarize risk into strategic response zones that provide the starting point for strategic planning of incident response. An important aspect of PODs is fostering collaborative, cross-boundary planning and prioritization, and supporting the shared stewardship for fire.

   SB 1101 requires CAL FIRE, in coordination with USFS and other relevant state, federal, tribal, local, and private cooperators, to identify and map a comprehensive network of PODs that can be used for strategic wildfire response or the proactive use of prescribed fire.

5) **Contracting exemptions**. The state's contracting code requires state agencies to meet certain criteria, including DGS review of state contracts, and obtaining a minimum of three bids to maximize effective implementation as cost-effectively as possible. Meeting these requirements necessitates additional time for review before the contract can be executed, so the Legislature has approved a number of exemptions to expedite contracting, such as in emergency situations.

   This bill would exempt from both of those contracting requirements a contract entered into with CAL FIRE for providing logistical support for large-scale prescribed fire operations, including, but not limited to, meals, lodging, hired equipment, and land use agreements, or any related subcontract. According to the author, this will enable CAL FIRE to implement prescribed fire projects more quickly by working from a list of approved contractors.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Active San Gabriel Valley
Advocate Association of California Water Agencies
American Lung Association in California
Association of California Water Agencies
Audubon California
Bear Yuba Land Trust
California Association of Resource Conservation Districts
California Cattlemen's Association
California Climate & Agriculture Network
California Council of Land Trusts
California Environmental Voters
California Farm Bureau
California Forestry Association
California Licensed Foresters Association
California Native Plant Society
California Special Districts Association
California State Association of Counties
California Wilderness Coalition
Central California Environmental Justice Network
City of Santa Rosa
Coalition for Clean Air
Community Alliance With Family Farmers
County of Placer
County of Santa Barbara
Cultural Fire Management Council
Defenders of Wildlife
Eastern Sierra Land Trust
Environmental Defense Fund
Feather River Land Trust
Forest Landowners of California
Hispanic Access Foundation
Inland Empire Community Foundation
Lone Pine Tree Farm
Marin Wildfire Prevention Authority
Montecito Fire Protection District
Nature Conservancy - California, the
Nevada; County of
Pacific Forest Trust
Placer Land Trust
Rural County Representatives of California
Santa Barbara County Fire Department
Santa Barbara County Fire Safe Council
Santa Barbara County Range Improvement Association
Sierra Business Council
Sierra Consortium
Sierra County Land Trust
Sierra Foothill Conservancy
Sierra Nevada Alliance
Ted Chamberlin Ranch
The Climate Center
Truckee Donner Land Trust
Union of Concerned Scientists
Ventura County Resource Conservation District
Worksafe

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1113 (Newman) – As Amended March 21, 2024

SENATE VOTE: 37-0

SUBJECT: Beverage container recycling: pilot projects: extension

SUMMARY: Extends the sunset for specified Beverage Container Recycling pilot projects for seven years, through 2034.

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

1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state. Provides that these funds are continuously appropriated to CalRecycle for, among other things, the payment of refund values and processing payments.

2) Defines "beverage" as:

    a) Beer and other malt beverages;
    b) Wine and distilled spirit coolers;
    c) Carbonated water;
    d) Noncarbonated water;
    e) Carbonated soft drinks;
    f) Noncarbonated soft drinks and sports drinks;
    g) Noncarbonated fruit juice drinks that contain any percentage of fruit juice;
    h) Coffee and tea drinks;
    i) Carbonated fruit drinks;
    j) Vegetable juice;
    k) Wine and sparkling wine; and,
    l) Distilled spirits. (PRC 14505)

3) Defines "beverage container" as the individual, separate bottle, can, jar, carton, or other receptacle in which a beverage is sold, and which is constructed of metal, glass, plastic, or any other material, or any combination of these materials. Specifies that "beverage container" does not include cups or other similar open or loosely sealed receptacles. (PRC 14505)

4) Authorizes up to 10 limited-term recycling pilot projects, subject to specified requirements, that are designed to improve redemption opportunities in unserved convenience zones. Sunsets this provision on June 30, 2026, and repeals the law on January 1, 2027. (PRC 14571.9)

5) Authorizes CalRecycle to expend up to $5 million to support the pilot projects in fiscal years 2019-20 through 2025-26. (PRC 14581 (a)(9))

6) Beginning January 1, 2025, requires dealers (i.e., specified stores that sell beverage containers) located in convenience zone that does not have a certified recycler (unserved zone) to either take back empty beverage containers from consumers or to join a dealer cooperative to provide redemption in that convenience zone pursuant to a CalRecycle-approved dealer cooperative redemption plan. (PRC 14578)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- To the extent that the pilot projects extended by this bill result in the collection of more eligible containers under the Bottle Bill, unknown but potentially significant ongoing costs Beverage Container Recycling Fund due to increased expenditures for repayment of the CRV when consumers redeem the additional containers and other program payments made per container collected.

- CalRecycle estimates any administrative costs would be minor and absorbable.

COMMENTS:

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

2) **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 wine, spirits, milk, fruit juices over 46 ounces, vegetable juice over 16 ounces, and soy drinks have historically been excluded from the program. Container types that are cartons, pouches, and any container that holds 64 ounces or more have also historically been exempted.

   SB 1013 (Atkins), Chapter 610, Statutes of 2022, amended the program to include wine and distilled spirits, including those contained in boxes, bladders, pouches, or similar containers. SB 353 (Dodd), Chapter 868, Statutes of 2023, added large fruit and vegetable juice containers to the program.

3) **Ways to redeem containers**. Consumers historically had four potential options to redeem their empty beverage containers:

   - Return the container to a convenience zone recycling center located within a 1-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

(BCRF). Convenience zone recyclers redeem about 30% of beverage containers.

- Return to a dealer that accepts 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. 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. Traditional recyclers collect a little more than half of all CRV containers (58%).

- Consumers can also forfeit their CRV and "donate" their containers to residential curbside recycling collection. Curbside programs collect about 12% of CRV containers. Curbside programs keep the CRV on these containers.

More recent legislation allows for additional redemption options for consumers:

- SB 458 (Wiener), Chapter 648, Statutes of 2017, authorized CalRecycle to approve up to five pilot projects designed to improve redemption opportunities in unserved zones. The original pilots were authorized through January 1, 2020. Subsequent budget language [AB 148 (Committee on Budget), Chapter 115, Statutes of 2021] expanded the number of pilots to 10 and extended the sunset to 2025.

- SB 1013 created a new dealer cooperative program beginning January 1, 2025. Under the program, dealers must either take back containers from consumers or join a dealer cooperative. Dealer cooperatives must meet specified statutory and regulatory requirements, including the takeback of all beverage containers within the convenience zone. This bill also extended the pilot program for one year, until 2026.

4) **Convenience**. The Bottle Bill has long struggled ensuring consumers have adequate opportunities to return their bottles and recoup the CRV. The Bottle Bill requires at least one certified recycling center be located in each convenience zone, which is typically the area in a one-mile circle around a large supermarket in an urban area and a 3-5-mile circle in a rural area. Convenience zones without certified recycling centers are considered "unserved." Dealers, such as large supermarkets, are required to collect and provide redemption for CRV if they are in unserved zones. Until January 1, 2025, dealers also had the option to pay a $100 per day "in lieu" fee to CalRecycle. After January 1, 2025, dealers are required to either take-back containers in store or participate in a cooperative to provide convenient recycling to consumers in unserved zones.

   The deficit of recycling centers has been exacerbated over the last decade. Between 2013 and 2022, more than 1,300 — more than half — of California's recycling centers closed. One major example was rePlanet, the largest recycling network in California at the time, which closed all 284 of its recycling centers in the state in 2019.

When recycling centers are scarce, recycling rates decline, consumers are unable to recover their 5-25 cents per container, and the quality of recycled materials declines.

In an effort to increase convenience, the Legislature authorized CalRecycle to establish pilot projects throughout the state to encourage innovative recycling opportunities. These pilot projects included more flexible redemption opportunities, like mobile recycling collection projects and pop-up stationary drop-off locations for bottle collection. Pilot projects are only eligible to be deployed in zones that are currently unserved, and zones with operating pilot projects are considered served.

While the pilot projects were eligible to apply for handling fees from CalRecycle at their inception in 2017, the program did not take off until legislation in 2019 allowed CalRecycle to support the pilot projects with an appropriation of up to $5,000,000. The program is currently fully deployed, with ten certified pilot projects in the program. These pilot projects include redemption opportunities such as mobile recycling, home pickup, bag drop, and mobile, pop-up collection.

5) **This bill**. A combination of factors, including lack of funding and the Covid pandemic, delayed the rollout of the program. Several pilots are still in the early phases and will need additional time to become fully operational. This bill extends the sunset on the pilot program to ensure that the pilots are fully implemented. This is necessary to ensure that the state is able to use the information learned about the efficacy of the various projects to improve the Bottle Bill.

6) **Author's statement**:

> The California Beverage Container Recycling and Reduction Act, enacted in 1986 and often referred to as the "Bottle Bill," authorized the collection of a five-cent fee on all cans and bottles at the time of purchase, reclaimable after use at redemption centers across the state. Over the course of a nine-year period, from 2013 and 2022, more than half of the state's redemption centers closed. Unsurprisingly, the state's beverage container redemption rate dropped markedly during the same interval, from 74% to 58.5%. In response to that decline, the Legislature authorized CalRecycle to establish up to ten pilot projects employing deliberately innovative approaches to can and bottle collection and CRV fee redemption. These pilot projects continue working diligently to devise and refine processes and business models to improve redemption and recycling rates for bottles and cans. SB 1113 would extend the existing sunset for these programs, thereby providing partners and prospective investors of existing pilot programs with the assurance of the stability and certainty to support the continuation of this important initiative.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1136 (Stern) – As Introduced February 13, 2024

SENATE VOTE: 34-0

SUBJECT: California Global Warming Solutions Act of 2006: report

SUMMARY: Revises topics in the Air Resources Board's (ARB) annual report and presentation to the Joint Legislative Committee on Climate Change Policies (JLCCCP).

EXISTING LAW establishes the JLCCCP to ascertain facts and make recommendations to the Legislature concerning the state's programs, policies, and investments related to climate change. Requires the joint committee to consist of at least three Members of the Senate and at least three Members of the Assembly. Requires the ARB chair to annually appear before the joint committee to present ARB's annual informational report on the reported emissions of greenhouse gases (GHGs), criteria pollutants, and toxic air contaminants from all sectors covered by the scoping plan. Requires ARB's annual report to evaluate emission trends and include a discussion of the regulatory requirements, initiatives, and other programs that may influence those trends. (Government Code 9147.10 and Health and Safety Code 38531)

THIS BILL changes the focus of ARB's annual report and presentation from GHGs, criteria pollutants, and toxic air contaminants to "topics related to" the scoping plan.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Author's statement:

> As we learned in the recent Joint Committee on Climate Change Policies hearing on the state's climate programs, it is imperative that the Legislature provide vigilant oversight during the transition to a zero-emission economy. California is on the bleeding edge of this difficult period of time: attempting to curb emissions, adapt to climate change, retain jobs and grow clean industries, keep electricity and transportation costs affordable, and improve health outcomes for overburdened residents all at the same time. Going forward, decisions made about climate change and various climate programs are critical to the entire state economy, and this Committee plays a role in tracking the progress.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1159 (Dodd) – As Amended April 24, 2024

SENATE VOTE: 37-0

SUBJECT: California Environmental Quality Act: roadside wildfire risk reduction projects.

SUMMARY: Requires the Office of Planning and Research (OPR), in consultation with other relevant state agencies, to evaluate, and the Secretary of the Natural Resources Agency (NRA) to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects determined not to have a significant effect on the environment pursuant to the California Environmental Quality Act (CEQA) Guidelines.

EXISTING LAW:

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

1) Requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

2) Requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

3) Defines "project" as an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

    a) An activity directly undertaken by any public agency;

    b) An activity undertaken by a person that is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; and,

    c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

4) Requires OPR to prepare and develop proposed guidelines for the implementation of CEQA by public agencies. Requires the guidelines to include objectives and criteria for the orderly evaluation of projects and the preparation of EIRs and negative declarations in a manner consistent with CEQA statutes.

5) Requires the guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA.

THIS BILL:

1) Requires, on or before January 1, 2026, OPR, in consultation with the California Department of Fish & Wildlife (CDFW), the Department of Forestry and Fire Protection (CAL FIRE), the State Water Resources Control Board (State Water Board), and other relevant state agencies, to evaluate, and the Secretary of NRA to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects determined not to have a significant effect on the environment.

2) Requires OPR, in consultation with CDFW, CAL FIRE, the State Water Board, and other relevant state agencies, to consider appropriate eligibility criteria for a roadside project, including, among others, the distance from the edge of an improved road or surface, any disturbance to soil and resultant impacts on sedimentation, protection of natural resources such as trees and sensitive, rare, threatened, or endangered plants, potential impacts to wildlife, and considerations for lands under conservation easement or identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan, or other adopted natural resource protection plan.

3) Provides that an exemption for projects pursuant to the class that may be adopted shall not limit any other statutory or categorical exemption that may otherwise apply to roadside projects undertaken to reduce wildfire risk.

4) Requires a project that is exempt from the division pursuant to the class that may be adopted to comply with all requirements otherwise imposed by law, including, but not limited to, the California Endangered Species Act, the federal Endangered Species Act of 1973, the Native Plant Protection Act, and any other applicable state and federal laws.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- OPR estimates ongoing costs of about $450,000 annually (General Fund) for two positions to evaluate adopting an additional CEQA exemption within the Guidelines and to consider appropriate eligibility criteria for these projects, as specified.

- NRA estimates ongoing costs of an unknown amount, likely $1 million or more (General Fund), to implement the provisions of this bill.

- To the extent this bill increases the number or ease of completing roadside projects, unknown ongoing cost pressure (various funds) to provide funds for CAL FIRE to implement the additional projects.

- To the extent the bill encourages activities that reduce the occurrence or severity of catastrophic wildfires from what otherwise would have occurred, this bill would result in potentially significant savings due to avoided fire suppression costs (General Fund). CAL FIRE spends roughly $1 billion annually (General Fund) on “emergency fire suppression”

COMMENTS:

1) **Author's statement**:

> Many fires are caused by sparks and burning debris from cars that ignite dry brush near our roads. We must make it easier for firefighters to clear this vulnerable land and remove these flammable materials. It will help keep the public safe and defend our exposed forests. This legislation aims to streamline the process for roadside vegetation management projects, crucial for wildfire risk reduction. By considering these projects for categorical exemption from CEQA, we seek to expedite essential preventative measures while minimizing bureaucratic hurdles.

2) **Wildfire prevention**. In recent years, California has experienced a growing number of highly destructive wildfires. Of the 20 most destructive wildfires in California's recorded history, 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. California's Fourth Climate Change Assessment projects that by 2100, if climate change continues on this trajectory, the frequency of extreme wildfires will increase, and the average area burned statewide are expected to increase by 77%.

   To address the threats posed by climate change, it is estimated that as many as 15 million acres of California forests need some form of treatment to maintain or restore forest health and prevent risk of wildfires. The state and United States Forest Service (USFS) have a collective goal to treat one million acres of land annually to reduce fire risk by 2025. CAL FIRE completed about 105,000 acres of fuel treatment, including 36,000 acres of prescribed burns during the 2023 fiscal year, according to state data. The USFS conducted about 312,000 acres of combined treatment and burns.

   Implementing vegetation management along roadsides, in addition to prescribed burns, strategic fuel breaks, and home hardening, is essential for reducing the spread of wildfires and protecting both built and natural environments. Many fires are caused by sparks and burning debris from cars that ignite dry brushes near roads, and these roadside ignitions pose a significant threat to communities and are made worse by the presence of dry vegetation capable of carrying fast moving fires. Despite the broad consensus around the disproportionate importance of roadside vegetation management, some stakeholders feel the existing mechanisms for environmental compliance are less than clear.

3) **CEQA Guidelines**. The CEQA statutes require OPR to develop CEQA Guidelines for implementation by public agencies, which include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations (CCR)) reflect the requirements set forth in the PRC, as well as court decisions interpreting the statute and practical planning considerations. Among other things, the CEQA Guidelines explain how to determine whether an activity is subject to environmental review, what steps are involved in the environmental review process, and the required content of environmental documents. The CEQA Guidelines apply to public agencies throughout the state, including local governments, special districts, and state agencies. Further, PRC 21083 requires OPR and NRA to periodically update the CEQA Guidelines.

Existing CEQA Guideline categorical exemptions for vegetation management include the Class 1 exemption that covers the repair, maintenance, or minor alteration of existing public or private facilities, or topographical features, such as maintenance of existing landscaping, and involving negligible or no expansion of existing or former use. (CCR 15301) This exemption has been used by local agencies to perform strategic fuels reduction work to remove dead, dying, or hazardous trees along roads and around structures to provide defensible space and a wildfire calming zone, and clear vegetation that encroaches into the roadway prism.

The Class 4 exemption is for minor public or private alterations which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. This includes, but is not limited to, fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. (CCR 15304) This exemption has been used by state and local agencies to reduce roadside fuels along well-used public roads, improve fuel break function, and vegetation removal on private roads.

In addition, the California Vegetation Treatment Program (CalVTP) was developed and approved by the Board of Forestry and Fire Protection (Board) in 2019 and includes the use of prescribed burning, mechanical treatments, manual treatments, herbicides, and prescribed herbivory as tools to reduce hazardous vegetation around communities in the wildland-urban interface, to construct fuel breaks, and to restore healthy ecological fire regimes. The Board certified a VTP-related Final Program Environmental Impact Report (FPEIR) prepared pursuant to CEQA that can be used by more than 200 agencies with land ownership or land management responsibilities in the treatable landscape. The FPEIR is a tool to expedite the implementation of vegetation treatments and is intended to provide broad CEQA coverage for individual projects consistent with the analysis and mitigation strategies set forth in the

The sponsor of this bill expressed concern that the existing categorical exemptions are too vague, and there is a lack of specificity around vegetation management for wildfire risk reduction along roadsides under the existing CEQA exemptions.

4) **This bill**. SB 1159 requires OPR to evaluate, and the secretary of NRA to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects subject to a categorical exemption.

5) **Committee amendments**. The term "improved road or surface" is imprecise in that it makes no distinction between public or private roadways. The *Committee may wish to consider* a technical amendment to clarify what roads would be covered under the bill, as follows:

> (2) … including, among others, the distance from the edge of an improved <u>public or private</u> road <u>or driveway</u> ~~or surface~~, …

6) **Related legislation**:

AB 2639 (Patterson) expands the definition of "timber operations" to include the maintenance of timberlands for fuels reduction, and provides that timber operations for the maintenance of timberland, paid in part or in whole with public funds, may comply with the requirements of CEQA in lieu of preparing a timber harvesting plan. This bill was held in the Assembly Appropriations Committee.

AB 1951 (Fong) provides that CEQA does not apply to a project for wildfire prevention, including, but not limited to, the removal of trees and brush, within 50 feet of either side of a roadway. This bill was pulled by the author from the Assembly Natural Resources Committee.

AB 1554 (J. Patterson, 2023) expressly exempts from CEQA a project for the reduction of fuels in areas within moderate, high, and very high fire hazard severity zones, as provided. The bill was presented by the author for presentation-only in the Assembly Natural Resources Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Associated General Contractors of California
Association of California Water Agencies (ACWA)
CalChamber
California Building Industry Association
California Farm Bureau Federation
California State Association of Counties
California State Council of Laborers
Contra Costa County
County of Napa
County of Solano
County of Sonoma
Mountain Counties Water Resources Association
San Bernardino County
San Diego Gas and Electric Company
Tri County Chamber Alliance
Wine Institute

Opposition

Livable California

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1176 (Niello) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Wildfires: workgroup: toxic heavy metals

SUMMARY: Requires, upon appropriation by the Legislature, the Department of Forestry and Fire Protection (CAL FIRE), the Office of Emergency Services (CalOES), and the Department of Toxic Substances Control (DTSC), in consultation with specified entities, to form a workgroup related to exposure of toxic heavy metals after a wildfire and report to the Legislature on or before January 1, 2026.

EXISTING LAW:

1) Establishes CAL FIRE within the California Natural Resources Agency, and establishes various programs for the prevention and suppression of wildfires at CAL FIRE, as provided. (Public Resources Code 701)

2) As part of the hazardous waste control laws, DTSC generally regulates the management and handling of hazardous waste and hazardous materials. (Health & Safety Code 25100 *et seq*.)

3) Establishes Cal OES within the Office of the Governor, under the California Emergency Services Act, for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies. (Government Code 8550)

THIS BILL:

1) Requires, upon appropriation by the Legislature, CAL FIRE, CalOES, and DTSC, in consultation with academic and research institutions with demonstrated relevant expertise, and any other governmental agency or educational institution that may have experience in public health and wildfires, to form a workgroup related to exposure of toxic heavy metals after a wildfire.

2) Requires the workgroup to do all of the following:

   a) Establish best practices and recommendations for wildfire-impacted communities and first responders to avoid exposure to heavy metals after a wildfire;

   b) Study and consider ways that communities can mitigate and prevent exposure to heavy metals from a wildfire; and,

   c) Study and consider ways that communities can mitigate or remediate the accumulation of heavy metals in the environment after a wildfire, including through bioremediation through vegetation, fungal, or bacterial treatments.

3) Authorizes DTSC to contract with public universities, research institutions, and other technical experts to support the work of the workgroup.

4) Requires, on or before January 1, 2026, CAL FIRE, CalOES, and DTSC to report their findings to the Legislature.

5) Requires the report to be submitted to the Legislature in compliance with Section 9795 of the Government Code.

6) Sunsets the reporting requirement on January 1, 2030.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in estimated one-time costs of approximately $7.5million (General Fund) to CAL FIRE to partner with an academic institution or non-governmental entity to conduct the research and develop the report. CAL FIRE anticipates this bill would require an equal, if not greater, impact due to the requirements to simultaneously study both the community impacts and firefighter exposure to toxic heavy metals. DTSC estimates one-time costs of about $1 million spread over fiscal years 2024-25 and 2025-26 to meet the requirements of this bill within the department's jurisdiction. Additionally, this bill could result in unknown costs for CalOES and other specified entities to implement the provisions of this bill.

COMMENTS:

1) **Author's statement:**

> Between 2018 and 2021, California's fire seasons were among the most destructive on record, with millions of acres burned, thousands of homes destroyed, and dozens of lives lost.
>
> A recent Stanford University study showed that unmanaged wildfires can release toxic metal particles. Specifically, the study showed extreme high heat wildfires can transform a natural element in soils into a potentially cancer-causing and airborne metal known as hexavalent chromium, or chromium 6. Chromium 6 can possibly increase cancer risk when inhaled or ingested. Other serious health consequences include asthma, heart attacks, and early death, due to its toxicity.
>
> These health risks to firefighters, disaster response workers, and California residents living and working near or downwind from conflagrations from airborne chromium 6 need to be further vetted and mitigated. More research and study is needed to better understand how to limit high-heat fires, which increase exposure to chromium 6, by implementing strategies, including controlled burns and other forest clean-up measures. Further research and mitigation strategies will better protect humans and ecosystems, including waterways and groundwater. SB 1176 will bring the right people together to help come up with these strategies helping to protect Californians.

2) **Wildfires**. Wildfires have been growing in size, duration, and destructivity over the past 20 years. Since 2005, wildfires have destroyed more than 97,000 structures. In fact, California is home to eight of the top 10 most destructive wildfires and has more than half of all United

States structure losses. The Camp Fire of 2018 alone destroyed more than 18,800 structures in Butte County, making it the most destructive wildfire in California history.

The major components of wildfire emissions are particulate matter and gases, including carbon dioxide, carbon monoxide, nitrogen oxides, and volatile organic compounds (VOCs, such as formaldehyde and benzene). If fires reach the wildland-urban interface, other toxic chemicals are likely to be released from the burning of household or industrial materials, such as plastics, pesticides, and other hazardous waste. The California Air Resources Board (ARB) compared air quality data from the 2018 Camp Fire with three other large wildfires that burned mostly vegetation. ARB's analysis showed that elevated levels of lead, zinc, iron, and manganese were located as far as 150 miles away.

DTSC's Emergency Response Program oversees the cleanup of hazardous waste that is released after wildfires burn residential and commercial properties. DTSC is mission tasked by CalOES to begin assessing fire-impacted properties and remove harmful household hazardous wastes and bulk asbestos that threaten public health and the environment.

3) **Toxic wake of wildfires**. In nature, chromium mostly occurs in a form known as trivalent chromium or chromium 3, an essential nutrient that bodies use to break down glucose. Chromium 6 most often results from industrial processes. High levels of chromium 6 historically have entered the environment from industrial runoff and wastewater.

   Scientists believe the heat of severe wildfires can transform the benign version of hexavalent chromium (chromium 3) which is found commonly in California soil, into chromium 6, which increases cancer risk when inhaled or ingested via contaminated drinking water, according to research published last December in the journal Nature Communications.

   Chromium 6 is a metallic element which generally occurs in small quantities associated with other metals, particularly iron. Chromium is used to harden steel, in the manufacture of stainless steel, and in the production of a number of industrially alloys which are used in making of pigments, in leather tanning for welding and plating produces. The metal is present in the atmosphere in particulate form and is naturally found in crustal rock (basalts and serpentine) and soil.

   Chromium 6 is identified as a known carcinogen on the Proposition 65 list pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, and there is substantial evidence that chromium 6 can damage DNA. The California Air Resources Board this year passed a rule to phase out chromium 6 at industrial facilities, noting that there was "no known safe level of exposure."

   Researchers visited the sites of wildfires in California's North Coast Range, including the 2019 Kincade Fire and the Hennessey Fire in 2020, to look for hexavalent chromium. Soil sampling resulted in finding "dangerous" levels of hexavalent chromium levels at sites where wildfires burned intensely in chaparral shrubs growing in areas that had serpentine soils relatively rich with metal. In addition to the soil findings, the researchers believe hexavalent chromium can travel in wildfire smoke, blown as dust after a fire is out and persist for months afterward.

   More research is needed to better understand the risk.

4) **This bill**. SB 1176 would require, upon appropriation, CAL FIRE, CalOES, and DTSC, in consultation with academic and research institutions with demonstrated relevant expertise, and any other governmental agency or educational institution that may have experience in public health and wildfires, to form a workgroup related to exposure of toxic heavy metals after a wildfire.

   Further research into wildfire-related toxic chromium exposure could help inform public health guidance, such as recommendations to wear an N95 mask when visiting a burn site; lead to additional protections for fire fighters; inform how to protect surface and groundwater from polluted runoff; and, other protections for which we may be unaware.

5) **Double referral**. This bill is also referred to the Assembly Environmental Safety & Toxic Materials Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Professional Scientists
California Forestry Association
Humboldt Redwood Company LLC
Union of Concerned Scientists

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1182 (Gonzalez) – As Amended May 16, 2024

SENATE VOTE: 36-0

SUBJECT: Master Plan for Healthy, Sustainable, and Climate-Resilient Schools

SUMMARY: Requires the California Energy Commission (CEC) to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools (Master Plan) by March 31, 2026.

EXISTING LAW:

1) Establishes a goal of doubling energy efficiency savings from existing building end uses by January 1, 2030. Requires the CEC to establish annual targets for statewide energy efficiency savings and demand reduction to achieve this goal. (Public Resources Code (PRC) 25310)

2) Established the Clean Energy Job Creation Program to and allocates Proposition 39 revenues to fund energy efficient retrofits and clean energy installations as well as related improvements and repairs that contribute to reduced operating costs and provide certain non-energy benefits, including improved health and safety conditions in public schools. The program also allocated funds to the State Energy Conservation Assistance Account Education Subaccount to provide LEAs with no-interest revolving loans to fund energy efficiency and renewable energy projects. (PRC 26200 *et seq*.)

3) Establishes the School Energy Efficiency Stimulus Program, also known as the California Schools Healthy Air, Plumbing, and Efficiency Program (CalSHAPE), which provides grants to local educational agencies (LEAs) for appliance, plumbing and heating, ventilation and air conditioning (HVAC) upgrades at schools using ratepayer energy efficiency incentives. Designates the CEC as the third-party administrator of CalSHAPE grants and sunsets the program on January 1, 2027. (Public Utilities Code 1610 – 1618)

4) The Federal Infrasturcture Investment and Jobs Act authorizes $1.2 trillion for transportation and infrastructure spending with $550 billion of that figure going toward "new" investments and programs. Funding includes more than $50 billion to make infrastructure more resilient to the impacts of climate change. (Public Law 117-58)

5) The Federal Inflation Reduction Act of 2022 enhanced or created more than 20 tax incentives for clean energy and manufacturing and opened access to certain clean energy tax incentives to tax-exempt entities like state, local, and tribal governments. (Public Law 117-169)

THIS BILL:

1) Defines “local educational agency” as a school district, county office of education, charter school, or state special school, as specified.

2) Requires the CEC, in consultation with the Department of Education, Division of the State Architect, Office of Public School Construction, and Natural Resources Agency (NRA), to develop the Master Plan on or before March 31, 2026.

3) Requires CEC to engage a diverse group of stakeholders and experts that reflect the geographic and climate diversity of the state to inform the Master Plan's recommendations, including:

    a) Representatives of local education agencies or their designees;
    b) Private sector design professionals;
    c) School facility advocacy organizations;
    d) Educators;
    e) Representatives of classified school employee unions and building and construction trades councils;
    f) Pupil leaders;
    g) Parent advocates;
    h) Subject matter and technical experts from the higher education and nonprofit sectors; and,
    i) Representatives from state agencies that support or regulate school infrastructure.

4) Requires CEC to undertake or solicit, and be informed by, analysis employing geographic cross-referencing among areas where climate-related hazards, such as heat and air pollution, are elevated and where there are concentrated populations of pupils who may be especially vulnerable to stresses and disruptions, including socioeconomically disadvantaged pupils, pupils of color, English learners, and pupils with disabilities, to ensure that all objectives, provisions, and recommendations in the Master Plan also express and enact the state's commitment to educational equity and environmental justice.

5) Requires CEC to consult with state and federal leaders and technical experts to ensure that the Master Plan positions California schools to make the most of unlimited, noncompetitive incentives for schools to deploy clean energy technologies, including funding available pursuant to the federal Infrastructure Investment and Jobs Act and Inflation Reduction Act of 2022 to ensure that state and local funding is used efficiently, effectively, and with the greatest return on investment.

6) Requires the Master Plan to be provided electronically to the Governor, the appropriate policy and fiscal committees of the Legislature, the CEC, the Superintendent of Public Instruction, the State Architect, the Office of Public School Construction, and the Secretary of the NRA. Requires that the Master Plan be posted on specified state entity websites.

7) Requires the Master Plan to include:

    a) An assessment of a representative sample of the state's public elementary and secondary school buildings and grounds that includes building and site sizes and location, building age, whether and when the building and building systems were last modernized, age and fuel source for building systems and major appliances, United States Environmental Protection Agency Energy Star scores, information related to available shade, ground surface materials, energy and water expenditures in the three most recent school years, and information on emissions of greenhouse gases, sustainability, and climate

vulnerability. Requires the assessment to identify the aspects of a school that indicate a high-priority status for intervention and investment.

b) Recommendations for building ongoing capacity and systems to track and analyze specified data to inform planning and investment decisions.

c) A set of priorities, benchmarks, and milestones for health, resilience, and decarbonization of California's public school campuses and support facilities in alignment with the state's climate and equity goals. Requires the priorities benchmarks, milestones to:

   i) Encompass recommendations for school buildings, school grounds, and support facilities;

   ii) Account for the need for local educational agencies to maintain fiscal sustainability and responsibly invest local and state funding; and,

   iii) Prioritize schools and communities that are disproportionately impacted by climate-related hazards and by structural inequities in the state's economy and education system.

d) Actionable steps and recommendations for school, LEA, and state agency roles within each priority area and an estimate of the costs to implement and achieve the benchmarks and milestones over a multiyear period, and the fiscal, health, and learning costs of inaction.

e) Guidance for the Legislature and Governor to inform the development of infrastructure-related programs and the identification of the financial resources for local educational agencies to implement the recommendations and achieve the goals of the Master Plan.

f) Recommendations and cost estimates for future school infrastructure spending, including guidance on infrastructure-related budget proposals and state bond measures, to:

   i) Align spending with the state's goal of achieving carbon neutrality by 2045 and climate adaptation and extreme heat action plans;

   ii) Position California schools to take full advantage of incentives and funding for decarbonization and climate adaptation within relevant federal legislation; and,

   iii) Equitably identify climate-vulnerable communities for priority investment.

g) Guidance for local school infrastructure funding measures that align with the state's decarbonization and climate adaptation goals.

h) Guidance on the roles of state and county agencies and other partners in providing technical assistance to local educational agencies to support sustainable and climate-resilient school infrastructure.

i) Recommendations to ensure that local educational agencies have access to sufficient technical assistance, professional learning, training programs, and pipelines of sustainability and climate-resilience personnel to implement decarbonization and adaptation plans that include high road labor standards, project labor agreements with

unionized workforces, workforce development, and training opportunities for current local educational agency employees who construct, operate, and maintain school infrastructure.

j) Recommendations for state and local leaders from the public and private sectors to connect sustainable and climate-resilient school buildings and grounds to learning opportunities for pupils, green career and technical education, and pathways to green economy careers that support and advance statewide sustainability and resilience.

k) Recommendations for county and city governments to more effectively include local educational agencies in their decarbonization and climate adaptation efforts.

8) Requires CEC, or the CEC's designee, to enter into a contract with one or more nongovernmental entities to review existing research and data, support and coordinate the Master Plan development process, and conduct research on priority areas of study, as specified, to guide the implementation of well-aligned state investments in healthy, sustainable, and climate-resilient school infrastructure.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Schools**. Schools have diverse and unique energy and climate challenges. California's K-12 facilities include approximately 12,800 schools with more than 714 million square feet of space, making them the largest category of building in the public building sector. Unlike other building owners, public agencies generally aren't able to use energy savings to reinvest in future capital improvements, which leads public buildings to require regular cycles of investment to update facilities to make energy efficiency and other sustainability improvements. LEAs may rely on local and state bond or tax funding to make these updates, or apply for funding and tax incentives from the Infrastructure Investment and Jobs Act and Inflation Reduction Act.

2) **CEC**. The CEC has administered multiple programs to provide incentives to improve energy efficiency, water savings, and non-energy benefits associated with clean energy and appliance installations in LEA facilities; however, it has not established a Master Plan addressing K-12 buildings' climate adaptation needs. Following the passage of Proposition 39 in 2012, the CEC administered the Clean Energy and Jobs Creation Program, which provided funding to schools to make various energy-saving upgrades to school facilities. Since the passage of AB 841 (Ting), Chapter 372, Statutes of 2020, the CEC has also administered CalSHAPE, which provides ratepayer-funded incentives to schools for efficient plumbing and HVAC upgrades. While the CEC has experience administering and providing guidance on energy efficient facility improvements, this bill's Master Plan provisions would require the CEC to make recommendations about a larger scope of climate, health, equity, and sustainability measures for school facilities.

3) **This bill**. This bill proposes to create a Master Plan to provide LEAs with guidance about the types of building decarbonization and climate resilience investments available to make climate and energy-related improvements to schools. The Master Plan would also establish health, climate resilience, and decarbonization goals for public school facilities.

The Legislative Analyst's report, *Climate Change Impacts Across California: K-12 Education*, states:

> Climate change will have increasingly severe impacts on early childhood and K-12 education—particularly from more frequent wildfires and extreme heat waves. These threats will layer on top of schools' existing challenges, such as addressing achievement gaps and meeting the needs of English learners. Confronting the effects of climate change will be challenging. However, the consequences of inaction could be even more severe, and will worsen over time as climate change impacts become more frequent and intense. In many cases, schools will struggle to prepare for these impacts on their own and will need state guidance and support.

4) **Author's statement**:

> California's K-12 students are increasingly burdened by climate-related threats such as extreme heat, flooding, wildfire smoke, and other hazards that can harm their health and hinder their ability to learn. A recent report from the Legislative Analyst's Office showed that, as climate change continues to drive extreme weather events and other disruptions, students will face learning loss, food insecurity, and traumatic mental health impacts that are likely to affect their ability to learn and result in diminished academic outcomes.
>
> While California's 10,000 school facilities play an integral part in the mission of educating California's students, the State has no cohesive strategy to make school buildings and grounds climate-resilient to protect the health and safety of students. It is abundantly clear that for California to meet its climate goals and ensure the educational opportunities of students there must be a comprehensive policy and implementation road map.
>
> SB 1182 will address the lack of guidance and planning around school facilities and sustainability by requiring the California Energy Commission to collaborate with various state agencies and education stakeholders to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools. This plan will provide the State and the public with substantive guidance to ensure California's school facilities will be resilient in the face of continuing climate change and its acute impacts on the health and wellbeing of our students. A cohesive plan will also position California to take full advantage of forthcoming grants and incentives for de-carbonization and climate adaptation under the federal Infrastructure Investment and Jobs Act and Inflation Reduction Act.

5) **Prior legislation**. SB 394 (Gonzalez) of 2023 would have required the CEC to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools upon receiving a legislative appropriation. The provisions of this bill specifying the required contents of the Master Plan are identical to those in SB 394. The bill was vetoed by the Governor, who stated:

> While I support the author's goal of making our schools more climate friendly and climate prepared, the development of this Master Plan will cost up to $10 million

that was not considered through the annual budget process. Additionally, the Master Plan would create significant long-term cost pressures that are not accounted for in the state budget plan.

6) **Dual referral**. This bill has also been referred to the Assembly Education Committee.

7) **Suggested amendment**. The committee may wish to amend the bill to correct a drafting error by striking, "the commission" on page 4, line 22 and make a nonsubstantive technical amendment.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME California
Alliance for A Better Community
American Academy of Pediatrics, California
American Federation of State, County and Municipal Employees
Association for Environmental and Outdoor Education
Bluegreen Alliance
Building Decarbonization Coalition
California Alliance for Clean Air in Schools
California Environmental Voters
California Federation of Teachers
California Green New Deal Coalition
California Labor for Climate Jobs
California School Employees Association
California State PTA
Center for Environmental Health
CTF - a Union of Educators & Classified Professionals
Children Now
Cleanearth4kids.org
Climate Action Campaign
Climate Action Pathways for Schools
Climate Health Now
CMTA Engineers
Education Justice Academy
Generation Up
Green Schools National Network
Green Schoolyards America
Greenbelt Alliance
HED
Jobs With Justice San Francisco
Labor Network for Sustainability
Los Angeles County Office of Education
Los Angeles Unified School District
Menlo Spark
New Buildings Institute
NextGen California

NRDC
Our Turn
Rewiring America
San Francisco Bay Area Physicians for Social Responsibility
Santa Clara County Office of Education
Save the Bay
SEI
SEIU California
Sierra Club California
Smart, Sheet Metal Workers' Local Union No. 104
Ten Strands
Terraverde Energy
Tree People
UC Berkeley's Center for Cities and Schools
Undauntedk12
United Food and Commercial Workers, Western States Council
United Steelworkers District 12
US Green Building Council
USGBC Los Angeles

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1207 (Dahle) – As Amended March 20, 2024

SENATE VOTE: 37-0

SUBJECT: Buy Clean California Act: eligible materials

SUMMARY: Expands the definitions of the Buy Clean California Act (BCCA) to include all insulation, rather than just mineral wool board insulation, and revises the definition of "greenhouse gas emissions" (GHGs).

EXISTING LAW:

1) Buy Clean California Act requires the Department of General Services (DGS) to establish and publish Global Warming Potential (GWP) limits for four categories of materials used in eligible projects: carbon steel rebar (used to reinforce concrete), flat glass, mineral wool insulation, and structural steel. Requires awarding authorities for eligible projects to include in specifications for bids that the facility-specific GWP for those materials does not exceed the limits established by DGS. (Public Contract Code 3500 *et seq*.)

2) Establishes the California Climate Crisis Act, which establishes the policy of the state to, among other things, achieve zero GHG emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter. (Health & Safety Code (HSC) 38562.2)

3) Requires the Air Resources Board (ARB), by July 1, 2025, to develop a framework (that may include a market-based crediting system) for measuring and reducing the carbon intensity of building materials used in the construction of new buildings, including for residential uses. Requires ARB to develop a comprehensive strategy for the state's building sector to achieve a 40% net reduction in GHGs of building materials no later than December 31, 2035. (HSC 38561.3)

4) Directs DGS to minimize the state government's carbon footprint and to develop and implement sustainable purchasing policies to prioritize the procurement of environmentally preferable goods and services. (Executive Order N-19-19)

FISCAL EFFECT: According to the Senate Appropriations Committee, DGS reports total one-time costs of $330,000 for a limited term staff at the Associate Governmental Program Analyst level for a 24-month period to implement related procurement policy procedures and training.

COMMENTS:

1) **Buy Clean California Act**. The BCCA was established by AB 262 (Bonta), Chapter 816, Statutes of 2017, to reduce the climate impacts of construction products used in state public works projects. AB 262 was intended to "level the playing field" and benefit those manufacturers who have made a conscious effort to lower GHG emissions in the production of materials. The BCCA is part of California's overall strategy to address climate change.

By leveraging the state's purchasing power, the BCCA strives to lower the GWP of construction materials over time. GWP is an indicator of the climate impacts of GHGs associated with the production of specified materials used in construction.

The BCCA targets carbon emissions associated with the manufacturing of structural steel, concrete reinforcing steel, flat glass, and mineral wool board insulation. State agencies that award contracts (awarding authorities) are responsible for ensuring that these materials do not have a GWP that exceeds the limit set by DGS when used in public works projects. The document used to establish the GWP limit is the environmental product declaration (EPD). An EPD is an independently verified and registered document that reports a product's environmental impact over its life cycle. The environmental impact as determined by a life cycle assessment (LCA), which is typically performed by a recognized neutral third party guided by standards set by the International Organization for Standardization (ISO). EPDs are developed according to a set of requirements and guidelines known as product category rules (PCRs).

Awarding agencies include the Department of Transportation, Department of Water Resources, Department of Parks and Recreation, Department of Corrections and Rehabilitation, Military Department, DGS, Regents of the UC, Trustees of the CSU, and other state agencies granted authority to work on public works projects.

2) **This bill**. This bill revises the definition of eligible materials under the BCCA to include all types of insulation rather than just mineral wool board insulation. This is intended to alleviate market confusion, as there is no known rationale for the BCCA to target just one type of insulation. According to the author, insulation manufacturers prefer consistent regulation across all insulation types rather than regulation on only one product line.

3) **Intent vs impact**. To implement the BCCA, DGS (in consultation with ARB) leveraged current industrywide EPDs to determine the industry average and set that as the GWP limit for regulated materials. In other words, products that are above the average GWP for a given material are ineligible for use, but anything at or below the industry average is eligible. As developers are choosing the materials to use in state-contracted work, this should direct them towards using lover GWP materials.

   However, by limiting the BCCA to only mineral wool board insulation, a project developer can avoid compliance with the BCCA by choosing a different type of insulation. Expanding the scope of BCCA to cover all insulation types closes this loophole.

4) **Suggested amendment**. The BCCA includes a definition of "greenhouse gas emissions;" however, the term is never used in the BCCA. The *committee may wish to amend the bill* to strike this definition.

REGISTERED SUPPORT / OPPOSITION:

Support

Building Transparency
California Building Industry Association
Knauf Insulation

Mighty Buildings
Natural Resources Defense Council
North American Insulation Manufacturers Association
Owens Corning
Rockwool
Saint-Gobain North America
US Green Building Council
WAP Sustainability

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1280 (Laird) – As Amended March 20, 2024

SENATE VOTE: 32-7

SUBJECT: Waste management: propane cylinders: reusable or refillable

SUMMARY: Prohibits the sale of propane cylinders that are not reusable or refillable on and after January 1, 2028.

EXISTING LAW:

1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery (CalRecycle), generally regulates the disposal, management, and recycling of solid waste. Establishes a state recycling goal that 75% of solid waste generated is to be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (Public Resources Code (PRC) 40000 *et seq*.)

2) Establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content requirements for single-use packaging and food ware and source reduction requirements for plastic single-use packaging and food ware, to be achieved through an EPR program. (PRC 42040 *et seq*.)

3) Establishes the Used Mattress Recovery and Recycling Act, which creates an extended producer responsibility (EPR) program for the collection and recycling of used mattresses. (PRC 42985 *et seq*.)

4) Establishes the Electronic Waste Recycling Act of 2003, which requires consumers to pay a fee for specified electronic devices, defined to include video screens larger than four inches and battery-embedded products and establishes processes for consumers to return, recycle, and ensure the safe disposal of covered electronic devices. (PRC 42460 *et seq*.)

5) Defines "household hazardous waste" (HHW) as hazardous waste generated incidental to owning or maintaining a place of residence, but does not include waste generated in the course of operating a business at a residence. (Health and Safety Code (HSC) 25218.1(e))

6) Requires counties and cities to provide services for the collection of HHW and requires the state to provide an expedited and streamlined regulatory structure to facilitate the collection of HHW. (HSC 25218)

THIS BILL:

1) Specifies that "reusable," "refillable," "reuse," or "refill," in regard to propane cylinders mean cylinders that are:

    a) Explicitly designed and marketed to be used multiple times for the same product;

b) Designed for durability to function properly in its original condition for multiple uses; and,

c) Supported by adequate infrastructure to ensure the cylinders can be conveniently and safely reused of refilled for multiple cycles.

2) Specifies that for purposes of the bill, "propane cylinder" does not include cylinders that are:

a) Customarily designed for use in the construction industry and, when fill, contain less than 15 ounces of fuel, whether filled solely with propane or not;

b) Have an overall product height-to-width ratio of 3.55 to 1 or greater; or,

c) Offered for sale to a state or local government agency for purchase pursuant to the United States General Services Administration's State and Local Disaster Purchasing Program, or a successor program.

3) Prohibits the sale or propane cylinders that are not reusable or refillable on and after January 1, 2028.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, this bill has negligible state costs.

COMMENTS:

1) **HHW management**. At the local level, certified local agencies, known as Certified Unified Program Agencies (CUPAs), are responsible for developing local programs to collect, recycle, or properly dispose of HHW. The California Environmental Protection Agency (CalEPA) oversees the 81 CUPAs, and the statewide implementation of the Unified Program, which protects Californians from hazardous waste and hazardous materials by ensuring consistency throughout the state regarding the implementation of administrative requirements, permits, inspections, and enforcement at the local regulatory level. California Hazardous Waste Law provides several management requirements for HHW generators and establishes a streamlined permitting process for HHW collection facilities.

2) **Propane cylinders**. Disposable propane cylinders are single-use, generally one-pound, cylinders typically used in camping stoves, portable heaters, lanterns, portable showers, portable grills, boat engines, scooters, lawn care equipment, insect foggers, and welding equipment. An estimated 40-60 million disposable one-pound propane cylinders are sold in the United States every year. As California accounts for roughly 10% of the population, it is estimated that more than four million disposable one-pound propane cylinders are sold in California each year.

Under existing law, a consumer is permitted to dispose of an empty propane tank or cylinder in the curbside trash or recycling bin. If a propane tank or cylinder is not empty then it must be brought to a HHW facility; however, in most instances, it is impossible to know whether a cylinder is completely empty.

Cylinders received at HHW facilities are typically placed into 55-gallon drums, then transported to recycling/processing facilities where the cylinders are off-gassed to ensure no

residual gas remains in the cylinder. Once empty, they are punctured, crushed, baled, and the metal is recycled. These safety measures are critical to avoid the risk of explosion that could cause injury to personnel or damage to infrastructure, which contributes to the cost of collecting and recycling these cylinders.

Based on data from CalRecycle, it is estimated that only 25% of the approximately four million disposable propane cylinders sold in California are recovered through HHW operations. Calculating in the cost of transporting and processing for these items, local governments, using ratepayer funds, are likely spending upwards of $3 million per year to handle this relatively small segment of the waste stream. The majority of the remaining three million or more disposable propane cylinders end up in the solid waste stream or are illegally dumped.

3) **Improper disposal poses risks to workers and infrastructure**. According to a May 23, 2019, article from Waste 360, a waste, recycling, and organics industry trade association:

> Small, disposable propane tanks are convenient commodities, but they are a safety and economic nightmare for materials recovery facilities (MRFs), landfills, and parks, causing fires and explosions when tanks leak or get punctured… Disposable propane cylinders exploded at a Kent County, Mich., MRF in June 2016 and again in June 2017. "In 2016, it cost over $68,000 from one tank, and a worker was knocked off the baler," says Darwin Baas, Kent County Public Works director. "We receive dozens a week. When they are tipped on the floor, they are often covered by paper and old corrugated cardboard and easy to miss. They get punctured in the baler. They cause chemical damage and fire, and when the fire is put out, they cause water damage."

4) **Transitioning from disposable to refillable cylinders**. According to a December 21, 2020, report from the Statewide Commission on Recycling Markets and Curbside Recycling:

> Single-use 1 lb. propane cylinders are a threat to human and environmental health. When "empty," single-use cylinders often still contain a small amount of gas, posing a danger to sanitation workers due to risk of explosion and resulting fires. Because of the high hazard level, this waste stream is very costly to manage and dispose of properly. Ironically, 80% of the purchase price is for the single-use packaging, the steel cylinder, which is the main culprit of the disposal issue.
>
> Every year in North America, 40 million single-use 1 lb. propane cylinders are used, with an estimated of over four million in California alone. Because of limited disposal options, the empty cylinders are often disposed of improperly in landfills, dumpsters, household trash or recycling bins, campsites, on the roadside or in recycling containers and can cause explosions…
>
> Made of hot rolled steel, these cylinders have very high GHG impacts with an estimated 11 million lbs of [greenhouse gas] emissions avoided if CA moved to refillables only. All other sizes of propane cylinders have been made refillable for decades, including BBQ size 5-gallon and the 20-gallon size used on forklifts. The public is trained to refill BBQ tanks and can do the same with 1 lbs in California, but when the cost of the 1 lb has been externalized onto local

governments via HHW programs when the refillables now exist and are sold and refilled in California, we believe the sale of disposables should be banned in short order.

In light of the disposal problems of these products, some governments, businesses, and environmental nonprofits have begun encouraging alternatives to disposable cylinders. One such effort, Refuel Your Fun, was developed by the California Product Stewardship Council (CPSC) in 2015 using CalRecycle HHW grants to help transition communities to refillable cylinders. This is accomplished through a variety of methods, including conducting outreach and exchange events to get more refillables into circulation. To date, CalRecycle has awarded 33 grants (approximately $2.5 million in funds) throughout the state that have focused on refillable propane cylinders.

5) **Availability of refillables**. According to the sponsors of this proposal, there are more than 400 locations across the state that sell, refill, and/or exchange reusable cylinders. However, opponents contend that there are "minimal viable refill infrastructure or distribution network[s] within the state to refill or return" these cylinders. This bill provides a three-year window for the industry to transition to refillable cylinders. It seems most likely that the smaller refillable cylinders would transition to be used similarly to larger refillable cylinders, in which consumers generally return an empty cylinder and exchanging it for a full cylinder.

6) **Author's statement**:

> California can do much better when it comes to reusing and refilling our products and eliminating materials, often hazardous materials, which are discarded haphazardly. These propane cylinders place a great burden on our park systems, beaches, and material recovery facilities. It is time to transition away from single-use products that harm our environment, pose a threat to workers and end up in our landfills. SB 1280 would result in more reusable propane cylinders for consumers to refill which will lead to a cleaner and safer California.

7) **Previous legislative action**. The Legislature has attempted to tackle the management of disposable propane cylinders twice in recent years:

- SB 1256 (Wieckowski, 2022) would have banned the sale of disposable propane cylinders, as specified, beginning January 1, 2028. This bill was vetoed by the Governor, who stated:

> I acknowledge there are several challenges and costs faced by local governments and solid waste management authorities responsible for the disposal of single-use propane cylinders. However, an outright ban without a plan for collection and refill infrastructure could inhibit the success of building a circular system in California.
>
> California has successfully implemented many reuse and recycling systems, from the Beverage Container Recycling Program to several extended producer responsibility programs. These market-based solutions both significantly reduce waste and create jobs by turning a challenging product into a resource. I encourage the Legislature and stakeholders to work on a similar approach for

the collection and reuse of this product that accounts for manufacturer and retail responsibility.

- SB 560 (Laird, 2023) was introduced in response to the veto message, which would have established an expanded producer responsibility program for gas cylinders under 20 pounds. This bill was held in the Senate Appropriations Committee.

8) **Related legislation**. SB 1143 (Allen) establishes a comprehensive EPR program for specified HHW, including propane cylinders. SB 1143 has also been referred to this committee. Unlike SB 1143, SB 1280 would require a change in the design of propane cylinders (i.e., replacing disposable, one-pound propane cylinders with refillables). SB 1280 specifically targets one problematic source of HHW due to the potential risk of explosions and fires, the high cost of management, and the prevalence of improper disposal. SB 1143 focuses on end-of-life management for HHW generally. If both bills were enacted, SB 1143 would capture the refillable propane cylinders at end-of-life.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Board of Supervisors
California Chapters of The Solid Waste Association of North America's Legislative Task Force
California Product Stewardship Council
California Professional Firefighters
California Resource Recovery Association
California State Association of Counties
California Waste & Recycling Association
Californians Against Waste
Circular Polymers
City of Sunnyvale
City of Thousand Oaks
CleanEarth4Kids.org
County of San Joaquin
Del Norte Solid Waste Management Authority
League of California Cities
Little Kamper, LP
National Stewardship Action Council
Northern California Recycling Association
Product Stewardship Institute
Recology
Regen Monterey
Republic Services - Western Region
Republic Services, Inc.
Resource Recovery Coalition of California
Rethinkwaste
Rural County Representatives of California
Santa Clara County Recycling and Waste Reduction Commission

Sea Hugger
Stopwaste
Sustainable Works
Western Placer Waste Management Authority
WM
Zero Waste Sonoma

Opposition

Worthington Industries

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1308 (Gonzalez) – As Amended June 11, 2024

SENATE VOTE: 32-5

SUBJECT: Ozone: indoor air cleaning devices

SUMMARY: Requires the Air Resources Board (ARB) to adopt updated regulations to limit ozone emissions from indoor air cleaning devices, allowing an emissions concentration not greater than 5 parts per billion (ppb), replacing the current limit of 50 ppb.

EXISTING LAW requires ARB to develop and adopt regulations, consistent with federal law, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces. Requires the regulations to include specified elements, including an emission concentration standard for ozone emissions that is equivalent to the federal ozone emissions limit for air cleaning devices (i.e., 50 ppb). (Health and Safety Code 41986)

THIS BILL:

1) Requires ARB to adopt regulations for indoor air cleaning devices limiting ozone emissions concentration to 5 ppb, to the extent consistent with federal law.

2) Requires the regulations to include a ban on the sale or the offering for sale in California of devices that exceed the 5 ppb emissions limit, even if previously certified, after a date determined by ARB, unless ARB determines an exemption applies.

3) Removes reference to (1) use of air cleaning devices in occupied spaces and (2) consistency with federal ozone emissions limits.

4) Makes related findings.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Background**. Indoor air cleaning devices are available as stand-alone portable appliances, as filters, or as devices installed in a building's heating, ventilation, and air conditioning (HVAC) system. There are two types of air cleaners: mechanical and electronic.

   Mechanical air cleaners use high-efficiency particulate air (HEPA) filters that need to be changed regularly and are estimated to eliminate 99.97% of dust, pollen, mold, bacteria, and any airborne particles with a size of 0.3 microns. In physically filtering such contaminants out of the air, no other chemical byproducts are produced.

   In contrast, electronic air cleaners use technologies such as ionizers, electrostatic

precipitators, photocatalytic oxidation, hydroxyl generators and ultra-violet (UV) lights to remove pollutants from the air. Some electronic air cleaners generate ozone.

Ozone is a reactive gas comprised of three oxygen atoms. While ozone high up in the atmosphere protects us from the sun's harmful UV rays, ozone at ground level can cause health problems such as coughing, chest tightness and shortness of breath. Exposure to ozone may both induce and worsen asthma symptoms and worsen lung disease; and chronic exposure may also increase the risk of premature death. Some consumer products and home appliances are designed to emit ozone, either intentionally or as a by-product of their function. Such devices can produce levels of ozone several times higher than health-based standards set for ozone.

In response to concerns about ozone production from electronic air cleaners, the Legislature passed AB 2276 (Pavley), Chapter 770, Statutes of 2006. Pursuant to AB 2276, ARB adopted a regulation to limit the amount of ozone produced from indoor air cleaning devices. All indoor air cleaners sold in, or shipped to, California must meet ARB's ozone emission and electrical safety standards. The regulation went into effect in 2008 and over 9,000 air cleaners from more than 800 different manufacturers have been certified by ARB for electrical safety and ozone emissions, which can be no greater than 50 ppb, consistent with the federal limit that has been in effect since before AB 2276.

In its regulation, ARB defines "indoor air cleaning device" as:

> (A)n energy-using product whose stated function is to reduce the concentration of airborne pollutants, including but not limited to, allergens, microbes (e.g., bacteria, fungi, viruses, and other microorganisms), dusts, particles, smoke, fumes, gases or vapors, and odorous chemicals, from the air entering or inside an enclosed space, (including but not limited to, rooms, houses, apartments, stores, offices, vehicles), and the air surrounding a person. Such devices include, but are not necessarily limited to, devices of any size intended for cleaning the air nearest a person, in a room of any size, in a whole house or building, or in a vehicle; and devices designed to be attached to or inserted into a window, wall, ceiling, post, duct, or other indoor surface; and personal air cleaning devices. (17 CCR 94801(a)(17))

2) **Author's statement**:

> About 1 in 7 Californians has been diagnosed with asthma, including nearly 12% of children in the state, resulting in 165,000 emergency department visits and 18,000 hospitalizations related to asthma each year. For communities with respiratory illnesses, minimizing exposure to air pollutants and harmful byproducts like ozone is crucial. Many of the individuals living with asthma and other respiratory illnesses rely on mechanical or electronic air cleaners to improve the air quality in their homes. Unfortunately, some electronic air cleaners release ozone as a byproduct of their operation. To ensure that the state's existing ozone emission standards for air cleaners are reflective of the latest scientific findings, researchers have recommend the state adopt a more stringent ozone emission standard for electronic air cleaners. Therefore, SB 1308 will direct ARB to adopt updated regulations that will reduce the allowable level of ozone emissions from air cleaners sold in California from 0.05 ppm to 0.005 ppm. In adopting a more stringent

ozone emission standard, the state will reduce harmful byproducts for vulnerable communities that are released by electronic air cleaners.

3) **What's the basis for 5 ppb**? This bill is unusual in that it establishes a specific, new emission standard, rather than referencing an existing standard, as AB 2276 did, or directing ARB to establish its own standard through a rulemaking process, which is the typical approach. The 5 ppb standard in this bill is derived from the following recommendation in a September 2023 UC Davis report "Air Pollutant Emissions and Possible Health Effects Associated with Electronic Air Cleaners."

   Additionally, we recommend California reduce ozone emissions from electronic air cleaners by requiring device compliance with UL 2998, a more stringent, already existing, ozone emission standard of 5 ppb. This would reduce the allowable indoor ozone emissions by an order of magnitude which would provide a direct health benefit and subsequently reduce secondary formaldehyde and ultrafine particle formation that is driven by ozone chemistry.

   The purpose of UL 2998 is to provide a voluntary commercial validation for air cleaners that achieve virtually "zero" ozone emissions. According to Underwriters Laboratories:

   Agencies like ARB require many products to show ozone emissions below 0.050 parts per million volume air concentration (ppm) or 50 parts per billion (ppb) respectively, as tested to UL 867, the Standard for Electrostatic Air Cleaners. However, many authorities recommend even lower ozone emission levels. For instance, the Environmental Health Committee of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) published a report suggesting safe ozone levels to be below ten ppb.

   Our Environmental Claim Validation program for Zero Ozone Emissions from Air Cleaners (UL 2998) was created to help manufacturers ensure their devices' ozone levels stay below the quantifiable limit of detection of 0.005 ppm (5 ppb). This value represents the most stringent criteria available today and is 1/10 of the regulatory requirement of 0.050 ppm (50 ppb) ozone.

   UL 2998 covers air cleaning products such as:

   - Standalone air cleaning devices (electrostatic air cleaners, electronic air purifiers, etc.)
   - Duct-mounted air cleaning devices like ionizers or UV lighting systems

   UL 2998 is recognized by leading authorities as:

   - Required for air cleaning devices by ASHRAE Standard 62.1-2019, Section 5.7.1
   - Recommended by the US EPA for devices that use bipolar ionization technologies
   - Recommended by CDC for air cleaning/disinfection devices that may produce ozone

4) **Weighing controlling ozone vs. controlling infection**. UV lights have been used to kill germs for decades. However, use of germicidal UV irradiation in the presence of people must

be limited due to concerns about adverse health effects, primarily to the eyes and skin. More recently, "far UVC" technologies have been developed using a wavelength in the range of 200-230nm that effectively kills germs, but is safer for regular human exposure. However, far UVC radiation creates a reaction with air that produces small concentrations of ozone.

Opposition to the bill comes from manufacturers of far UVC technologies, as well as several public health academics. Far UVC lamps' primary purpose is to kill germs, but nonetheless they are captured by the definition of indoor air cleaning device in the current ARB regulation. Their effective operation necessarily produces a small concentration of ozone, less than the current standard of 50 ppb, but potentially greater than 5 ppb. Opponents contend the application of a 5 ppb limit to far UVC devices will prevent their use in California, at the expense of controlling infectious diseases.

The author has declined the opposition's request for an exemption for far UVC technologies. The author indicates that ARB has certified numerous UV devices, such as 254 nm UV lamps which kill pathogens but do not create any ozone and are a viable alternative to 222 nm UV (i.e., far UVC) devices for use in medical clinics.

REGISTERED SUPPORT / OPPOSITION:

Support

American Lung Association in California
Cleanearth4Kids.org
Community Action to Fight Asthma
Natural Resources Defense Council

Opposition (unless amended)

1Day Sooner
Acuity Brands Lighting
Beacon
David Brenner, Director, Columbia University Center for Radiological Research
Eden Park Illumination
Edward Nardell, Harvard University, Division of Global Health Equity
Ernest Blatchley, Lyles School of Civil Engineering, Purdue University
International Ultraviolet Association
Karl Linden, University of Colorado, Boulder, Department of Civil, Environmental and Architectural Engineering
Kevin M. Esvelt, MIT Media Lab
Laura Kwong, University of California, Berkeley School of Public Health
Lit Thinking
Myna Life Technologies
Paula Olsiewski, Johns Hopkins Center for Health Security
Stephen Luby, Stanford School of Medicine
Ushio America
UVC Cleaning Systems

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1342 (Atkins) – As Amended April 8, 2024

SENATE VOTE: 39-0

SUBJECT: California Environmental Quality Act: infrastructure projects: County of San Diego

SUMMARY: Adds two specific projects in San Diego County (the San Vicente Energy Storage Facility and repair, rehabilitation, or replacement of the South Bay Sewage Treatment Plant) to expedited California Environmental Quality Act (CEQA) judicial review procedures for infrastructure projects established last year by SB 149 (Caballero), Chapter 60, Statutes of 2023.

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 (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA guidelines). (Public Resources Code (PRC) 21000 *et seq*.)

2) Authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval. The courts are required to give CEQA actions preference over all other civil actions. Requires the court to regulate the briefing schedule so that, to the extent feasible, hearings commence within one year of the filing of the appeal. Requires the plaintiff to request a hearing within 90 days of filing the petition. Requires the court to establish a briefing schedule and a hearing date, requires briefing to be completed within 90 days of the plaintiff's request for hearing, and requires the hearing, to the extent feasible, to be held within 30 days thereafter. (PRC 21167 *et seq*.)

3) Requires a court, upon finding a public agency's actions are not in compliance with CEQA, to order one or more of the following:

    a) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part;

    b) If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision into compliance with this division; and

c) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with CEQA.

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

4) Establishes procedures for expedited administrative review (i.e., concurrent preparation) and judicial review (i.e., requiring the courts to resolve lawsuits within 270 days, to the extent feasible) for the following four categories of public and private "infrastructure" projects:

a) **Energy infrastructure project**: Renewable energy generation eligible under the Renewables Portfolio Standard (excluding resources that utilize biomass fuels); new energy storage systems of 20 megawatts or more (excluding specified pumped hydro facilities); manufacture, production, or assembly of specified energy storage and renewable energy components; electric transmission facilities (with projects in the Coastal Zone subject to regulation by the Coastal Commission). Explicitly excludes projects utilizing hydrogen as a fuel.

b) **Semiconductor or microelectronic project**: A project that meets the requirements related to investment in new or expanded facilities and is awarded funds under the federal Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022.

c) **Transportation-related project**: A project that advances one or more specified goals related to the Climate Action Plan for Transportation Infrastructure (CAPTI).

d) **Water-related project**:

i) A project that is approved to implement a groundwater sustainability plan that the Department of Water Resources (DWR) has determined is in compliance with specified provisions of the Sustainable Groundwater Management Act (SGMA).

ii) A water storage project funded by the California Water Commission pursuant to Proposition 1, provided the applicant demonstrates that the project will minimize the intake or diversion of water except during times of surplus water and prioritizes the discharge of water for ecological benefits or to mitigate an emergency, including, but not limited to, dam repair, levee repair, wetland restoration, marshland restoration, or habitat preservation, or other specified public benefits.

iii) Projects for the development of recycled water, defined as "water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource."

iv) Contaminant and salt removal projects, including groundwater desalination and associated treatment, storage, conveyance, and distribution facilities (excluding seawater desalination).

v) Projects exclusively for canal or other conveyance maintenance and repair.

5) Authorizes the governor to certify each of the four project types, provided the applicant agrees to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency's action on a certified project (except for transportation-related projects, for which there is no requirement to pay court costs).

6) For a water-related project, requires the governor to find that greenhouse gases (GHG) emissions resulting from the project will be mitigated to the extent feasible.

7) Requires the following additional GHG mitigation for energy infrastructure, semiconductor/microelectronic, and transportation-related projects:

    a) For energy infrastructure and semiconductor/microelectronic projects, the project does not result in any net additional GHG emissions, *including* employee transportation. A project is deemed to meet the requirements of this section if the applicant demonstrates to the satisfaction of the governor that the applicant has a binding commitment that it will mitigate impacts resulting from the emission of greenhouse gases, if any, in accordance with PRC 21183.6 (i.e., the GHG mitigation requirements of SB 7).

    b) For transportation-related projects, the project does not result in any net additional GHG emissions, *excluding* employee transportation. A project is deemed to meet the requirements of this section if the applicant demonstrates to the satisfaction of the governor that the applicant has a binding commitment that it will mitigate impacts resulting from GHG emissions, if any, preferably through direct emissions reductions where feasible, but where not feasible, then through the use of offsets that are real, permanent, verifiable, and enforceable, and that provide a specific, quantifiable, and direct environmental and public health benefit to the same air pollution control district or air quality management district in which the project is located, but if all of the project impacts cannot be feasibly and fully mitigated in the same air pollution control district or air quality management district, then remaining unmitigated impacts shall be mitigated through the use of offsets that provide a specific, quantifiable, and direct environmental and public health benefit to the region in which the project is located.

8) Requires the applicant to pay the costs of preparing an analysis of the GHG emissions resulting from the project.

9) Requires an applicant for certification of an infrastructure project to do all of the following:

    a) Avoid or minimize significant environmental impacts in any disadvantaged community, as defined.

    b) If measures are required pursuant to CEQA to mitigate significant environmental impacts in a disadvantaged community, mitigate those impacts consistent with CEQA. Requires mitigation measures to be undertaken in, and directly benefit, the affected community.

    c) Enter into a binding and enforceable agreement to comply with these community mitigation requirements in its application to the Governor and to the lead agency prior to the agency's certification of the EIR for the project.

10) Requires an action or proceeding brought to attack, review, set aside, void, or annul the certification of an EIR for a certified infrastructure project, or the granting of any project approvals, including any potential appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

11) Requires all infrastructure projects to follow specified procedures for the administrative record, with the lead agency preparing the record concurrently with the administrative process, posting all record documents online (with exceptions for copyright-protected materials), certifying the final record within five days of its approval of the project, and requiring the applicant to pay the costs of preparing the record, which costs are not recoverable from the plaintiff or petitioner before, during, or after any litigation.

12) Provides that certification of an infrastructure project expires and is no longer valid if the lead agency fails to approve the project prior to January 1, 2033.

13) Sunsets the infrastructure project chapter January 1, 2034.

(PRC 21189.80 *et seq*.)

THIS BILL specifically adds the following projects to the SB 149 expedited review procedures:

1) The San Vicente Energy Storage Facility project proposed by the San Diego County Water Authority for pumped energy storage located in the eastern portion of the County of San Diego, as an energy infrastructure project.

2) A project for the repair, rehabilitation, or replacement of the South Bay Sewage Treatment Plant in the County of San Diego, operated by the International Boundary and Water Commission (IBWC), as a water-related project.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

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

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

Generally, CEQA actions taken by public agencies can be challenged in superior court once the agency approves or determines to carry out the project. CEQA appeals are subject to unusually short statutes of limitations. Court challenges of CEQA decisions generally must be filed within 30-35 days, depending on the type of decision. The courts are required to give CEQA actions preference over all other civil actions. However, the schedules for briefing, hearing, and decision are less definite. The petitioner must request a hearing within 90 days of filing the petition and, generally, briefing must be completed within 90 days of the request for hearing. There is no deadline specified for the court to render a decision.

In 2011, AB 900 (Buchanan) and SB 292 (Padilla) established expedited CEQA judicial review procedures for a limited number of projects. For AB 900, it was large-scale projects meeting extraordinary environmental standards and providing significant jobs and investment. For SB 292, it was a proposed downtown Los Angeles football stadium and convention center project achieving specified traffic and air quality mitigations. For these eligible projects, the bills provided for original jurisdiction by the Court of Appeal and a compressed schedule requiring the court to render a decision on any lawsuit within 175 days. This promised to reduce the existing judicial review timeline by 100 days or more, while creating new burdens for the courts and litigants to meet the compressed schedule. AB 900's provision granting original jurisdiction to the Court of Appeal was invalidated in 2013 by a decision in Alameda Superior Court in *Planning and Conservation League v. State of California*. AB 900 was subsequently revised to restore jurisdiction to superior courts and require resolution of lawsuits within 270 days, to the extent feasible.

As part of their expedited judicial review procedures, these bills required the lead agency to prepare and certify the record of proceedings concurrently with the administrative process and required the applicant to pay for it. It was commonly agreed that this would expedite preparation of the record for trial. Since 2011, several additional bills have provided similar project-specific concurrent preparation procedures. In addition, SB 122 (Jackson), Chapter 476, Statutes of 2016, established an optional concurrent preparation procedure for any CEQA project, subject to the lead agency agreeing, and the applicant paying the agency's costs.

The most recent of these bills, SB 149, offered expedited judicial review to a broad range, and unlimited number, of infrastructure projects falling into four categories – energy, transportation, water, and semiconductor/microelectronic.

2) **Author's statement**:

> In 2023, as part of the 2023-2024 Budget Agreement, the Legislature and Governor Newsom enacted an historic infrastructure streamlining package to accelerate construction timelines on specific types of projects to achieve the state's ambitious climate, water, and clean energy goals. SB 1342 extends and expands the provisions of last year's Infrastructure Streamlining Package to help expedite the analysis, approvals, and construction of two much-needed projects to promote clean energy, eliminate coastal sewage pollution, and create jobs and economic investment. Completion of the San Vicente Pumped Energy Storage project and the repair and expansion of the South Bay International Wastewater Treatment Plant are critical for the health and safety, as well as the energy and wastewater needs, of the San Diego Region.

The San Vicente Pumped Energy Storage Project will help balance the energy grid and enhance system reliability for San Diego by storing energy during low-use periods. It will produce energy on demand, especially during high-use periods, and store surplus renewable wind and solar energy that would otherwise be post during times of low-energy use. It will also generate additional revenue to offset water agency costs and help stabilize water rates.

The South Bay International Wastewater Treatment Plant (SBIWTP) was built in 1996 on a 75-acre site near the international boundary in the United States immediately north of the City of Tijuana, Baja California, Mexico. Since October 2020, the International Boundary and Water Commission (IBWC) has reported about 360 violations of its NPDES permit, most for exceeding the limit of 25 million gallons per day of flow from Mexico that should enter the plant. It's also reported that over 100 billion gallons of untreated sewage, industrial waste, and urban runoff have spilled into the Tijuana Estuary and the Pacific Ocean via the Tijuana River and its tributaries over the last five years. The sewage spilled into waterways is fouling beaches and closing tourist and recreational areas in the region. The desperately needed expansion of this plant will allow it to double in size, resulting in a 50% reduction in the number of days of trans-border wastewater flow in the Tijuana River and an 80% reduction in the volume of untreated wastewater discharged to the Pacific Ocean six miles south of the border.

3) **The San Vicente project is already eligible under SB 149**. SB 149 included the following language within the definition of energy infrastructure project, which was intended to capture the San Vicente project, while excluding other, more controversial pumped hydro projects:

   "New energy storage systems of 20 megawatts or more, that are capable of discharging for at least two hours, provided that a pumped hydro facility may qualify only if it is less than or equal to 500 megawatts and has been directly appropriated funding by the state before January 1, 2023."

4) **Improvements to the South Bay Sewage Treatment Plant do not appear to trigger CEQA review**. The South Bay Sewage Treatment Plant is owned by the federal IBWC. As such, the plant was not subject to CEQA when constructed in 1996. Likewise, future modifications to the plant may not be subject to CEQA either.

REGISTERED SUPPORT / OPPOSITION:

Support

California Conference of Carpenters
San Diego Regional Chamber of Commerce
State Building and Construction Trades Council

Opposition

Judicial Council of California

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1402 (Min) – As Amended June 11, 2024

SENATE VOTE: 30-9

SUBJECT: 30x30 goal: state agencies: adoption, revision, or establishment of plans, policies, and regulations.

SUMMARY: Requires all state entities to consider the 30x30 goal when adopting, revising, or establishing plans, policies, and regulations that directly affect land use, management of natural resources, or biodiversity conservation.

EXISTING LAW:

1) Directs California Natural Resources Agency (NRA) to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and establishing the 30x30 goal. (Executive Order 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)

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in ongoing costs of about $180,000 annually (General Fund) for the OPC for one position to support its ongoing leadership role to provide the required scientific expertise and analysis tools to inform state agency decision-making and implementation of 30x30 in coastal waters. In addition, there may be potential costs likely to be minor and absorbable to other state agencies, departments, boards, offices, commissions, and conservancies for considering the 30x30 goal as required.

COMMENTS:

1) **Author's statement**:

> California is home to one of 25 global biodiversity hotspots, but its biodiversity is under threat from climate change, habitat loss and fragmentation, invasive species, disease, pests, and pollution. Conserving the Earth's lands and waters is one of the best tools we have to prevent further extinctions and protect biodiversity and ecosystem services. By considering 30x30 goals as plans and policies are established and updated, agencies can align their actions with conservation, restoration, and management efforts that will keep California on track to achieve its goals in 2030 and beyond.

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

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

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

3) **All hands on deck.** This bill requires all state entities to consider the 30x30 goal when adopting, revising, or establishing plans, policies, and regulations that directly affect land use, management of natural resources, or biodiversity conservation.

4) **Double referral**. This bill is also referred to the Water, Parks, and Wildlife Committee.

5) **Related legislation**:

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

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

REGISTERED SUPPORT / OPPOSITION:

Support

Bear Yuba Land Trust
Big Sur Land Trust
Bolsa Chica Land Trust
California Association of Professional

Scientists
California Association of Resource Conservation Districts
California Council of Land Trusts
California Environmental Voters
California Institute for Biodiversity
California Native Plant Society, Alta Peak Chapter
California Native Plant Society, Mojave Desert Chapter
California State Parks Foundation
Cleanearth4kids.org
Coastal Corridor Alliance
County of Placer
Defenders of Wildlife
East Bay Regional Park District
Eastern Sierra Land Trust
Endangered Habitats League
Environmental Center of San Diego
Environmental Protection Information Center
Feather River Land Trust
Friends of Harbors, Beaches and Parks
Friends of The Inyo
Friends of The River
Land Trust of Santa Cruz County
Los Angeles Neighborhood Land Trust
Midpeninsula Regional Open Space District
Mono Lake Committee
Morongo Basin Conservation Association
National Audubon Society
Nevada; County of
Outdoor Outreach
Pacific Forest Trust
Peninsula Open Space Trust
Placer Land Trust
Planning and Conservation League
Resource Renewal Institute
Santa Clara Valley Audubon Society
Sea and Sage Audubon Society
Sempervirens Fund
Sierra Business Council
Sierra Club California
Sierra Consortium
Sierra County Land Trust
Sierra Foothill Conservancy
Sierra Nevada Alliance
The Wildlands Conservancy
Truckee Donner Land Trust
Tuleyome

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1425 (Gonzalez) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Oil revenue: Oil Trust Fund.

SUMMARY: Require the Controller, on the last day of each month beginning January 31, 2025, to transfer to the Oil Trust Fund (Fund) the amount of $5 million or 50% of remaining oil revenue from the City of Long Beach, whichever is greater.

EXISTING LAW:

1) Protects, pursuant to the common law doctrine of the public trust (Public Trust Doctrine), the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways (public trust lands) are to be held in trust by the state for the benefit of the people of California. (National Audubon Society v. Superior Court (1983) 33 Cal.3d 419)

2) Establishes the State Lands Commission (SLC) as the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local public agencies (granted lands). (Public Resources Code (PRC) 6009)

3) Authorizes SLC to enter into an exchange, with any person or any private or public entity, of filled or reclaimed tide and submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands, if specified conditions are met. (PRC 6307)

4) Establsihes the Fund in the State Treasury. Requires, on the last day of each month beginning January 31, 2023, the Controller to transfer to the fund the amount of two million dollars ($2,000,000) or 50% of remaining oil revenue, as described in subdivision (d) of Section 4 of Chapter 138 of the Statutes of 1964, First Extraordinary Session, whichever is less. (PRC Code 6217.8)

5) Governs the revenues from the sale or disposition of oil and gas derived from the Long Beach tidelands. (Subdivision (d) of Section 4 of Chapter 138 of the Statutes of 1964)

6) Requires the City of Long Beach to pay to SLC all money, including both principal and interest, in the abandonment reserve fund that the city created in 1999 and that was the subject of the litigation in State of California ex rel. California State Lands Commission v. City of Long Beach (2005) 125 Cal. App. 4th 767.

7) Requires SLC to expend the money from the Fund solely to finance the costs of well abandonment, pipeline removal, facility removal, remediation, and other costs associated

with removal of oil and gas facilities from the Long Beach tidelands that are not the responsibility of other parties. (PRC Code 6217.8)

THIS BILL:

1) Increases the amount of money the Controller shall transfer to the Fund to $5 million or 50% of the remaining oil revenue, whichever is greater, on the last day of each month beginning January 31, 2025.

2) Establishes this bill as an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are in order to ensure the State of California is able to fund its share of the liability for the Long Beach Unit and tidelands operations in a timely manner, it is necessary for this measure to take effect immediately.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill will result in potential ongoing revenue loss of up to $11 million per month (General Fund), depending on the amount generated by the state's share of the Long Beach oil operations.

COMMENTS:

1) **Author's statement**:

> For close to a century, the state of California and the City of Long Beach have engaged in a unique profit sharing and ownership relationship related to the extraction of oil resources from the Long Beach Coastline and tidelands. As a result, the State has earned billions of dollars in profit, including $5.75 billion in the last 20 years alone. However, as part of this arrangement, the State is also obligated to fund a proportional share of the liability for closing down oil wells, based on the profit it has received. The Oil Trust Fund is the primary funding source to cover this liability.
>
> Currently, the State's share of oil abandonment liability is estimated at approximately $1 billion. With only approximately $330 million in the Oil Trust Fund, the State has an unfunded liability of $670 million. At the current rate of depositing only $2 million of monthly profits in the Oil Trust Fund, the State's liability will not be funded until 2050. This would be years after the Governor's directive to the Air Resources Board to phase out oil production by 2045 and decades after the estimated date of oil operations ceasing in 2029. These nominal monthly payments constrain the State's ability to promote responsible environmental stewardship as oil operations phase out and further leave taxpayers fronted with the bill to pay off the liability. As production from these wells naturally declines, it is vital that the State maximize the profits set aside now to minimize the share of the liability that will need to be paid later from the General Fund. By requiring $5 million or 50% of profits, whichever is more, be deposited in the Oil Trust Fund on a monthly basis, SB 1425 would help provide the necessary funding to enable the State to reach its environmental goals, allow for a responsible and timely decommissioning of toxic wells, and help protect future California taxpayers from massive liability costs.

2) **Long Beach settlement**. In 1911 the state granted in trust to the City of Long Beach control over its tidelands – including mineral interests – subject to the terms of the grant and the Public Trust Doctrine. In 1937, the Wilmington Oil Field was discovered, and the City began oil development and extraction operations in its tidelands shortly thereafter. The City is the unit operator and California Resources Corporation (CRC) is the contractor responsible for day-to-day production and maintenance.

   The City derives oil revenue from the Long Beach tidelands, a substantial portion of which has been freed from the public trust as it is no longer necessary for trust purposes. The freed revenues must be paid to the state and are deposited into the General Fund. The City is permitted to retain, out of the oil revenue each month, an amount equal to all subsidence costs and money expended by the City in administering oil and gas operations. The City must pay to the state the remaining oil revenue, except for an annual lump sum amount to be used for specified trust purposes.

   Eventually, the City was faced with the certainty of large future costs, estimated to be at least $200 million for oil well plugging and abandonment and facility removal. SB 71 (Senate Committee on Budget and Fiscal Review), Chapter 81, Statutes of 2005, created the Oil Trust Fund to fund abandonment costs after unit operations have ceased from oil revenue generated. The reserve was funded through a continuing monthly per barrel charge based on tidelands oil production. The City retained these funds monthly from oil revenue, along with amounts equal to the other moneys it expended in administering oil and gas operations, before paying over the remaining oil revenue to the state.

   The Controller was required to do monthly deposits ($2 million or 50% of monthly revenue, whichever is less) from the state's share of tidelands oil revenues until the Fund reached $300 million. However, the cap was reached in June 2014. AB 353 (O'Donnell), Chapter 516, Statutes of 2002, deleted the $300 cap on the total amount deposited in the Fund.

   Existing law and various litigated agreements provide for the decommissioning liability of these Long Beach oil operations. The state's share of liability associated with the plugging and abandonment of oil and gas wells, the decommissioning and removal of related equipment and facilities, and any necessary remediation is apportioned based on its net profit interest. According to the SLC, the state retains a large majority of the total abandonment liability. While the state earns millions of dollars in revenue from oil operations from the City, the state also holds a proportional share of the liability for the eventual abandonment of those wells. The unfunded portion of the state's liability is now on the order of $970 million, according to the City's letter of support for this bill. An April 2022 SLC staff report states that the City's current estimate of the end of oil operations in the Long Beach unit and the tidelands are 2052 and 2036, respectively.

3) **This bill**. Once operations end and revenue is no longer generated, the Fund will be the primary source to fund the substantial abandonment and decommissioning work that will be required to plug and abandon wells and remove oil and gas facilities related to the oil operations.

   SB 1425 is intended to address this shortfall and ensure that the state's abandonment fund for the Long Beach oil operations will cover the state's liability when the operations end. If the

state does not have enough money set aside when the oil operations end, it will have to find other ways to come up with hundreds of millions of dollars.

SB 1425 will would increase the amount that the Controller transfers to the Fund at the end of each month to be all of certain oil revenue from the City.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Lands Commission
Center for Biological Diversity
Center for Biological Diversity, INC.
City of Long Beach
Office of Lieutenant Governor Eleni Kounalakis

Opposition

None on file

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

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
SB 1433 (Limón) – As Amended June 11, 2024

SENATE VOTE: 32-4

SUBJECT: Gravity-Based Energy Storage Well Pilot Program.

SUMMARY: Establishes, until January 1, 2034, the Gravity-Based Energy Storage Well Pilot Program (Pilot Program) and authorizes the conversion of not more than 1,000 wells for use as gravity-based energy storage wells, as defined, to evaluate their use, including the establishment of appropriate operating conditions and physical parameters to safely generate energy.

EXISTING LAW:

1) Establishes the Division of Geologic Energy Management (CalGEM) in the Department of Conservation (DOC), under the direction of the State Oil and Gas Supervisor (supervisor). (Public Resources Code (PRC) 3000 *et seq.)*

2) Requires the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, including pipelines that are within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances. (PRC 3106)

3) Requires the supervisor to prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year, including a list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. For the purposes of this report, an orphan well is a well that has no responsible party, leaving the state to plug and abandon. (PRC 3206.3 (a)(1)(C))

4) Defines "idle-deserted well" as an oil and gas well determined by the supervisor to be deserted and for which there is no operator responsible for its plugging and abandonment under Section 3237. (PRC 3251 (e))

5) Defines a "health protection zone" as the area within 3,200 feet of a sensitive receptor. Defines "sensitive receptor" as a residence, an education resource, a community resource center, including a youth center, a health care facility, including a hospital, retirement home, and nursing home, live-in housing, and any building housing a business that is open to the public. (PRC 3280)

THIS BILL:

1) Establishes the Pilot Program until January 1, 2034.

2) Prohibits the supervisor from authorizing or allowing the use of a well or hydrocarbon reservoir for any purpose other than provided for in this bill and PRC 3106.

3) Defines the following terms:

   a) "Federal agency" as the United States Environmental Protection Agency, including Region 9 of that agency;

   b) "Gravity-based energy storage well" as a well that is plugged with all perforations sealed, is isolated from a hydrocarbon reservoir, has mechanical integrity, is not a conduit for fluid migration into a beneficial use aquifer, and is exclusively used to store or generate energy by raising or lowering a weight within the well casing.

      i) Provides that a well that has been fully plugged and abandoned is not eligible to be a gravity-based energy storage well; and,

      ii) A well listed as an orphan well or an idle-deserted well is eligible to be converted for use as a gravity-based energy storage well if all applicable and necessary rights to do so have been obtained.

4) Authorizes the supervisor to authorize the conversion of not more than 1,000 wells for use as gravity-based energy storage wells to evaluate their use, including the establishment of appropriate operating conditions and physical parameters to safely store and generate energy.

5) Authorizes, before authorizing the use of a well as a gravity-based energy storage well, the supervisor to require the operator to provide additional information demonstrating the suitability of the well for use as a gravity-based energy storage well.

6) States that the conversion of a well for use as a gravity-based energy storage well does not relieve the operator of the operator's obligation to plug and abandon the well, decommission attendant facilities, and remediate the site.

7) Authorizes the supervisor to assess a fee not to exceed the reasonable costs incurred by CalGEM in implementing this bill.

8) Prohibits a well that has been permitted or operated as a Class II well from being authorized for use as a gravity-based energy storage well without the written acknowledgment and authorization from the federal agency. Requires the written acknowledgment and authorization to be part of the well record.

9) Requires an idle well that is authorized for use as a gravity-based energy storage well remains an idle well and to be identified as a gravity-based energy storage well in any plan or update to a required plan.

10) Requires an operator to update an applicable plan to identify the use of an idle well as a gravity-based energy storage well not less than annually.

11) Provides that an idle well that is authorized for use as a gravity-based energy storage well remains subject to the applicable idle well fee.

12) Requires the mechanical integrity of a gravity-based energy storage well to be assessed by CalGEM not less than annually and to include, at a minimum, pressure testing. Requires the assessment to be part of the well record. Requires a gravity-based energy storage well that has lost mechanical integrity to cease operation as a gravity-based energy storage well until mechanical integrity is restored. In the event of a loss of mechanical integrity or leak to the environment, requires the operator of a gravity-based energy storage well to notify CalGEM, the State Air Resources Board (ARB), the appropriate regional water quality control board, and any schools or community members living within 3,200 feet of the well of the loss of mechanical integrity or leak.

13) Requires a well, after being converted for use as a gravity-based energy storage well, to be continuously monitored for fluid leaks, including, but not limited to, methane leaks. Requires the supervisor, in consultation with the ARB and the State Water Resources Control Board (State Water Board), to establish criteria for fluid leak monitoring and reporting.

14) Requires a gravity-based energy storage well to meet all requirements applicable to a well specified in this bill.

15) Requires CalGEM to identify all wells converted to or being operated as gravity-based energy storage wells on its internet website.

16) Requires, on or by January 1, 2032, the Secretary for Environmental Protection (CalEPA), in consultation with entities operating gravity-based energy storage wells, CalGEM, the State Water Board and regional water quality boards, ARB, the State Energy Resources Conservation and Development Commission (CEC), relevant local jurisdictions, environmental and environmental justice organizations, tribes, and other stakeholders, to evaluate the Pilot Program and make recommendations to the Legislature for a framework to implement an ongoing Gravity-Based Energy Storage Well Program to provide for regulation of the operation of gravity-based energy storage wells. Requires the recommendations to be informed by the Pilot Program and to include, but are not limited to, all of the following:

    a) Implications of conversion of a well to a gravity-based energy storage well for local land use authorization and applicability of the California Environmental Quality Act (CEQA), including designation of the appropriate lead agency;

    b) Appropriate regulatory parameters, including physical design, operating conditions, mechanical integrity, and inspection protocols, for a gravity-based energy storage well to ensure safe operation and no fluid, including, but not limited to, methane, leakage to the environment, including into aquifers of beneficial use. Requires this to include whether the redrilling of a plugged and abandoned well may be allowed for a gravity-based energy storage well;

    c) Implications of conversion of a well to a gravity-based energy storage well for existing well classifications and associated requirements;

    d) Tracking and monitoring by the regulator of gravity-based energy storage wells to ensure that those wells are ultimately plugged and abandoned, attendant equipment and infrastructure is decommissioned, and the site remediated;

e) Fee structure for gravity-based energy storage well operations to ensure that gravity-based energy storage well operations fully compensate regulatory oversight by the state; and,

f) Structure and payment schedule from gravity-based energy storage well operations to fund the applicable plugging and abandonment of a gravity-based energy storage well, decommissioning of associated infrastructure, and site remediation.

17) Requires the recommendations to include a review of gravity-based energy storage well operations including any leaks to the environment and loss of mechanical integrity.

18) Requires, in developing the recommendations, there be at least one public meeting to solicit public input.

19) Requires the recommendations to be submitted to the Legislature in accordance with Section 9795 of the Government Code.

20) Sunsets this bill on January 1, 2034.

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

FISCAL EFFECT: According to the Senate Appropriations Committee:

- CalEPA estimates ongoing costs of about $200,000 annually (General Fund or special fund) to consult with other agencies and organizations, as appropriate, and evaluate the Pilot Program and make recommendations to the Legislature for long term implementation of the Program. CalEPA notes that additional administrative costs would be required to conduct public meetings in solicitation of public input.

- Unknown ongoing costs, likely in the hundreds of thousands of dollars annually but potentially more (Oil, Gas, and Geothermal Administrative Fund [OGGA]) for the DOC to administer the pilot program.

- ARB estimates ongoing costs of about $480,000 annually (OGGA) to consult with CalEPA, DOC, and the State Water Board to develop and implement a notification system for mechanical integrity losses for a pilot program, establish criteria for methane monitoring and reporting, evaluate the pilot program, and develop recommendations, among other things.

- Unknown, likely minor costs for the State Water Board to consult with ARB and other agencies.

- Unknown, potentially significant ongoing cost pressure (OGGA or other special fund) to provide funding to expand or scale up the Pilot Program should it prove successful.

- Some of these administrative costs may be offset by potential fee revenue.

COMMENTS:

1) **Author's statement**:

> SB 1433 will allow idle wells to be used for energy storage once they have been isolated from the oil or gas reservoir and satisfy other monitoring requirements. California has more than 38,000 idle wells and a projected need of roughly 52,000 megawatts of energy storage by 2045. To address both of these issues it is important the State consider new technologies. This bill will create a pilot program for transitioning idle wells into energy storage.

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

   Based on a joint analysis by the CEC and the ARB, an estimated six gigawatts (GW) of renewable energy and storage resources need to come online annually to meet the state's 2045 carbon neutrality goal. To meet these bold renewable energy targets, the state is looking to new renewable sources and yet-to-be deployed technologies, including offshore wind, ocean currents, and emerging battery storage. With necessity being the mother of invention, it is likely more technologies will continue to be presented as solutions to reach the state's RPS and climate goals.

3) **Orphan oil and gas wells.** In California, 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). 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. Not reflecting well-specific cost drivers, the average cost to the state to plug and abandon wells since 2011 has been about $95,000 per well. As of December 31, 2021, CalGEM had identified more than 5,300 wells as orphan or potentially orphan.

4) **Gravity energy storage wells.** A gravity well is an idle oil or gas well that is retrofitted with a gravity-based mechatronic energy conversion system to generate renewable energy for the grid. The technology charges and discharges by lifting and lowering a long, cylindrical weight, which consists of used oilfield tubing or casing and high-density filling. It is suspended by wire rope in an idle well that is sealed with a cement plug prior to installation. It is estimated that each conversion can generate and store upwards of 2,000 megawatt hours (Mwh) of clean energy. Converting orphan wells into energy storage systems can both potentially permanently seal the well, stemming the noxious pollution from the well from seeping into the nearby communities, and can create potentially significant renewable energy storage.

   Renewell, a California-based gravity well company, is in the process of installing a gravity well on an idle well in California Resource Corporation's (CRC) Elk Hills Field. The well is 7,000 feet deep and has a seven-inch diameter casing cemented all the way to the surface.

CalGEM approved the permit as a Rework in September 2023. In September and October 2023, the production tubing was removed, the well was scraped and flushed, and a 100 foot cement plug was set (and witnessed by CalGEM), and was also pressure tested.

After the well was prepped, Renewell installed a 30,000lb weight made of steel casing joints filled with heavily weighted mud. The weight is suspended in the water that fills the well and is currently secured to the wellhead. Renewell expects the system to be operational in 2024. Under the arrangement, CRC will remain the owner/operator of the well.

While this bill is not company specific – many technology companies may have or develop gravity-based energy storage wells – Renewell's pilot can inform CalGEM as to how they can and should be regulated.

5) **This bill**. California does not currently have a way to permit gravity-well technologies as it is outside CalGEM's statutory jurisdiction. SB 1433 provides explicit authority, until January 1, 2034, for the Pilot Program for CalGEM to permit the conversion of up to 1,000 wells for use as gravity-based energy storage wells to evaluate their use, including the establishment of appropriate operating conditions and physical parameters to safely store and generate energy. The bill excludes Class II injection wells, which are used to safely dispose of the salt and fresh water produced with oil and gas, from potential conversion**.**

   By January 1, 2032, CalEPA, in consultation with state entities, gravity-well operators, and specified stakeholder groups would be required to evaluate the Pilot Program and make recommendations to the Legislature for a framework to implement an ongoing Gravity-Based Energy Storage Well Program. The evaluation would consider CEQA, mechanical integrity, well classification for future conversion, tracking and monitoring, among other things.

6) **Committee amendments**. The Committee may wish to amend the bill to require the renewable energy generated by the Pilot Program for future consideration of an ongoing program, as follows:

   Sec. 3474.14 (a) <u>(7) Amount of renewable energy generated and ease of connecting a gravity-based energy storage well to existing electrical infrastructure.</u>

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
Active San Gabriel Valley
California Environmental Voters
Center for Community Action and Environmental Justice
Center on Race, Poverty, & the Environment
Clean Water Action
Climate Resolve
EJCW
Environmental Defense Fund
Natural Resources Defense Council
Renewell Energy
Socal 350 Climate Action

The Climate Center
Vote Solar

Opposition

None on file

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