California State Assembly

NATURAL RESOURCES

ISAAC G BRYAN
CHAIR

AGENDA

Monday, April 28, 2025
2:30 p.m. -- State Capitol, Room 437

BILLS HEARD IN SIGN-IN ORDER

** = Bills Proposed for Consent

1.	AB 28	Schiavo	Solid waste landfills: subsurface temperatures.
2.	AB 52	Aguiar-Curry	Native American resources.
3.	AB 357	Alvarez	Coastal resources: coastal development permit: exclusions.
4.	AB 405	Addis	Fashion Environmental Accountability Act of 2025.
5.	AB 527	Papan	California Environmental Quality Act: geothermal exploratory projects.
6.	**AB 555	Jackson	Air resources: regulatory impacts: transportation fuel costs.
7.	**AB 605	Muratsuchi	Lower Emissions Cargo Handling Equipment Pilot program.
8.	**AB 729	Zbur	Public utilities: climate credits.
9.	**AB 803	Garcia	Urban forestry: school greening.
10.	AB 854	Petrie-Norris	California Environmental Quality Act: exemptions.
11.	AB 881	Petrie-Norris	Public resources: transportation of carbon dioxide.
12.	AB 914	Garcia	Air pollution: indirect sources: toxic air contaminants.
13.	**AB 996	Pellerin	Public Resources: California Coastal Act of 1976: California Coastal Planning Fund: sea level rise plans.
~~14.~~	~~AB 1023~~	~~Gipson~~	~~Coastal resources: coastal development permits and procedures: Zero Emissions Port Electrification and Operations project.~~ ***PULLED FROM HEARING***
15.	AB 1095	Papan	Data centers: waste heat energy.
16.	AB 1106	Michelle Rodriguez	State Air Resources Board: regional air quality incident response program.
17.	AB 1207	Irwin	Climate change: market-based compliance mechanism: price ceiling.
18.	AB 1227	Ellis	California Environmental Quality Act: exemption: wildfire prevention projects.
19.	AB 1280	Garcia	Energy.
20.	**AB 1311	Hart	California Rangeland, Grazing Land, and Grassland Protection Program.
21.	**AB 1395	Harabedian	Forestry: internal combustion engines: industrial operations: fire toolbox.
22.	AB 1425	Arambula	San Joaquin River Parkway: pit dewatering.
23.	AB 1426	Kalra	Diablo Range Conservation Program.
24.	AB 1448	Hart	Coastal resources: oil and gas development.

25.	****AB 1456**	Bryan	California Environmental Quality Act: California Vegetation Treatment Program.

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 28 (Schiavo) – As Amended March 24, 2025

SUBJECT: Solid waste landfills: subsurface temperatures

SUMMARY: Requires landfill operators to take specified measures to identify and mitigate subsurface elevated temperature events (SETs) at solid waste landfills. Establishes requirements and expands enforcement authority for various agencies relating to the identification and mitigation of SETs.

EXISTING LAW:

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

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

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

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

2) Requires ARB, pursuant to SB 1383 (Lara), Chapter 395, Statutes of 2016, 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. Pursuant to the Strategy, 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 39730-39730.5)

3) Specifies that local and regional authorities have the primary responsibility for control of air pollution from all sources, except motor vehicle emissions and establishes responsibilities and provides for the establishment of county, unified, and regional air pollution control districts. (HSC 40000 *et seq.*)

4) Establishes requirements for the handling and disposal of solid waste and the permitting and operation of solid waste facilities. (Public Resources Code (PRC) 43000 *et seq.*)

5) Requires the Department of Resources Recycling and Recovery (CalRecycle) to adopt certification requirements for local enforcement agencies (LEAs) that cover the permitting,

inspection, and enforcement of regulations at solid waste facilities and inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills. (PRC 43200)

6) Authorizes the governing body of a city or county to declare a local emergency, which grants authority to local governments to have full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements therefor. Under a local emergency, authorizes state agencies to provide mutual aid, including personnel, equipment, and other available resources. (Government Code (GC) 8630-8634)

THIS BILL:

1) Defines terms used in the bill, including:

    a) "Gas temperature" to mean the temperature of underground landfill gas as reported by a temperature sensor;

    b) "Resolution" to mean all of the following have occurred:

        i) An event of elevated temperature, as specified, occurs, followed by gas temperature decreasing to below 131 degrees Fahrenheit for 60 days or longer;

        ii) For an elevated temperature event, as specified, the multiagency coordination group (multiagency group) completes its investigation; and,

        iii) The operator of the landfill provides notice to residents surrounding the landfill to inform them of the gas temperature decrease.

    c) "Temperature sensor" means a continuous recording temperature sensor on a flare, as specified.

2) Requires the operator of a landfill to:

    a) Continuously monitor a temperature sensor for gas temperature;

    b) On a monthly basis, provide gas temperature data to the LEA for each sensor for the prior month; and,

    c) Post the data on its website on the same day it is reported to the LEA.

3) If the gas temperature exceeds 131 degrees for longer than 60 days, requires that:

    a) Within 48 hours, the operator notify the LEA;

    b) Within 14 days, the operator file with the LEA the actions it has taken in response to the elevated temperature and its investigation plan;

    c) Within 14 days of the notice to the LEA:

        i) Requires the LEA to alert CalRecycle of the elevated temperature and provide the operator's investigation plan to the department;

ii) Requires the county to send residents a notice regarding the elevated temperature, including the United States Environmental Protection Agency (USEPA) fact sheet on elevated gas temperature. Requires the county to send monthly updates to residents surrounding the landfill until resolution.

d) Within 45 days, requires the operator to file a corrective action plan with the LEA, which the LEA shall provide to CalRecycle within 14 days of receipt.

4) If the gas temperature exceeds 146 degrees for longer than 60 days, requires that:

a) Within 48 hours, the operator notify the LEA;

b) Within seven days, the operator notify CalRecycle;

c) Within 90 days, a multiagency group shall conduct and conclude an investigation into the sustained gas temperature and provide advice on how to achieve resolution. Requires "a state agency" to provide any resources required by the multiagency group to complete its investigation and to achieve resolution. Requires CalRecycle to form and lead the multiagency group, consisting of:

i) The California Environmental Protection Agency (CalEPA);

ii) The California regional water quality control board (regional board) with jurisdiction over the landfill;

iii) CalRecycle;

iv) The Department of Toxic Substances Control (DTSC);

v) The LEA;

vi) ARB;

vii) The State Department of Public Health (DPH); and,

viii) USEPA.

d) The operator take corrective action as advised by the multiagency group's investigation. If the operator does not meet the deadlines provided in the multiagency group's advice, authorizes the LEA to suspend or revoke the operator's solid waste facilities permit (SWFP).

e) The multiagency group monitor the situation and advise until resolution.

5) If the gas temperature exceeds 162 degrees for longer than 60 days, requires that:

a) Within 48 hours, the operator notify the LEA.

b) The LEA to proclaim a local emergency if the LEA has been designated to proclaim a local emergency pursuant to GC 8630. If not designated, requires the LEA to request a local emergency be proclaimed by the appropriate city, county, or city and county.

c) Within 14 days, the LEA and CalRecycle suspend or revoke the operator's SWFP.

6) Requires LEAs to maintain constant communication with CalRecycle to ensure there is a prepared plan in place for the sustained elevated temperature.

7) Authorizes CalRecycle or an LEA to suspend or revoke an operators SWFP and requires CalRecycle or an LEA to impost a penalty not to exceed $10,000 per day for failing to comply with the requirements of the bill.

8) Requires CalRecycle or an LEA to impose a penalty not to exceed $1 million for each week that a sustained gas temperature above 162 degrees exists.

9) Requires all penalties collected to be deposited into the Landfill Subsurface Fire Mitigation Account (Account), which is created by the bill. Specifies that moneys in the Account shall be available for expenditure by CalRecycle to mitigate harm to a person or community adversely affected by an elevated temperature event. Requires CalRecycle to prioritize the use of funds to a person or community adversely affected by an event at the landfill for which the penalty was imposed.

10) Specifies that the general enforcement provisions of the Integrated Waste Management Act (IWMA) do not apply to the bill.

11) Requires an LEA to comply with specified procedures governing the suspension or revocation of a SWFP. Specifies that suspended or revoked permits shall be reinstated upon resolution.

12) Requires an operator to reimburse CalRecycle, an LEA, a county, and any other state or local agency the actual and reasonable costs they incur pursuant to the bill.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Landfill fires**. Landfill fires occur with some regularity; however, most fires, if managed properly, are resolved fairly quickly with little to no impact to surrounding communities. There are two types of fires that occur in landfills, surface fires and SETs. Surface fires typically occur when a landfill inadvertently accepts flammable waste that ignites on the landfill surface. The risk and frequency of these fires has increased as products containing lithium ion batteries have become more common. Surface fires are generally identified and responded to quickly by landfill operators and are relatively easy to put out by moving the burning material to a safe area, applying a cover material, like soil, to suffocate the fire, or using foam or water to extinguish the fire.

   In contrast, SETs, also referred to as subsurface landfill fires or subsurface elevated temperature events, occur deep within a landfill, often without producing visible flames or smoke, making them difficult to identify quickly. Unlike surface fires, these events are exothermic chemical reactions that occur when waste is heated by biological decomposition and chemical oxidation. According to CalRecycle:

> A SET Event can result from a combination of reactions. For example, reactive industrial waste (e.g., aluminum dross, baghouse dust, salt cake, fly ash, incinerator ash, or other metal oxide waste) can generate sufficient heat to pyrolyze or ignite surrounding municipal solid waste and cause high gas pressures at temperatures exceeding 212°F (100°C). A SET Event can also be caused by aggressively overpulling a gas collection and control system (GCCS) to address emissions and/or odors. This "doom loop" occurs when the operator attempts to correct one adverse condition by increasing the vacuum in the adjacent wells, which causes negative events (i.e., a spike in temperature or oxygen levels) in the surrounding gas wells, leading to further deterioration.

This reaction can result in emissions of toxic and/or flammable gases, such as volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons, polychlorinated dibenzodioxins, polychlorinated dibenzofurans, methane, hydrogen, ammonia, carbon monoxide (CO), acetylene, benzene, and others. Some signs of an SET occurring are rapid settling, smoke, odors, changes in landfill gas composition, changes in landfill gas pressure, combustion residue in gas wells, excessive liquid generation, and increased temperatures in landfill gas wells. Once an SET starts, the event can spread within the landfill, especially if the SET has exposure to air, moisture, and voids within the waste material.

Proper landfill design and operations minimize the risks of an SET occurring, and the severity of an SET should one occur, but uncertainty exists about why some landfills experience SETs. Oxygen management (i.e., minimizing air intrusion into the landfill), effective waste acceptance protocols and screening, liquid management (i.e., minimizing liquids in the landfill), and effective landfill gas controls can all reduce the risks of SETs.

Identifying and monitoring elevated landfill temperatures are important to identify and monitor an SET. This can be accomplished by monitoring landfill gas wellhead temperatures, monitoring the chemical composition of landfill gas and leachate, or, in some cases, infrared photography. According to the USEPA, normal landfill temperatures are between 90-131 degrees Fahrenheit, temperatures from 131 to 145 degrees may suggest heat-generating chemical reactions may exist, above 145 degrees methane generation slows, and above 165 degrees biological activity begins to cease, which may trigger an SET. Once an SET is identified, temperatures can be monitored by additional wells for this purpose. However, temperature monitoring alone may not catch all SET events, and not all SET events pose a threat to the environment or surrounding communities.

Federal regulations (40 Code of Federal Regulations 60.34(f)) requires landfill operators to operate a landfill gas collection system for each area, cell, or group of cells. The regulation requires the owner or operator to operate landfill gas wellheads with a landfill gas temperature below 131 degrees; however, the regulation authorizes an owner or operator to establish a higher operating temperature at a particular well, if the operator demonstrates, including supporting data, that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens to the administering agency.

Controlling an SET requires operators to take quick and appropriate action using a combination of factors. Prompt response can limit the movement of the SET within the landfill. According to CalRecycle, those actions can include:

- Closing or adjusting landfill gas extraction wells and adjusting or tuning the surrounding wells and landfill gas collection system to prevent oxygen intrusion from exceeding two percent;

- Placing at least 24 inches of appropriate cover material over the area, extending 100 feet beyond the impacted area;

- Aggressively initiating and conducting a root cause analysis, including at least three downhole thermocouple assessment arrays and observing drill tailings for unknown industrial wastes;

- Collecting downhole well temperatures every ten vertical feet in areas with elevated temperatures;

- Collecting analytical samples of landfill gas in the area with elevated temperatures;

- Replacing polyvinyl chloride wells with materials that can withstand higher temperatures, such as chlorinated polyvinyl chloride or steel;

- Monitoring and responding to slope instability or changes; and,

- Considering constructing isolation or barrier walls between disposal units.

The USEPA suggests the following strategies to mitigate an SET:

- Apply geomembrane covers;

- Add additional gas extraction wells;

- Excavate gaps in waste mass; and,

- Install and operate closed-loop heat exchangers.

CalRecycle directs operators to notify the LEA, CalRecycle, and the local fire department for small SETs, but does not provide clear guidance on when, or which, other agencies should be notified. CalRecycle states, "depending on site-specific factors, or other mandates, may require the landfill operator or site owner to notify other entities, including the local air quality management district, the [USEPA], the California Office of Emergency Services, the local hazardous materials management program, and neighbors."

While CalRecycle does have a guidance document for landfill fires available on its website, the information it provides is high-level and somewhat basic. It does not provide clear guidance for an operator, or the public, on how to effectively identify and respond to an SET.

2) **Chiquita Canyon Landfill**. Chiquita Canyon Landfill is operated by Chiquita Canyon LLC, which is a subsidiary of Waste Connections, Inc. The landfill, located in Castaic, California, is approximately 640 acres total, with 400 acres permitted for solid waste disposal. The facility includes two closed areas, Primary Canyon, which covers 55 acres and operated from 1970 to 1987, and Canyon B, which covers 15 acres and operated from 1987 to 1988. The active operating area is known as Main Canyon, and spans approximately 212 acres. The

facility also includes a permitted 114 acre expansion, East Canyon. The landfill has been an important component of Southern California's solid waste infrastructure, taking nearly one-quarter of Los Angeles County's solid waste prior until this year.

3) **Chiquita Canyon Landfill SET**. In May 2022, the landfill has been experiencing elevated landfill gas temperatures and emissions indicative of an SET. The SET, located deep in an inactive area of the landfill, has grown significantly in size since it was first identified. The SET has impacted nearby residents. Since it was discovered, the SET has generated more than 27,000 complaints to the South Coast Air Quality Management District (SCAQMD). The SET has also produced additional quantities of liquid waste (i.e., leachate) that must be removed from the reaction area. The leachate being collected from the SET contains high levels of benzene, a chemical that poses risk to public health and the environment. The SET is causing substantial impacts to the neighboring communities, with residents living as close as 1,000 feet from the SET's border.

4) **Regulatory responses**. Regulatory agency responses to the SET did not begin in earnest until late 2023, when odor complaints associated with the SET increased. In November 2023, local, state, and federal agencies formed a Multi-Agency Critical Action Team (MCAT), led by USEPA, to coordinate investigations and enforcement, and to ensure compliance with state and federal requirements. The MCAT is comprised of the California Environmental Protection Agency (CalEPA), CalRecycle, DTSC, ARB, the Los Angeles Regional Board, SCAQMD, and the Los Angeles County Department of Public Works. The Office of Environmental Health Hazard Assessment (OEHHA) has also provided support to the MCAT by identifying potential health risks and providing technical expertise. The establishment of the MCAT has resulted in better coordination between oversight entities and the issuance of a Stipulated Order of Abatement by SCAQMD to address odor issues and a Unilateral Administrative Order by USEPA to require the operator to comply with the law and to properly manage, treat, and dispose of hazardous waste and take steps to mitigate odors. In February 2024, USEPA, CalEPA, and Los Angeles County additionally established a Response Multi-Agency Coordination Group to monitor and advise the operator on the ongoing response to the SET.

   In November 2023, the LEA required the operator to apply additional cover, perform a slope stability analysis, install temperature monitoring probes, and develop a plan to construct a reaction break. After reaching a determination that violations were continuing to occur, CalRecycle placed the Chiquita Canyon Landfill on the Inventory of Solid Waste Facilities that Violate State Minimum Standards in May, 2024. The LEA also issued violations for inadequate site maintenance and gas monitoring and control.

   In February 2024, DTSC issued a Summary of Violations for five citations for improper hazardous waste management. The following month, DTSC issued a Summary of Violation to an offsite disposal facility for accepting hazardous waste from the landfill without necessary permits. On April 1, 2025, DTSC issued an additional Summary of Violations for failure to minimize the possibility of release of hazardous waste or hazardous waste constituents and failure to comply with land disposal restriction requirements. Under this order, the operator faces fines of up to $70,000 per day unless it takes "prompt corrective measures."

In late 2023, the Regional Board issued its first Notice of Violation to the operator for failure to adequately manage the leachate generated by the SET. In March 2024, the Regional Board issued an investigative order requiring the operator to submit specified reports and perform additional monitoring and reporting. Additionally, it required the operator to install additional groundwater monitoring wells and conduct sampling of all discharges into the sediment basin. The Regional Board issued a Notice of Violation to the facility on March 28, 2024, for failing to comply with its industrial stormwater permit. The following month, the Regional Board issued an additional Notice of Violation after identifying unauthorized discharges into a local waterway that flows into the Santa Clara River. Again, in June 2024, the Regional Board issued a Notice of Violation for failing to submit the required technical reports and monitoring data required by the Notice issued in March. On September 25, 2024, the Regional Board denied the operators request to dispose of waste into a specified landfill cell.

In February 2024, the USEPA issued a Unilateral Administrative Order, which required the operator to take immediate steps to protect human health and the environment, mitigate off-site community impacts caused by noxious odors and hazardous waste, and to contain and reduce the SET. SCAQMD, as the administrator for federal regulatory requirements, issued a Stipulated Abatement Order that directed the operator to address issues relating to the facility's leachate collection system and other conditions causing increased emissions and odors. In June 2024, USEPA issued a Finding of Violation to the operator under the federal Clean Air Act. USEPA found that the operator, has, and continues to, violate the New Source Performance Standards and the National Emissions Standards for Hazardous Air Pollutants for municipal solid waste landfills, as well as conditions of the facility's Title V permit. According to the finding, the operator "failed to operate air pollution and control equipment in a manner consistent with good air pollution control policies, failed to correct landfill gas temperatures inside and outside the reaction area, and failed to adequately monitor landfill gas temperatures."

Last month, CalRecycle issued the *Review of the Soil Reaction Break/Barrier Plan for the Chiquita Canyon Landfill SET Event*. As noted above, an SET can be caused by "overpulling" a gas collection system to address emissions or odors. This action inadvertently triggers a vacuum in adjacent landfill gas wells, creating a spike in temperature or oxygen levels, leading to an SET. According to CalRecycle's review of the Chiquita Canyon Landfill SET, "This is precisely what [the operator's] industry expert recommended in his November 2024 [Environmental Research & Education Foundation]-sponsored presentation. CalRecycle staff agree that the pressure in the landfill should be reduced, but not at the risk of initiating a new shallow SET Event by exceeding the oxygen threshold of two percent or requesting a temperature higher operating value."

According to CalRecycle's findings, a partial list of issues caused by the SET include:

- Significant emissions and odors that have impacted the community of Val Verde and surrounding areas from 2023 to 2025. According to the SCAQMD, the operator has received a total of 1,493 complaints and 16 Notices of Violations in 2025.
- The interim cover has experienced significant damage from settlement, leachate outbreaks, slope instability, and fissures.
- Leachate being extracted at a rate of 228,624 gallons per day.
- Several leachate outbreaks and releases.

- Leachate contains hazardous levels of benzene.
- 13 gas wells have observed geysering of leachate.
- Wellhead and downwell temperature differentials have been severe. Two wells have observed differentials over 100°F, and six had readings over 40°F.
- Temperatures have reached the maximum detectable limit of 250°F in some wells.
- Nine wellhead temperature have exceeded 200°F and 83 have exceeded 170°F since 2023.
- Multiple landfill gas wells have been replaced due to integrity issues resulting from temperatures exceeding 140°F.
- Two slope instability incidents have occurred on the west slope.
- The facility is experiencing a decrease in methane production in the reaction area and along the boundary, with many gas wells now operating at less than 15%.
- The facility is observing carbon monoxide above 1,500 ppmv, hydrogen above 2%, and elevated volatile organic compound levels in the reaction and boundary areas.
- New Source Performance Standards reporting data has increased significantly from July 2023 to December 2024. Wells with oxygen levels above 5% increased by 55%, temperatures exceeding 131°F increased by 41%, and positive pressure at the wellhead rose by 33%.
- Accelerated settlement continues to be documented by the operator.
- Temperatures exceeding 140°F have affected the service life of a portion of the liner.

Based on these findings, CalRecycle staff determined that:

- The operator's barrier plan will not contain or control the reaction. There is no proposed barrier to prevent the reaction from consuming the entire facility.
- The reaction area is expanding, and the current containment strategy has failed.
- More than one independent SETs are developing due to the current gas collection and control system operations.
- While the removal of leachate and pressurized gas is critical, it is not a satisfactory containment method.
- The expansion of the SET into an additional cell must be prevented.

5) **Chiquita Canyon, LLC**. Waste Connections, the owner and operator of the facility, via the Chiquita Canyon, LLC, prepared a report, *State of the Landfill: Summary of the Efforts to Mitigate the Elevated Temperature Landfill Event at the Chiquita Canyon Landfill*, as of October 2024, the operator installed over 41 acres of geosynthetic cover over the reaction area to reduce the volume of fugitive gas emissions; installed more than 110 dewatering pumps to remove leachate and the corresponding heat; installed more 220 vertical dual extraction wells to reduce pressures and remove gas and heat; and, evaluated data on a monthly basis to look for evidence of reaction spread to other cells or modules within the landfill.

   The facility's community relief program has provided nearly 1,800 air filters to the community, including filters for the Castaic Union School District. The community relief program has also installed an air monitoring station at the Castaic Middle School, resulting in costs of approximately $330,000 per year. According to the State of the Landfill report:

Chiquita is doing everything it can to mitigate any impacts of the reaction. Chiquita's actions include installing over 220 vertical dual extraction landfill gas wells since December 6, 2023, and equipping many of them with dewatering pumps, allowing Chiquita to remove hot gas and liquids from the Landfill. Chiquita is destroying certain compounds (e.g., hydrogen and methane) in the gas removed from the Landfill by converting them to a harmless compound (i.e., carbon dioxide) in its landfill gas flares or thermal oxidizer (which is similar to a flare). Chiquita is managing the liquids by piping them from the Landfill, using granular activated carbon treatment systems to treat them as needed, and transporting them off-site for disposal at appropriate liquid waste disposal facilities. Chiquita is also constructing a geosynthetic cover over portions of the reaction area. Chiquita expects that this additional cover will reduce potential odors in the shorter term. Chiquta spends millions of dollars each month on engineers, contractors, and equipment to mitigate any potential impacts of the reaction and looks forward to continuing to collaborate with its regulators on the continued management of the Landfill, specifically the reaction area.

6) **Author's statement**:

The Chiquita Canyon Landfill has been smoldering and releasing toxic gas into communities within Assembly District 40 for over two years and is the largest ongoing public health and environmental emergency in Los Angeles. Current regulations and statutes are woefully inadequate to prevent and address this disaster. Assembly Bill 28 will take it a step further by ensuring landfills continually monitor their facilities for increased temperatures, require landfills to be transparent with surrounding communities, and outline progressive enforcement actions that local and state agencies must take if landfill operators fail to successfully implement a corrective action plan.

7) **Suggested amendments**:

a) In order to ensure that the operators and regulators are able to identify and respond to SETs quickly, the *committee may wish to amend the bill* to require ARB to adopt landfill temperature monitoring standards as part of its current revision to the Landfill Methane Regulations.

b) In order to ensure that the state has clear guidance on identifying and responding to SETs, *the committee may wish to amend the bill* to require the multiagency working group to develop guidelines for the identification and management of SETs, including developing minimum standards for corrective action plans.

c) The *committee may wish to amend the bill* to revise the temperature reporting requirements to ensure that the information is provided in a manner that is useful and understandable.

d) The *committee may wish to amend the bill* to replace the current requirement for the county to notify residents of an elevated temperature when the temperature exceeds 131 degrees for more than 60 day with a requirement for the operator to notify the community when the temperature exceeds 146 degrees for more than 60 days.

e) The *committee may wish to amend the bill* to require that a corrective action plan incorporate the recommendations of the multiagency working group.

f) In order to better understand the potential public health impacts of an SET, the *committee may wish to amend the bill* to require the Office of Environmental Health Hazard Assessment to conduct a health study consistent with the Community Health Assessment for Public Health Emergency Response Toolkit, established by the Centers for Disease Control and Prevention.

g) In order to ensure that LEAs are able to adequately respond to SETs, *the committee may wish to amend the bill* to authorize LEAs or CalRecycle to issue a corrective action orders.

h) In order to ensure that excessive penalties are not applied to operators, *the committee may wish to amend the bill* to clarify that the $1 million per week penalty may be imposed if the SET is caused by an operator's gross negligence resulting in an imminent and substantial risk to public health, safety, or the environment of the community.

i) The *committee may wish to amend the bill* to make a number of technical and clarifying amendments.

REGISTERED SUPPORT / OPPOSITION:

Support

Breast Cancer Prevention Partners
California Communities Against Toxics
California Environmental Voters
Californians Against Waste
Central California Environmental Justice Network
Citizens for Chiquita Canyon Closure
Climate Action California
Climate Reality Project, Orange County Chapter
Coalition for Clean Air
Greenaction for Health and Environmental Justice
NorCal Elder Climate Action
San Francisco Baykeeper
Santa Cruz Climate Action Network
SoCal Elders Climate Action

Opposition

California Council for Environmental & Economic Balance
Republic Services - Western Region
Resource Recovery Coalition of California
Rural County Representatives of California
Waste Management

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 52 (Aguiar-Curry) – As Amended April 21, 2025

SUBJECT: Native American resources

SUMMARY: Establishes specified processes for consultation with federally recognized tribes and non-federally recognized tribes under specified state laws that require consultation with California Native American tribes.

EXISTING LAW:

1) Requires the Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary Indian Affairs of the Department of the Interior to implement the Procedures for Establishing that an American Indian Group Exists as an Indian Tribe. (25 Code of Federal Regulations Part 83)

2) Identifies California Native American tribes as those tribes located in California that are on the contact list maintained by the Native American Heritage Commission (Commission) for the purposes of SB 18 (Burton), Chapter 905, Statutes of 2004. (Public Resources Code (PRC) 21073)

3) Encourages and authorizes all state agencies, as defined, to cooperate with federally recognized California Indian Tribes on matters of economic development and improvement for the tribes. (Government Code (GC) 11019.8 (a))

4) Provides that the Legislature encourages the State of California and its agencies to consult on a government-to-government basis with federally recognized tribes and to consult with nonfederally recognized tribes and tribal organizations, as appropriate, in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications.

5) Establishes the Commission and the powers and duties of the Commission, and requires, among other things, the Commission to provide each California Native American tribe with a list of all public agencies that may be a lead agency pursuant to the California Environmental Quality Act (CEQA) within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation. (PRC 5097.91 and 5094.94 (m))

6) Provides that only the following entities or organizations may acquire and hold conservation easements: a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Service Code; the state or any city, county, city and county, district, or other state or local governmental entity; or, a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Commission. (Civil Code 815.3)

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

7) Requires the Office of Land Use and Climate Innovation (Office) to develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans. Requires the guidelines to contain advice, developed in consultation with the Commission, for consulting with California Native American tribes for all of the following:

   a) The preservation of, or the mitigation of impacts to, places, features, and objects;

   b) Procedures for identifying through the Commission the appropriate California Native American tribes;

   c) Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects; and,

   d) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects. (GC 65040.2)

8) Includes in the definition of "person" a California Native American tribe that is on the contact list maintained by the Commission. (GC 65092)

9) Requires, during the preparation or amendment of the general plan, the planning agency to provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate. (GC 65351)

10) Requires, prior to the adoption or any amendment of a city's or county's general plan, proposed on or after March 1, 2005, the city or county to conduct consultations with California Native American tribes that are on the contact list maintained by Commission, for the purpose of preserving or mitigating impacts to places, features, and objects that are located within the city's or county's jurisdiction. Provides 90 days from the date on which a California Native American tribe is contacted by a city or county to request a consultation, unless a shorter timeframe has been agreed to by that tribe. (GC 65352.3)

11) Defines "consultation" as the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance. (GC 65352.4)

12) Requires, if land is designated, or proposed to be designated as open space, contains a place, feature, or object, the city or county in which the place, feature, or object is located to conduct consultations with the California Native American tribe, if any, that has given notice for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of

developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan. (GC 65562.5)

Pursuant to Native American Historical, Cultural, and Sacred Sites (PRC 5097.9 - 5097.991)

13) Provides that this chapter of law shall not be construed to limit the requirements of CEQA. (PRC 5097.9)

14) Provides the Commission with the powers and duty to identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands. (PRC 5097.94)

15) Requires each state and local agency to cooperate with the Commission in carrying out its duties. Such cooperation shall include, but is not limited to, transmitting copies, at the Commission's expense, of appropriate sections of all environmental impact reports relating to property identified by the commission as of special religious significance to Native Americans or which is reasonably foreseeable as such property. (PRC 5097.95)

16) Authorizes the Commission to prepare an inventory of Native American sacred places that are located on public lands and review the current administrative and statutory protections accorded to such places. (PRC 5097.96)

17) Requires, upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with the descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. (PRC 5097.98)

Pursuant to CEQA (PRC 2100 *et seq*.):

18) Defines "tribal cultural resources" as either sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to specified criteria. Requires the lead agency to consider the significance of the resource to a California Native American tribe. (PRC 21074)

19) Requires the Commission to assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area. (PRC 21080.3.1)

20) Requires, prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for a project, the lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. (PRC 21080.3.1)

21) Requires, as a part of the consultation, the parties may propose mitigation measures, including, but not limited to, those recommended capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. (PRC 21080.3.2)

22) Authorizes the lead agency to certify an EIR or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs: the first step of the consultation process between the California Native American tribe and the lead agency has occurred and was completed. (PRC 21082.3)

23) Requires the Office to prepare and develop, and the Secretary of the Natural Resources Agency (NRA) to certify and adopt, revisions to the CEQA guidelines that update regulations to do both of the following: separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions; or, add consideration of tribal cultural resources with relevant sample questions. (PRC 21083.09)

THIS BILL:

1) Authorizes a California Native American tribe that is on the contact list administered and maintained by the Commission to acquire and hold a conservation easements to protect a California Native American prehistoric, archaeological, cultural, spiritual, or ceremonial place, if the conservation easement is voluntarily conveyed or otherwise conveyed pursuant to CEQA.

Under the Planning and Zoning Law:

2) Requires, by March 1, 2026, the Office's guidelines for the preparation of and the content of the mandatory elements required in city and county general plans to contain advice, developed in consultation with the Commission and California Native American tribes that are on the contact list administered and maintained by the Commission for consulting with and obtaining tribal information and tribal knowledge from "California Native American tribes."

3) Requires notice of a public hearing to be given to any California Native American tribe that is on the contact list administered and maintained by the Commission and who has filed a written request.

4) Requires, during the preparation or amendment of the general plan, the planning agency to provide opportunities for the involvement of citizens, California Native American Indian tribes that are on the contact list administered and maintained by the Commission, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate.

5) Requires, before a legislative body takes action to adopt or substantially amend a general plan, the planning agency to refer the proposed action to, among others, a California Native American tribe that is on the contact list administered and maintained by the

Commission, and is culturally affiliated with lands located within the city's or county's jurisdiction.

6) Requires, prior to the adoption or any amendment of a city's or county's general plan, the city or county to conduct consultations with California Native American tribes that are on the contact list administered and maintained by the Commission for the purpose of identifying, evaluating, preserving, or mitigating impacts to places, features, and objects that are located within the city's or county's jurisdiction.

7) Defines "consultation" as all of the following:

   a) The meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement;

   b) Consultation is not meaningful or transparent if the tribe is not provided with requested technical information, including project information and constraints, data, maps, administrative drafts of environmental documents and technical studies, and any information concerning project activities as they relate to tribal cultural resources protection; and,

   c) Consultation shall also recognize the need for confidentiality with respect to places that have traditional tribal cultural significance. A California Native American tribe may request additional conditions concerning confidentiality and a local agency shall adopt the conditions, if the conditions do not conflict with existing law.

8) Requires tribal consultation for all of the following purposes, including, but not limited to:

   a) Identifications and determinations of tribal cultural resources, places, features, and objects;

   b) Identification of preservation, avoidance, and protective measures for tribal cultural resources, places, features, and objects early in the planning process, including consideration of the cultural aspects and purposes of the sites;

   c) Identification of standards, methods, and measures for environmental assessment of tribal cultural resources, places, features, and objects including technical studies;

   d) Providing local governments with tribal information and knowledge to use early in the land use planning processes to avoid potential conflicts over the preservation of tribal cultural resources, places, features, and objects at later planning stages; and,

   e) Providing tribes the opportunity to manage and caretake tribal cultural resources, places, features, and objects. Requires California Native American tribes, including their tribal information and tribal knowledge of their culturally affiliated geographic areas and resources, to be afforded deference.

   f) For consultation with a federally recognized tribe:

i) Consultation with a federally recognized California Native American tribe is a formal two-way government-to-government process and dialogue between local agencies and federally recognized California Native American tribes;

ii) Consultation with a federally recognized California Native American tribe shall be conducted in a way that is mutually respectful of each party's sovereignty. A local agency shall establish standards through government-to-government consultation with federally recognized California Native American tribes concerning tribal cultural resources, places, features, and objects with which the tribes are culturally affiliated.

iii) Consultation with a federally recognized California Native American tribe shall take into account potential federal undertakings under the federal National Historic Preservation Act and other applicable federal laws.

g) For consultation with a non-federally recognized tribe:

i) Provides the right to a non-federally recognized tribe that is on the contact list administered and maintained by Commission to participate in the review process as additional consulting parties if the tribe has a demonstrated most likely cultural affiliation with the project area as determined by the Native American Heritage Commission.

ii) Requires the local agency to invite culturally affiliated nonfederally recognized California Native American tribes to participate in any of the covered processes.

9) Provides that inviting nonfederally recognized California Native American tribes to participate in the process shall not in any way diminish or alter federally recognized Indian tribes' unique legal and political status, the legal and political relationship between federal agencies, other governmental entities and federally recognized Indian tribes, or the rights of federally recognized Indian tribes.

10) Expands the definition of "open-space land" to include open space for the protection of tribal cultural resources, places, features, and objects.

11) Requires, if land is designated, or proposed to be designated as open space, the city or county to conduct consultations with the California Native American tribe that is on the contact list administered and maintained by the Commission.

Under Native American Historical, Cultural, and Sacred Sites:

12) Strikes provisions exempting the public property of a city, county, and city and county within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres, from the provisions of this chapter.

13) Revises the power of the Commission to:

a) To prepare and maintain a verified inventory of Native American sacred places, based on substantial evidence, located on public and private lands that shall be known as the

California Sacred Lands File. The California Sacred Lands File shall include both of the following:

i) Places with special religious, cultural, or social significance to California Native American tribes, including Native American human remains, graves, and cemeteries of Native Americans; and,

ii) Tribal cultural resources and sites as identified by California Native American tribes, including places, features, objects, sacred sites, burials, cemeteries, and landscapes.

b) Requires the Commission to review regulatory and statutory protections accorded to those places identified in the California Sacred Lands File. By January 1, 2027, requires the Commission to submit to the Legislature periodic reports that include, but are not limited to, all of the following:

i) Inventories, catalogues, findings, and actions as a result of actions taken under this subdivision and recommended actions the commission deems necessary to preserve these sacred places and to protect the free exercise of the Native American religions;

ii) For purposes of providing a baseline to address cumulative impacts, findings the number of resources, including tribal cultural resources listed on the California Sacred Lands File, the resources, including tribal culture resources, identified in environmental documents, and archaeological resources, cultural resources, historic properties, and traditional cultural places on the California Register of Historical Resources that are presently in existence, and the number of resources that have been negatively affected by becoming part of the built environment;

iii) Recommendations concerning monetary incentives for local governments and landowners to preserve and protect resources listed on the California Sacred Lands File and tribal cultural resources; and,

iv) Recommendations concerning state actions that would assist in preservation and protection of resources listed on the California Sacred Lands File and tribal cultural resources.

c) Requires the Commission to notify landowners on whose property graves and cemeteries of Native Americans are determined to exist and identify the California Native American tribe most likely descended from those Native Americans interred on the property.

d) Requires, on or before July 1, 2028, the Commission, in consultation with California Native American tribes, including Tribal Historic Preservation Officers, to adopt regulations

e) Require the Commission to administer and maintain the contact list of California Native American tribes that consists of all of the following:

i) Federally recognized California Native American tribes;

ii) California Native American tribal groups that are not federally recognized, are verified for inclusion on the contact list by the commission;

iii) Delineation of lands and geographic areas that are culturally affiliated with California Native American tribes, including verified most likely cultural affiliations; and,

iv) The sole purpose of the Commission contact list of California Native American tribes is for tribal consultation and participation in review processes to provide cultural information and tribal knowledge, the California Native American Graves Protection and Repatriation Act of 2001, and other state cultural resources protection laws. Any other use of the contact list that is not authorized by law is prohibited.

14) Requires cooperation between each state and local agency to include, but is not limited to, transmitting copies, electronic or physical, of project information and constraints, data, including maps, environmental documents and technical studies, and any information concerning project activities relating to property identified by the commission as of special religious significance to Native Americans or that is reasonably foreseeable as that type of property and appearing at commission meetings when matters within the authority of the state or local agency are on the Commission's agenda.

15) Strikes authorization for the Commission to prepare an inventory of Native American sacred places that are located on public lands and review the current administrative and statutory protections accorded to such places.

16) Requires, upon the discovery of multiple Native American human remains during ground-disturbing land development activities, all of the following to apply:

a) The location of discovery not to be disturbed, impaired, or harmed until consultation with the most likely descendant has been completed;

b) The landowner is required to engage in additional conferral with the most likely descendant to include culturally appropriate treatment of multiple Native American human remains; and,

c) If the discovery occurs during activities related to a project, the project is required to contain an open-space preservation area with an appropriate buffer for the preservation in place and protection of the Native American human remains and the entire burial area site so that it is not adversely affected or harmed. To protect the site, the landowner is required to do all of the following:

i) Use an open-space or conservation zoning designation or easement for preservation and protection of the site;

ii) Record the site with the Commission or the appropriate information center; and,

iii) Record a document with the county in which the property is located using the most protective method available to protect the specific location and nature of the site.

17) Exempts actions taken by a landowner or a landowner's authorized representative to implement the section related to the discovery of Native American human remains from CEQA except for discoveries of Native American human remains that occur during the implementation of a project subject to that act.

Under CEQA:

18) Defines "California Native American tribe" as a federally recognized California Native American tribe located in California that is on the annual list published under the Federally Recognized Indian Tribe List Act of 1994 in the Federal Register or a Native American tribe that is not federally recognized and is descended from lands located in California that is on the contact list administered and maintained by the Commission.

19) Provides that a lead agency decision to invite a nonfederally recognized tribal group to participate in the process does not in any way diminish or alter the unique legal and political relationship between federal agencies and federally recognized Indian tribes or the legal rights of federally recognized Indian tribes.

20) Redefines "tribal cultural resources" as sites, features, places, cultural landscapes, sacred places, including Native American sanctified cemeteries, Indian cemeteries, or Indian burial areas, and objects with cultural value to a California Native American tribe that are either of the following:

    a) Included or determined to be eligible for inclusion in the California Register of Historical Resources; or,

    b) Included in a local register of historical resources or a tribal government register maintained by the federal Tribal Historic Preservation Officer approved by the Secretary of the Interior pursuant to Section 101 of the federal National Historic Preservation Act.

21) Provides that if a site is a tribal cultural resource, or a possible tribal cultural resource, archaeological standards, methods, measures, conditions, and evaluations may only be used as supplemental information in determining identification, substantial adverse impacts, mitigation, and treatment for tribal cultural resources.

22) Provides that a lead agency shall not make a determination or finding that a resource is not a tribal cultural resource if tribal information and tribal knowledge meet substantial evidence standards showing that the resource is a tribal cultural resource.

23) Finds and declares that federally recognized California Native American tribes traditionally and culturally affiliated with a geographic area have cultural knowledge and information concerning their own ancestry, religion, and cultural practices, and hold the foremost expertise concerning their tribal cultural resources in those geographic areas. California Native American prehistoric, archaeological, cultural, spiritual, and tribal cultural resources, traditional cultural places, and ceremonial places are essential elements in tribal cultural traditions, heritages, present-day practices, and identities. As such, it is necessary for lead agencies to engage in government-to-government tribal consultation for the purposes of including tribal information and tribal knowledge concerning tribal cultural resources to which they are culturally affiliated.

24) Requires tribal consultation to be for the following purposes, including, but not limited to:

    a) Identification and determination of tribal cultural resources;

    b) Identification of mitigation measures;

    c) Standards, methods, and measures for environmental assessment of tribal cultural resources, including technical studies and the checklist for implementation; and,

    d) Implementation of mitigation measures.

25) Provides that consultation is not meaningful or transparent if the tribe is not provided with requested technical information, including project information and constraints, data, maps, administrative drafts of environmental documents and technical studies, and any information concerning project activities as they relate to tribal cultural resources protection.

26) Requires the Commission, to expedite the requirements of CEQA, to assist the lead agency by identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.

27) Requires consultation with a federally recognized California Native American tribe to be as follows:

    a) Consultation with a federally recognized California Native American tribe is a formal two-way government-to-government process and dialogue between governmental agencies and federally recognized California Native American tribes.

    b) Consultation with a federally recognized California Native American tribe shall be conducted in a way that is mutually respectful of each party's sovereignty, and a public agency shall establish standards through government-to-government consultation with such tribes concerning tribal cultural resources, places, features, and objects to which they are culturally affiliated.

    c) Consultation with a federally recognized tribe shall take into account potential federal undertakings under the federal National Historic Preservation Act and other applicable federal laws.

28) Requires consultation with a nonfederally recognized California Native American tribe to be as follows:

    a) A California Native American tribe that is not federally recognized and is on the contact list administered and maintained by the Commission has a right to participate in the review process pursuant to this division as an additional consulting party if the tribe has demonstrated most likely cultural affiliation with the project area as determined by the Native American Heritage Commission.

b) The lead agency or local government shall invite culturally affiliated nonfederally recognized California Native American tribes to participate in any of the statutory processes pursuant to CEQA.

c) Inviting nonfederally recognized California Native American tribes to participate in the process shall not in any way diminish or alter federally recognized California Native American tribes' unique legal and political status, the legal and political relationship between federal and state agencies, other governmental entities, and federally recognized California Native American tribes, or the rights of federally recognized California Native American tribes.

29) Requires, as part of the consultation, parties to propose mitigation measures, including, but not limited to, those capable of avoiding or reducing potential significant impacts to a tribal cultural resource or alternatives that would avoid or reduce potentially significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding the type of environmental review necessary, the significance of tribal cultural resources, project impacts on tribal cultural resources, alternatives to the project, mitigation measures, cumulative impacts, significant effects, or substantial adverse changes, the consultation shall include those topics and a summary of the consultation that adheres to confidentiality shall be reflected in the environmental review document.

30) Provides that duration of tribal government consultation is from the point in time when the California Native American tribe requests the consultation to the completion of the implementation of the mitigation measures for the project.

31) Requires California Native American tribes to be afforded the opportunity to participate in technical studies relating to tribal cultural resources, archaeological resources, historic property, traditional cultural places, and cultural resources during project scoping, before the initial study and before the environmental review documents are drafted.

32) Strikes existing consultation steps and authorizes the lead agency to certify an EIR or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if the first step of the consultation process between the California Native American tribe and the lead agency has occurred and completed. Provides that the consultation shall not be construed to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

33) Requires the first step of consultation to be considered completed when either of the following occurs:

a) The parties agree to measures to avoid or mitigate a significant effect on tribal cultural resources and the measures are documented in an enforceable agreement between the lead agency and the California Native American tribe or enforceable through a negative declaration, mitigated negative declaration, or environmental impact report, including the mitigation monitoring reporting program.

b) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

34) Requires the second step of consultation to be considered completed when mitigation measures and state or local government conditions of approval have been fully implemented in consultation with the California Native American tribe.

35) Repeals the requirement for the Office to prepare and develop revisions to the CEQA guidelines to separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions, and add consideration of tribal cultural resources with relevant sample questions.

36) Requires, on or before July 1, 2027, the Office, along with the Commission and the State Office of Historic Preservation, to prepare and develop, and the Secretary of NRA to adopt, revisions to the guidelines, add new sections concerning identification and evaluation of tribal cultural resources with deference to tribal information and knowledge, the procedural and substantive steps of the tribal consultation process, culturally appropriate mitigation, accidental discoveries of tribal cultural resources, including Native American human remains, burial areas, Indian cemeteries, and update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of Regulations to do both of the following:

a) Relocate and revise questions concerning Native American human remains and Indian cemeteries from the Cultural Resources section to the Tribal Cultural Resources section; and,

b) Revise questions in the Tribal Cultural Resources section to include tribal information as a basis for answers to those questions.

37) Requires updates to the CEQA guidelines to be developed in government-to-government consultation with tribal governments.

38) Requires, if the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the first step of the tribal consultation process, mitigation measures to be adopted to avoid or minimize the significant adverse impacts and may include, but are not limited to, any of the following:

a) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria and include reference to those provisions in the project's environmental documents. Avoidance and preservation in place is required to be the default treatment for tribal cultural resources and may include California Native American tribe access to the resources for purposes of cultural practices, continued heritage teachings, stewardship, and comanagement of lands. Tribal

monitoring is a method or tool to carry out agreed upon mitigation provisions, but alone is not a form of mitigation.

b) If, after consultation with a California Native American tribe, avoidance is demonstrated to be infeasible, the resource shall be treated with culturally appropriate dignity using tribal cultural values and meaning of the resource.

c) Relinquishing the ownership of the resources to the consulting California Native American tribe, for appropriate treatment as agreed upon by the California Native American tribe.

d) Reburying or relocating the resources on the project property in a location that will be protected from further disturbance or harm in perpetuity by using permanent conservation easements or other interests in real property, with culturally appropriate management criteria.

e) California Native American tribe access to the resources for purposes of cultural practices, continued heritage teachings, stewardship, and comanagement of lands.

39) Requires, as part of the objectives, criteria, and procedures, a lead agency to make provisions for possible tribal cultural resources inadvertently or accidentally discovered during construction that include any of the following:

a) No further excavation or disturbance of the site or any nearby area reasonably suspected to relate to the discovery until consultation with the culturally affiliated California Native American tribe has been completed.

b) An evaluation of the discovery by consulting the California Native American tribe.

c) If the discovery is determined to be a tribal cultural resource based upon substantial evidence, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or other culturally appropriate mitigation shall be made available. Work may continue on other parts of the project site while tribal cultural resources mitigation takes place.

40) Finds and declares that specified sections apply to all cities, including charter cities.

41) Provides that no reimbursement is required by this act pursuant to the California Constitution.

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Indigenous peoples in California**. In the early decades of California's statehood, the relationship between the state and Native Americans Tribes was fraught with violence, exploitation, dispossession, and the attempted destruction of tribal communities, as expressed by Governor McDougall in his 1851 address to the Legislature: "[t]hat a war of extermination will continue to be waged between the two races until the Indian race becomes extinct must be expected."

   During those subsequent years, Native American Tribes were enslaved by settlers and coerced to live in hastily organized reservations that provided little in the way of support, lacking game and suitable agricultural lands and water. Despite every effort to remove them, many Native American Tribes prevailed. Current state leaders have the opportunity to give them a greater voice in land management, ecosystem preservation, and co-governance to protect and restore California's lands, and maintain the commitment to continue learning from them.

2) **Tribal recognition**. The OFA within the Office of the Assistant Secretary Indian Affairs implements the federal procedures for federally recognizing Indian Tribes. Federal acknowledgment of tribal existence is a prerequisite to the protection, services, and benefits of the federal government available to Indian Tribes by virtue of their status as tribes. The federal acknowledgment regulations establish procedures by which a non-federally recognized group may seek federal acknowledgment as an Indian tribe, establishing a government-to-government relationship with the United States. Within the government-to-government relationship, the federal government provides services directly or through contracts, grants, or compacts to 109 federally recognized Indian Tribes in California.

   Tribes are federally recognized through three general pathways: an act of Congress, by the federal Administrative Procedures Act (25 Code of Federal Regulations Part 83), or by a decision of a United States Court. Historically, most of today's federally recognized tribes received federal recognition status through treaties, acts of Congress, presidential executive orders, or other federal actions.

   In the 1850s, at least 18 known treaties were negotiated between the President Fillmore and American Indian Nations in California and submitted to the US Senate, but the Senate rejected the treaties and sealed them for more than 50 years, leaving those tribes in limbo without any state or federal recourse. In the 1950s and 1960s, the federal government saw certain tribes as sufficiently capable of self-government, and thus "no longer in need of federal supervision." The government terminated its relationship with numerous tribes under this policy, including tribes in California such as the Taylorsville Rancheria. The Winnemem Wintu Tribe were dropped from the list of federally recognized Tribes in the 1980s, and have sense been trying to regain recognition. This year, Congresswoman Sydney Kamlager-Dove introduced H.R. 6859 to federally recognize the Gabrielino/Tongva Nation whose villages have been located in the Los Angeles Basin for thousands of years.

   California has the highest Native American population in the country and is also home to the majority of non-federally recognized tribes. There are at least 65 non-federally recognized tribes in California.

Currently, there are only six tribes under review to become recognized, and that includes two California tribes: the Southern Sierra Miwuk Nation from Yosemite Valley and the Ahmah Mutsun Band of Ohlone Indians from the San Francisco Bay Area. The Death Valley TimbiSha Shoshone Band is the only California tribe that has been recognized in the 44 years since the federal acknowledgement process was established.

Furthermore, the state Legislature has taken action to recognize California tribes, including Assembly Joint Resolution 48 (1993) to urge the federal government to recognize the Juaneño Band of Mission Indians, and Assembly Joint Resolution 39 (2007) to recognize the Winnemem Wintu Tribe.

3) **State policies on Native American inclusion.** NRA recognizes that California Native American Tribes and tribal communities have sovereign authority over their members and territories and a unique relationship with California's resources. All California tribes and tribal communities, regardless of federal recognition, have distinct cultural, spiritual, environmental, and economic and public health interests and unique traditional cultural knowledge about California resources.

   On September 19, 2011, Governor Brown issued Executive Order (EO) B-10-11 to direct state agencies and departments to implement effective government consultation with California Native American Tribes. That EO also sought to establish a tribal advisor under the Governor [the advisor was ultimately codified in AB 880 (Gray), Chapter 801, Statutes of 2018]. The purpose of the policy is to ensure effective government-to-government consultation between NRA, its departments and agencies, and Native American Tribes and tribal communities to further the mission and to provide meaningful input into the development of regulations, rules, policies, and activities that may affect tribal communities. Furthermore, the EO requires NRA and its departments to identify Native American Tribes to consult at the earliest possible time in the planning process and allow a reasonable opportunity for tribes to respond and participate.

   On June 18, 2019, Governor Newsom issued EO N-15-19 acknowledging and apologizing on behalf of the state for the historical "violence, exploitation, dispossession and the attempted destruction of tribal communities" which dislocated California Native Americans from their ancestral land and sacred practices and establishes the California Truth and Healing Council. The destructive impacts of this forceful separation persist today, and meaningful, reparative action from the state can begin to address these wrongs in an effort to heal its relationship with California Native Americans. In addition, EO N-15-19 reaffirms and incorporates by reference the principles of government-to-government engagement established by EO B-10-11.

   On September 25, 2020, Governor Newsom released a Statement of Administration Policy on Native American Ancestral Lands to encourage state entities to seek opportunities to support California Tribes' co-management of and access to natural lands that are within a California tribe's ancestral land and under the ownership or control of the state of California, and to work cooperatively with California tribes that are interested in acquiring natural lands in excess of State needs.

   On October 7, 2020, Governor Newsom issued Executive Order No. N-82-20, which directed NRA to collaborate with tribal partners to incorporate tribal expertise and traditional

ecological knowledge to better understand our biodiversity and the threats it faces. As a result, NRA appointed an assistant Secretary for Tribal Affairs to help cultivate and ensure the participation and inclusion of tribal governments and communities within the work of NRA, supporting the effective integration of these governments' and communities' interests in environmental policymaking. The assistant also works to further support and expand the NRA's effort to institutionalize tribal consultation practices into its program planning,

4) **Identifying tribes**. Established in 1976, the Commission is the primary government agency responsible for identifying and cataloging Native American cultural resources. In determining what tribes are affiliated with geography, remains, and items for purposes of consultation, agencies and entities turns rely on the Commission's list. This bill addresses which tribes on the list are entitled to mandatory verses discretionary consultation. The author may wish to consider how nonfederally recognized tribes with unique features of sovereignty affirmed by the courts are listed by the Commission, and under which process those tribes would be consulted pursuant to the bill for General Plans and under CEQA. The author may also wish to consider whether any clarifying amendments are needed for providing direction to the Commission as it relates to updating the list when there is action by a court or the OFA as it relates to recognition.

5) **Tribal consultation under CEQA**. AB 52 (Gatto), Chapter 532, Statutes of 2014, established a process for a California Native American tribe to engage in the CEQA review process to avoid significant effects on tribal cultural resources. AB 52 also enacted mandatory Native American government-to-government tribal consultation processes, including processes for adopting culturally appropriate mitigation measures, with avoidance and preservation in place being the preference, confidentiality standards, and findings required by a lead agency when a CEQA project will cause adverse impacts to tribal cultural resources. By requiring consideration of tribal cultural resources early in the CEQA process, the legislative intent was to ensure that local and tribal governments, public agencies, and project proponents would have information available early in the project planning process to identify and address potential adverse impacts to tribal cultural resources. AB 52 requires the Commission provides each California Native American tribe with a list of all public agencies that may be a lead agency under CEQA within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation.

   Current law under AB 52 (Gatto) defined "California Native American tribe" as a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of SB 18 (Burton), Chapter 905 of the Statutes of 2004. (SB 18 required that list for purposes of involvement in a local government's adoption or amendment to a general plan.) SB 18 required cities and counties to consult with California Native American tribes for the preservation of, or the mitigation of impacts to, specified Native American "places, features, and objects" when developing or amending their General Plans. Under SB 18, tribes must be provided notice and consultation if the Tribe is on the contact list maintained by the Commission.

   According to this bill's author's findings and declarations, "the provisions of the law have been misunderstood and incorrectly effectuated by lead agencies, state and local governments, land use developers, and consultants."

The bill boldly states that "California Native American tribes … hold the foremost expertise concerning their tribal cultural resources in those geographic areas." Similarly, the Gabrieleno Band of Mission Indians Kizh Nation underscore the importance of consultation with the appropriate tribe, "Every tribe has their own particular nuances as to traditions and ceremony that differentiate from other tribes. Federally recognized tribes do not have the sensitivity of traditions handed down generation-after-generation of any other tribe. The same would be true if the non-federally recognized tribes were given priority over federally recognized tribes."

The bill requires expands the Commission's role in facilitating tribal consultation by assisting the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with a project area.

Further, the bill would bifurcate the consultation process for federally and nonfederally recognized tribes. For federally recognized tribes, the consultation is a formal two-way government-to-government process, and requires respect for the tribe's sovereignty. Nonfederally recognized tribes will have the right to participate in the review process as an additional consulting party if the tribe has demonstrated cultural affiliation with the project, and requires the lead agency to invite the culturally affiliated nonfederally recognized tribes to participate in the process.

The author's intent is to draw the distinction that federal recognition affords tribes the unique status of being governments under federal law, to whereas California does not have a comparable process for recognizing tribes. Federal laws such as the Native American Graves Repatriation Act and the National Historic Preservation Act, give federally recognized tribes, but not nonfederally recognized tribes, standing for things such as repatriation and enforceable cultural resource protection agreements. They also require certain standards and responsibilities for federally recognized tribes to fully participate in those processes, which are not applicable to nonfederally recognized tribes. The author's intent is for AB 52 to bolster nonfederally recognized tribes' role in the protection of tribal cultural resources.

The Juaneño Band of Mission Indians, among others, expressed concern that "the bill will create a two-tiered system of tribal consultation in which federally recognized tribes are prioritized by the state for consultation, while non-federally recognized tribes are merely allowed to participate in consultations. Simply permitting us to sit at the table is not the same as recognizing our standing as a sovereign people. By relegating us to a consultative role while enshrining that only federally recognized tribes are legally entitled to government-to-government consultation with lead agencies and institutions under federal and state law, AB 52 not only diminishes our standing, it erases it, perpetuating an all too familiar practice of disregarding our rightful authority over our ancestral lands and sacred sites."

6) **Challenges with CEQA implementation**. In the effort to improve tribal consultation, this bill can create delays for CEQA implementation, potentially frustrating a lead agency's timely ability to complete review under CEQA. Examples include the deletion of a longstanding exemption for local governments pursuant to GC 5097.9, and PRC 21080.3.2 creates an open-ended timeframe for which review can be indefinite. Under the current law, a lead agency must begin the consultation process with the tribes that have requested consultation within 30 days of receiving the consultation request. That consultation concludes when either (1) the parties agree to measures to mitigate or avoid a significant

effect if a significant effect exists, on a Tribal Cultural Resource, or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

Establishing timeframes for each step of the process would provide scaffolding in the law to ensure there are not prolonged delays. The author may wish to work with tribes – both nonfederally recognized and federally recognized – to identify timeframes that are both appropriate for keeping the CEQA process moving while also being sensitive to the nature of the situation (i.e., identification of sacred objects, or descendent remains) and the fact that not all tribes are equally resourced.

Also, while nonfederally recognized tribes will be invited and have the right to participate on consultation, federal tribes will inherently be prioritized for consultation if there is a shared space where both tribes reside and have cultural, spiritual, and religious connections. Many local governments have long-established relationships with local tribes, and this bill can obfuscate a lead agency's consultations if the list provided by the Commission differs from the tribal relationships the agency has. Additionally, the City of Corona notes that the bill will create confusion and conflict for conferring agencies where the Commission designates a nonfederally recognized tribe as a most likely descendant of remains discovered during construction. In such a situation, the nonfederally recognized tribe would be a consulting party to a federally recognized tribe that may or may not share similar traditional beliefs or practices.

7) **Author's statement**:

> California has made important progress in recognizing and protecting Tribal Cultural Resources, which include sacred places, cultural landscapes, and objects of deep significance to Native American Tribes. However, since the passage of AB 52, the law has been widely misunderstood by lead agencies, local governments, developers, and consultants leading to litigation instead of quicker deployment of development projects. Instead of prioritizing Tribal input, these entities have often allowed archaeologists to control the identification of TCRs, disregarding critical Tribal heritage information. As a result, Tribes have been forced to take legal action against lead agencies for failing to properly consult them, dismissing Tribal solutions, and relying on inaccurate archaeological findings to determine the fate of their cultural heritage.
>
> AB 52 (Aguiar-Curry, 2025) strengthens the original 2014 law by ensuring that Tribal consultation is not just a procedural step but an ongoing, meaningful process throughout development. It clarifies that Tribal governments are the primary experts on their own cultural heritage and should have authority over how TCRs are identified and protected. To further support Tribal sovereignty and inclusivity, the bill also ensures that California Native American Tribes that are not federally recognized will be included on the Native American Heritage Commission's contact list and will be able to participate in state cultural protection laws as consulting parties, similar to federal law. Strengthening these protections will reduce legal conflicts, allow projects to move forward with fewer delays, and reinforce California's commitment to respecting Tribal sovereignty and addressing its history of dispossession.

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

9) **Related legislation**. AB 1284 (Ramos), Chapter 657, Statutes of 2023, establishes the Tribal Cogovernance of Ancestral Lands and Waters Act to encourage the state to enter into agreements with federally recognized tribes for the purposes of shared responsibility, decision-making, and partnership in resource management and conservation within a tribe's ancestral lands and waters.

REGISTERED SUPPORT / OPPOSITION:

Support

Agua Caliente Band of Cahuilla Indians
California Nations Indian Gaming Association
Federated Indians of Graton Rancheria
Habematolel Pomo of Upper Lake
Morongo Band of Mission Indians
Pala Band of Mission Indians
Pechanga Band of Indians

Opposition

Abundant Housing LA
All of US or None
Alliance for Boys and Men of Color
Amah Mutsun Land Trust
Amah Mutsun Tribal Band
Associated General Contractors of America, San Diego Chapter
Associated General Contractors of California
Barbareño/Ventureño Band of Mission Indians
Bay Area Council
Bay Area Native Allies Project
Boma California
Braiding Roots
California Alliance of Sovereign Tribal Nations
California Association of Realtors
California Building Industry Association
California Building Industry Association
California Business Properties Association
California Sportfishing Protection Alliance
Calwild
Chalon Indian Nation of California
Circulate San Diego
City of Corona
Coalition of California State Tribes
Communities United for Restorative Youth Justice
Concrete Development, INC.
Defenders of Wildlife
Eastern Sierra Land Trust
Ecodiversity
El Centro De Amistad

El Nido Family Centers
Friends of the Inyo
Friends of the River
Gabrielino Tongva Indians of California
Golden State Salmon Association
Green Foothills
Indigenous Justice
Juaneno Band of Mission Indians, Acjachemen Nation- Belardes
Kern Valley Indian Community
Kizh Nation San Gabriel Band of Mission Indians
Large-scale Solar Association
Legal Services for Prisoners With Children
League of California Cities
Mono Lake Kootzaduka'a Tribe
Muwekma Ohlone Indian Tribe of the San Francisco Bay Area
Naiop of California
National Federation of Independent Business
Native Sisters Circle
Nature for All
New Ways to Work, INC
Nor Rel Muk Wintu Nation
Northern Chumash Tribal Council
Ohlone/costanoan-esselen Nation
Orange County Business Council
Pakan'yani Maidu of Strawberry Valley Rancheria
Pit River Tribe
Ramaytush Tribe
Resource Renewal Institute
Restore the Delta
Sacred Places Institute for Indigenous Peoples
Salinan Nation Cultural Preservation Association
San Fernando Band of Mission Indians
San Francisco Baykeeper
San Luis Rey Band of Mission Indians
Save California Salmon
Sierra Club California
Southern California Leadership Council
Tataviam Land Conservancy
The Two Hundred
Tongva Taraxat Paxaavxa Conservancy
Transportation California
Tuolumne River Trust
Winnemem Wintu Tribe
Wukchumni Tribal Council
Wuksachi Indian Tribe
Xolon Salinan Tribe
Yak Tityu Tityu Yak Tiłhini – Northern Chumash Tribe of San Luis Obispo County and Region

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 357 (Alvarez) – As Introduced January 30, 2025

SUBJECT: Coastal resources: coastal development permit: exclusions

SUMMARY: Exempts student and faculty housing projects on college campuses from the California Coastal Act.

EXISTING LAW:

1) Defines "student housing project" as one or more housing facilities to be occupied by students of one or more campuses and owned by a participating college or university or participating nonprofit entity. These facilities are determined to be educational facilities, which also may include dining, academic and student support service spaces, and other necessary and usual attendant and related facilities and equipment, and defines "faculty and staff housing project" as one or more housing facilities to be occupied by faculty or staff of one or more campuses, and owned by a participating college or university or participating nonprofit entity. (Education Code 67329.2 (e))

2) Pursuant to the California Coastal Act of 1976 (Coastal Act):

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

    b) 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)

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

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

e) Authorizes, to promote greater efficiency for the planning of any public works or state university or college or private university development projects and as an alternative to project-by-project review, plans for public works or state university or college or private university long-range land use development plans (LRDPs) to be submitted to the Commission for review in the same manner prescribed for the review of a local coastal plan (LCP). Requires each state university or college or private university to coordinate and consult with local government in the preparation of LRDPs so as to be consistent, to the fullest extent feasible, with the appropriate LCP. Requires any proposed amendment to be submitted to, and processed by, the Commission in the same manner as prescribed for amendment of a LCP. (PRC 30605)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> AB 357 accelerates the availability of affordable housing for students, faculty, and staff at public universities in California's coastal areas. It aims to reduce bureaucratic delays, which contribute to rising housing costs, and alleviate pressure on vulnerable renters. By ensuring that those who serve our communities can live close to their workplaces and studies, this bill enhances education, promotes equity, and strengthens California's future.

2) **Student housing**. As of 2024, as many as 417,000 students in the state's three higher educational systems – California Community College (CCC), University of California (UC), and California State University (CSU) – lacked stable housing. A 2023 Community College of California survey found roughly 25% of community college students in the state are homeless.

   According to the Legislative Analyst's Office (LAO) (May 2024), despite a high degree of legislative interest in student housing insecurity, the state does not have a definitive count of the number of higher education students experiencing housing insecurity or a reliable measure of changes over time. To derive estimates, UC, CSU, and CCC and the California Student Aid Commission began conducting surveys last year, which found that rates of students reporting homelessness at some point over the last 12 months ranged from 8% of respondents at UC to 24% of respondents at CCC.

   Unlike the Regional Housing Needs Assessment for local housing need, there is not a state-wide formula for determining housing needs across higher education campuses. Each campus of the UC and CSU is responsible for assessing its campus housing based on enrollment, existing housing, housing guarantee policies for incoming students, and available land for potential future housing projects. The state created a plan in the 2021-2022 budget to increase the enrollment of in-state students in the UC system over five years, which, in part, has also contributed to exacerbating the housing shortage. The UC system does plan to address demand from California residents in the long term by adding between 23,000 and 33,000 full-time equivalent students by 2030. Increased housing will be needed to accommodate that increased enrollment.

In response to the acute housing shortage, the Legislature has approved streamlined environmental review for student housing projects under the California Environmental Quality Act (CEQA).

SB 886 (Wiener), Chapter 663, Statutes of 2022, exempts a public university housing project (i.e., for students, faculty and/or staff) that meets specified conditions, until January 1, 2030. These conditions are intended to guard against the approval of projects with significant environmental impacts that go undisclosed and unmitigated – endangering workers, residents and the greater environment.

SB 312 (Wiener), Chapter 284, Statutes of 2023, relaxes several conditions attached to the CEQA exemption for public university housing projects established by SB 886 (Wiener). The legislation followed a February 2023 court ruling blocking a proposed housing project at UC Berkeley, which now plans to build 1,200 units of housing, including 160 for people who were formerly homeless.

Further, the LAO notes that the state has begun supporting the construction of student housing at all three higher educational segments. Historically, the higher education segments' student housing facilities have been self-supported, generating their own fee revenue to cover their capital and operating costs. Under the Higher Education Student Housing Program, the state has approved 35 new student housing construction projects (15 CCC projects, 11 CSU projects, and 5 UC projects). By subsidizing project costs, the program intends to increase the supply of housing while also lowering housing charges for some students.

3) **Planned housing projects**. The coastal zone represents 1% of California, stretching 840 miles from the border of Oregon to Mexico. It extends inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. In the coastal zone, there are:

    - 10 of the 23 CSUs (Humboldt, San Francisco, Monterey Bay, Cal Poly San Luis Obispo, Channel Islands, LA, Dominguez Hills, Long Beach, San Marcos, and San Diego)

    - Four UCs (Santa Barbara, San Diego, Santa Cruz (partially) and Irvine (partially))

    - Numerous CCCs are in the coastal zone (including, but not limited to Cuesta College, Santa Barbara City College, College of the Redwoods, Cabrillo, Monterey, Los Angeles, Harbor College, and Santa Monica College, and the bay area CCCs are overseen by the San Francisco Bay Conservation and Development Commission)

    - At least 4 private non-profit colleges (Pepperdine University, Point Loma Nazarene, Laguna College of Art and Design, National University (South Campus))

    Many of these colleges are planning housing projects to address the housing shortage.

    In January, CSU San Diego announced it is proposing two student housing projects that will add nearly 4,500 student beds to the campus. The college hopes to begin demolition in May 2025, with project completion slated for January 2034.

Over the next decade, CSU Cal Poly plans to add 4,000 beds to campus housing in nine buildings on the existing sites of parking lots and a residence hall. The first phase will add 1,300 beds and open in fall 2026; subsequent phases are anticipated to open every year thereafter with construction complete in 2030.

UC Santa Barbara (UCSB) continues to advance on a development plan that will create 3,500 new student beds on the main campus. The first phase of the two-part project includes 2,224 new student beds and is expected to be ready for occupancy by the fall of 2027; an additional 1,400 beds are projected to be completed by 2029. In fact, on April 10, the Commission unanimously approved an LRDP amendment and Notice of Impending Development (NOID), after 3 months of review, for UCSB for the construction of the San Benito Student Housing Project, consisting of 7 new buildings containing 2,238 student and staff beds.

Cabrillo Community College in Santa Cruz is planning to start construction on a student housing project in November 2025 and finish in 2027. That housing would be occupied by both Cabrillo students (60%) and families, and UC Santa Cruz students (40%).

4) **Coastal Act review.** Like all other public agencies, the Commission is subject to the Permit Streamlining Act (Government Code 65957). Once it receives an initial application, the Commission has 30 days to notify the applicant of any additional materials needed to complete the application. There is no timeline for when the applicant must respond or provide the requested information, but when the Commission does, it has another 30 days to review it to determine whether it is complete. If not, the 30-day cycle starts again. Once the application is complete, the Commission is required to take a final action within 180 days. That time limit may be extended one time for up to 90 days upon the mutual consent of the agency and the applicant. If an agency fails to approve or disapprove the permit within the time limits specified, the permit is subject to being deemed approved.

Table 3. CDP average processing times 2016 to 2024

Year	Submit to filed as complete (calendar days)	Filed as complete to hearing (calendar days)
2024	**45**	**38**
2023	73	57
2022	77	62
2021	87	64
2020	119	75
2019	93	51
2018	75	35
2017	118	41
2016	114	46

5) **Long Range Development Plans**. Under the Coastal Act, a UC, CSU, or private university can submit a LRDP to facilitate greater efficiency for the planning of any university development project and as an alternative to project-by-project review. A LRDP is a comprehensive physical development and land use plan that governs development, land use, and resource protection on a campus. The adoption of a LRDP by the college and subsequent certification by the Commission results in the delegation to the college of the authority to authorize most on-campus development consistent with the plan without a CDP, subject to Commission oversight.

For colleges that have LRDPs, any change – to build a new housing project, for instance, would be submitted to the Commission to review for consistency with the LRDP. The Executive Director or her designee has 10 days from receipt to review the NOID whether it provides sufficient information to determine if the proposed development is consistent with the certified LRDP. (Title 14 of the California Code of Regulations 13549 (b))

According to the Commission, the three Universities with LRDPs include UC Santa Cruz, UCSB, and Pepperdine. Also, Santa Barbara City College has a Public Works Plan (PWP) that functions like a LRDP. The Coastal Act provides for CCCs to self-govern through PWPs, not LRDPs. For all other colleges and universities, they go through the CDP process like any other applicant. (It is worth noting all campuses have LRDPs under the California Environmental Quality Act.) Some campuses have expressed frustration that LRDPs can stymie project approval because the detailed document doesn't reflect modern needs of housing projects, and amending an LRDP can be time-consuming.

6) **Author's complaints with the Coastal Act**. The Coastal Act exists because the coastal zone is unique to the rest of California's land mass and necessitates additional review, which inherently adds more time and resources to a proposed development.

The author cites two examples of specific student housing projects that experienced delays and cost increases as a result of Coastal Commission review.

- UCSB - Manzanita Village (2002): Experienced a 2-year delay as a result of Coastal Commission requirements surrounding wetlands and a significant project budget escalation; and,

- UCSB - San Clemente Villages (2014): Experienced a 2-year delay as a result of Coastal Commission concerns and significant project budget escalation driven by rising steel costs and increased parking requirements.

It appears that the modifications the Commission required for the Manzanita project not only prevented wetland destruction, but gave the university a proud example of the university's sustainability. According to UCSB's publication The Current:

> When UC Santa Barbara built the Manzanita Village student housing project in 1999, the California Coastal Commission required that it mitigate the project's impact on the neighboring wetlands by replacing lost habitat at a ratio of at least three to one.
>
> UCSB's Cheadle Center for Biodiversity and Ecological Restoration (CCBER) worked with a Santa Barbara landscape architectural firm and civil engineers to go beyond these requirements, restoring six acres of California grassland, vernal pools, meadows, and marshes. The restoration site was awarded the American Society of Landscape Architects' 2008 General Design Award, and was featured in an eight-page section of the April issue of Landscape Architecture magazine.
>
> While the landscape architects created a beautiful and functional design for the area, CCBER focused on the restoration of native plants and animals. Together, they created a site that is now a national model for restoration. The Manzanita project also received special recognition from the Regional Water Quality Control Board for CCBER's innovative and responsible water management.

UCSB's CCBER is now focused the in-progress San Clemente Villages graduate student housing restoration site, which will use bioswales (vegetated, shallow, landscaped depressions designed to capture, treat, and infiltrate stormwater runoff as it moves

downstream) to treat 100 percent of storm water runoff from the 13-acre site and the adjacent three acres of the expanded El Colegio Road.

7) **Committee amendments**. The Coastal Act provides unique protections to the coastal zone that are separate and distinct from CEQA. The Coastal Act includes protections for coastal agriculture, protection of views to and along the ocean and scenic coastal areas, and maintenance and enhancement of public access to the coast. Further, all new development is required to minimize risk to life and property in areas of high geologic, flood, and fire hazard; assure geologic stability; minimize energy consumption and vehicle miles travelled, and, where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

   Exempting all student and faculty/staff housing from the Coastal Act prevents opportunities for college campuses to have a second set of eyes, so to speak, from the Commission to review a project that could cause harm, and miss opportunities to make improvements that benefit the campus community and the environment, as UCSB's Manzanita project did.

   Therefore, the *Committee may wish to consider* amending the bill to maintain Coastal Act review, but require review to be conducted within 90-days.

8) **Related legislation**:

   AB 1212 (Patel) facilitates the acquisition, construction, rehabilitation, and preservation of affordable rental housing for University of California faculty and employees to allow them to access and maintain housing stability. This bill has been referred to the Assembly Housing & Community Development Committee.

   AB 2650 (Alvarez, 2024) provided 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. This bill was held in the Senate Appropriations Committee.

   SB 312 (Wiener), Chapter 284, Statutes of 2024, relaxes several conditions attached to exemption for public university housing projects established by SB 886 (Wiener) in 2022.

   SB 886 (Wiener), Chapter 663, Statutes of 2022, provided a CEQA exemption until January 1, 2030, for certain UC, CSU, and community college faculty, staff, and student housing projects if they meet certain environmental standards.

REGISTERED SUPPORT / OPPOSITION:

Support

Abundant Housing LA
American Planning Association, California Chapter
Associated General Contractors of California
California Yimby
Construction Employers' Association
East Bay Yimby

Genup
Grow the Richmond
Mountain View Yimby
Napa-solano for Everyone
Northern Neighbors
Peninsula for Everyone
Santa Cruz Yimby
Santa Rosa Yimby
SF Yimby
South Bay Yimby
South Pasadena Residents for Responsible Growth
Streets for All
Student Homes Coalition
Urban Environmentalists LA
Ventura County Yimby
Welcoming Neighbors Home
Yimby Action
Yimby LA
Yimby SLO

Opposition

California Coastal Protection Network
Citizens Planning Association
Committees for Land, Air, Water and Species
Santa Barbara County Action Network

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 405 (Addis) – As Amended April 21, 2025

SUBJECT: Fashion Environmental Accountability Act of 2025

SUMMARY: Establishes the Fashion Accountability Act of 2025 (Act), which requires fashion sellers, as defined, to carry out effective environmental due diligence.

EXISTING LAW:

1) Establishes the Responsible Textile Recovery Act of 2024 [SB 707 (Newman), Chapter 864, Statutes of 2024], which creates an extended producer responsibility (EPR) program for stewardship of waste textiles under the oversight of the Department of Resources Recycling and Recovery. Requires producers of covered products to form and join a producer responsibility organization (PRO), a nonprofit 501(c)(3), and sell textile products in California only under a PRO plan that governs the collection, transportation, repair, sorting, recycling, and safe and proper management of textile products in the state. (Public Resources Code 42984 *et seq*.)

2) Requires the Air Resources Board (ARB), pursuant to California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020, and (Health & Safety (HSC) Code 38500 *et seq*):

    a) Requires the reduction of GHGs to 40% below 1990 levels by 2030 and to 85% below 1990 levels by 2045, and:

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

    c) Requires the monitoring and annual reporting of GHG emissions from GHG emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions, and dictates that for the cap-and-trade program established pursuant to AB 32, entities that voluntarily participated in the California Climate Action Registry prior to December 31, 2006, and had developed a GHG emission reporting program, they would not be required to significantly alter their reporting or verification program except as necessary for compliance.

3) Establishes the Climate Corporate Data Accountability Act, which requires ARB to require a reporting entity (businesses with revenues in excess of $1 billion that do business in California) to report the entity's Scope 1, Scope 2, and Scope 3 GHG emissions.

a) Defines "Scope 1 emissions" as direct GHG emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including fuel combustion activities.

b) Defines" Scope 2 emissions" as indirect GHG emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

c) Defines "Scope 3 emissions as indirect upstream and downstream GHG emissions, other than Scope 2 emissions, from sources the reporting entity does not own or directly control, including purchased goods and services, business travel, employee commutes, and processing and use of sold products. (HSC 38532)

4) Requires the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (HSC 25252)

5) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC 25253)

6) Specifies, but does not limit, regulatory responses that DTSC can take following the completion of an alternatives analysis of chemicals of concern in consumer products, ranging from no action to a prohibition of the chemical in the product. (HSC 25253)

7) Prohibits, on and after June 1, 2006, a person from manufacturing, processing, or distributing in commerce a product, or a flame-retarded part of a product, containing more than one-tenth of one percent of pentaBDE or octaBDE. (HSC 108922)

8) Prohibits, on and after January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state a new textile article, as defined, that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS). (HSC 108970)

THIS BILL establishes the Act, which:

1) Defines terms used in the bill, including:

a) "Fashion goods" (covered products) to mean apparel, footwear, and fashion bags, as specified.

b) "Fashion seller" as a business entity that does business in the state involving the sale of fashion goods in excess of $100 million in annual gross receipts. Does not include multibrand retailers, unless the total annual gross receipts of all of the private labels under the retailer exceed $100 million.

c) "Regulated chemicals" as azo-amines and arylamine salts, bisphenols, flame retardants, formaldehyde, phthalates, and lead.

d) "Significant supplier" as suppliers representing 75% of fabric by volume.

e) "Supply chain tiers" as:

i) "Tier 1 suppliers" as suppliers that produce finished goods for sellers, including sewing and embroidering, as specified;

ii) "Tier 2 suppliers" as suppliers to Tier 1 that provide services, including knitting, weaving, washing, dyeing, finishing, printing, and components and materials for finished goods, as specified;

iii) "Tier 3 suppliers" as suppliers to Tier 2 suppliers that process raw materials, such as spinning; and,

iv) "Tier 4 supplies" as companies that supply raw materials to Tier 3 suppliers.

f) "Thresholds" to mean the allowable level of regulated chemicals in a covered product:

i) No greater than 20 parts per million (ppm) for azo-amines and arylamine salts;

ii) No greater than 10 ppm for bisphenol-A for textiles and leather, no greater than 100 ppm for bisphenol-B and bisphenol-F, and no greater than 200 ppm for all bisphenols;

iii) No greater than 10 ppm for flame retardants;

iv) No greater than 75 ppm for formaldehyde;

v) No greater than 500 ppm for phthalates; and,

vi) No greater than 1 ppm for lead.

2) As part of a seller's mandatory GHG reporting to ARB, requires sellers to:

a) Establish a quantitative baseline and targets for reductions of the seller's emissions of GHGs in the near-term and long-term covering the seller's scope 1, 2, and 3 emissions, as specified.

3) As part of the Environmental Due Diligence Report, requires sellers to report:

a) Compliance with the targets established; and,

b) GHG emissions inventory that conforms with specified accounting and reporting requirements.

4) If the seller does not meet the targets, specifies that the seller has 18 months to reduce GHG emissions to meet the targets and "return to the necessary reduction pathway to meet those targets." For sellers with over $1 billion in revenue, specifies that they are in not in compliance with this requirement if the absolute GHG emissions reported increases in five consecutive years.

5) Grants DTSC jurisdiction over a seller's compliance with ensuring that the seller's covered products do not contain any regulated chemicals above the thresholds established by the bill.

6) Grants ARB jurisdiction over a seller's environmental due diligence under the bill pertaining to GHG emissions.

7) Authorizes DTSC and ARB to promulgate regulations necessary or appropriate to carry out the purposes of the bill under their respective jurisdiction.

8) Requires DTSC and ARB to develop an application process for accrediting entities to act as independent verifiers, as specified.

9) Requires sellers to carry out "effective due diligence," consistent with the bill's requirements, for the portions of their business relating to covered products, including those produced as private label. Specifies that environmental due diligence includes a seller taking a risk-based approach and implementing good faith efforts to map suppliers, as follows:

   a) No later than January 1, 2027, disclose Tier 1 suppliers, including at least 80% of suppliers by volume;

   b) No later than January 1, 2028, disclose Tier 2 suppliers, including at least 75% of suppliers by volume;

   c) No later than January 1, 2030, disclose Tier 3 suppliers, including at least 50% of suppliers by volume; and,

   d) No later than January 1, 2032, disclose Tier 4 suppliers, including at least 50% of suppliers by volume.

10) Requires sellers, in carrying out their environmental due diligence, to comply with the environmental guidelines of the Organisation for Economic Co-operation and Development's (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct and OECD's Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector that require a seller to, at a minimum:

   a) Embed responsible business conduct in the seller's policies and management systems;

   b) Identify areas of significant risks of societal and ecological harm from its activities and its supply chair relationships;

   c) Identify, prioritize, and assess the significant potential and actual adverse impacts of those risks; and,

   d) Cease, prevent, or mitigate those risks, including:

      i) Taking actions specified by the bill;

      ii) Using responsible exit or disengagement strategies;

      iii) Consulting and engaging with impacted and potentially impacted stakeholders and rights holders and their representatives;

      iv) Tracking the implementation of activities to cease, prevent, and mitigate risks and the result of those activities; and,

v) Provision for, and cooperating in, the remediation of adverse environmental impacts resulting from the seller's, or its suppliers, operations.

11) On or before January 1, 2027, requires sellers to ensure that their covered products do not contain any regulated chemical above specified thresholds. Authorizes the Attorney General to enforce this provision.

12) On and after January 1, 2028, prohibits the manufacture, sale, or distribution in commerce of any covered products that is sold, manufactured, or distributed by a seller that contains any regulated chemicals above specified thresholds. Authorizes the Attorney General to enforce this provision.

13) Authorizes the Attorney General to enforce the requirements of the bill.

14) Specifies that a violation of the bill is punishable by an administrative penalty of up to $5,000 for a first violation and up to $10,000 for each subsequent violation. Authorizes the use of the Toxic Substances Control Account to implement the bill, upon appropriation by the Legislature.

15) Beginning July 1, 2027, and annually thereafter, requires a seller to develop and submit to DTSC and ARB an Environmental Due Diligence Report (Report) pertaining to the environmental due diligence performed by the fashion seller for the prior calendar year, as specified, and requires the Report to be posted on the seller's website.

16) Requires that the information specified in the Report must be independently verified before submission.

17) Requires DTSC and ARB to review the Report under their respective jurisdiction for completeness.

18) Requires DTSC and ARB, as appropriate, to identify and notify any seller that fails to comply with the reporting requirements and provide the noncompliant seller with a 30-day grace period to file a complete Report. If the seller fails to file a completed Report within the time period, requires DTSC or ARB, as appropriate, to place the seller on a publicly available list of noncompliant sellers. If the seller fails to file a complete Report within three months, authorizes DTSC or ARB, as appropriate, to take enforcement action.

19) Requires DTSC and ARB, as appropriate, to provide a notice of the noncompliance to the seller that fails to comply with the Act, and grants the seller three months from receipt of the notice to meet the requirements of the Act.

20) Establishes civil penalties of up to two percent of a seller's annual revenues for violations enforced by ARB. Requires the penalties to be deposited into the Fashion Environmental Remediation Fund (Fund).

21) Authorizes DTSC and ARB to pursue "appropriate equitable remedies" for violations of the Act under their respective jurisdiction.

22) Requires DTSC and ARB to use a risk-based approach in enforcing the Act and to publish enforcement guidelines before the enforcement of the Act.

23) Allows individuals to report violations of the Act.

24) Establishes the Fund and specifies that moneys in the Fund are available, upon appropriation, to DTSC and ARB for purposes of implementing the Act and one or more environmental benefit projects or environmental remediation projects that directly and verifiably benefit communities impacted, to the extent feasible, at the location where the injury has occurred. Specifies that any other moneys appropriated for this purpose be deposited into the Fund.

25) Specifies that the provisions of the Act are severable.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Fashion**. The clothing industry represents an important part of the global economy, with a value of $1.3 trillion and employing more than 300 million people. The rise of fast fashion has resulted in global fiber production nearly doubling between 2000 and 2022. People are buying more clothes than ever before, but keeping them half as long as they did two decades ago.

   According to the European Parliament, the textile sector was the third largest source of water degradation and land use in 2020, using nine cubic meters of water, 200 square meters of land, and 391 kilograms of raw materials to provide closing for each resident of the European Union (EU). Textile production is estimated to be responsible for approximately 20% of global clean water pollution, due to the dyeing and finishing of products. The production of clothing and textiles produced from synthetic fabrics (approximately 60%), such as nylon and polyester, releases plastic microfibers into the environment in each wash cycle. A single load of laundry can release millions of microfibers. These microfibers are the most common form of microplastics found in the environment. The European Environment Agency found that textile purchases in the EU in 2020 generated around 270 kilograms of carbon dioxide emissions per person. The World Bank determined that about 20% of industrial wastewater pollution worldwide originates from the fashion industry.

2) **Regulating GHG emissions**. AB 32 requires ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020, 40% below 1990 levels by 2030, and to 85% below 1990 levels by 2045. Under their authority granted by AB 32, ARB adopted a cap and trade regulation that applies to large industrial facilities and electricity generators that emit more than 25,000 metric tons of carbon dioxide equivalent per year, as well as distributors of fuels, including gasoline, diesel, and natural gas.

   In addition to the cap-and-trade program, ARB developed a Scoping Plan that establishes California's strategy for meeting the GHG emissions reduction goals. The Scoping Plan must be updated every five years. In December 2008, the ARB approved the initial Scoping Plan, which included a suite of measures to sharply cut GHG emissions. In May 2014, ARB approved the First Update to the Climate Change Scoping Plan, which builds upon the initial Scoping Plan with new strategies and recommendations.

   Reductions in GHG emissions will come from virtually all sectors of the economy and will be accomplished from a combination of policies, planning, direct regulations, market

approaches, incentives and voluntary efforts. These efforts target GHG emission reductions from cars and trucks, electricity production, fuels, and other sources. Under the Scoping Plan, GHG emissions reduction measures apply to California's major economic sectors, including transportation, electricity and natural gas, water, green buildings, industry, recycling and waste management, forests, high global warming potential gases, and agriculture.

3) **Reporting GHG emissions.** Under AB 32, the Mandatory Reporting of Greenhouse Gas Emissions regulation (MRR) requires hundreds of businesses, including electricity generators, industrial facilities, fuel suppliers, and electricity importers, to report GHGs to ARB. A summary of reported GHG emissions data reported under MRR is made public each year. ARB implements and oversees a third-party verification program to support mandatory GHG reporting. All GHG reports subject to the Cap-and-Trade Program must be independently verified by ARB-accredited verification bodies and verifiers.

   The "Scope" framework was created in 2001 by the World Resources Institute and World Business Council for Sustainable Development as part of their Greenhouse Gas Protocol Corporate Accounting and Reporting Standard. The goal was to create a universal method for companies to measure and report the GHG emissions associated with their business. The three Scopes allow companies to differentiate between the emissions they emit directly into the air, which they have the most control over, and the emissions they contribute to indirectly.

   Scope 1 covers all direct GHGs that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

   Scope 2 covers indirect GHGs from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

   Scope 3 includes all other indirect emissions that occur in a company's value chain, such as purchased goods and services, business travel, employee commuting, waste disposal, use of sold products, transportation and distribution (up- and downstream), investments, and leased assets and franchises.

   Scope 1 and 2 emissions alone have shortcomings. First, Scope 1 and 2 emission sums can be manipulated. For example, a company that was once vertically integrated can procure materials from outside suppliers. Thus, the emissions produced during the making of an input material could be moved off the company's balance sheets and excluded from measurement. This would hide the true amount of carbon emitted throughout the organization's value chain and thwart the asset owner's efforts to estimate climate risk. In addition, Scope 1 and 2 emissions are under-inclusive. These deficiencies can be addressed through the inclusion of Scope 3 emissions.

   Recent research from CDP (formerly the Carbon Disclosure Project) found that Scope 3 supply chain emissions are on average 11.4 times greater than operational (Scope 1 and 2) emissions, which is more than double the previous estimate.

   In 2023, the Legislature adopted the Climate Corporate Data Accountability Act [SB 253

(Wiener), Chapter 382, Statutes of 2023], which requires entities formed under the laws of California, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States, with total annual revenues in excess of $1 billion that do business in California (reporting entities) to annually report all of their Scope 1, Scope 2, and Scope 3 emissions, as specified. SB 253 is intended to promote transparency from companies regarding their Scope 1, Scope 2, and Scope 3 emissions. ARB is required to promulgate regulations to implement SB 253, including establishing a date in 2026 when the first emission reports will be due. The first reports will cover Scope 1 and Scope 2 emissions during the reporting entity's prior fiscal year. Beginning 2027, SB 253 requires reporting entities to begin disclosing Scope 3 emissions. SB 253 requires the reporting to conform to the Greenhouse Gas Protocol standards and guidance, including the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development.

There are layers of international standards that impact many of the companies that would be covered by this bill. The International Sustainability Standards Board (ISSB), an independent, private-sector body, developed the IFRS Sustainability Standards that are topic-specific and require an entity to disclose certain information in respects to climate-related risks and opportunities and will result in a comprehensive global baseline of sustainability disclosures. These were developed in response to a strong desire to address a fragmented landscape of voluntary, sustainability-related standards and requirements that add cost, complexity and risk to both companies and investors.

The EU recently began requiring companies to track emissions and requires them to report those emissions beginning this year under the European Climate Pact. The EU's GHG Protocol is intended to be a comprehensive global standardized framework for measuring and managing GHG emissions, including public and private sector, value chains, and mitigation actions. The GHG Protocol includes standards for corporate inventories, corporate value chain inventories, local government inventories, establishing mitigation goals, policy and action guidance, product standards, and project protocols. The EU Protocol differs in several ways from the requirements of this bill, which may make compliance with this bill more challenging for sellers. *Should this bill move forward, the author may wish to work with stakeholders to ensure that the requirements of this bill align with other state, federal, and international standards.*

4) **Chemical product regulation in California**. In 2008, the California legislature recognized the principle of Green Chemistry by enacting two landmark pieces of legislation, AB 1879 (Feuer and Huffman, Chapter 559, Statutes of 2008) and SB 509 (Simitian, Chapter 560, Statutes of 2008). These bills lay the statutory foundation for the state's Green Chemistry program and intend to establish a comprehensive approach to chemicals policy.

   The structure for regulatory action required by the Green Chemistry legislation is broad and general. Rather than specifying particular chemicals or explicit regulatory action on those chemicals, the statutes authorize state agencies, primarily DTSC, to set up a process to identify and evaluate chemicals of concern and the products in which they are found, and to impose appropriate regulatory action for those chemicals and products in order to protect people and the environment.

5) **This bill**. AB 405 is intended to reduce the negative environmental and public health impacts of the fashion industry by mandating fashion sellers report their supply chains, requiring companies to be responsible for their impact in those supply chains, through an environmental due diligence framework, directing companies to set and achieve climate reductions, and requiring companies to work with their suppliers to reduce the use of toxic chemicals.

   This bill requires seller GHG emissions to be inventoried in a manner that conforms to the accounting and reporting requirements of the Greenhouse Gas Protocol Corporate Accounting and Reporting Standards, the Scope 2 Guidance, and the Corporate Value Chain (Scope 3) Accounting and Reporting Standard promulgated by the World Resources Institute and the World Business Council for Sustainable Development. This protocol, developed by the Greenhouse Gas Protocol Initiative, is a multi-stakeholder partnership of businesses, non-governmental organizations, and others convened by the World Resources Institute, based in the US, and the World Business Council for Sustainable Development, based in Geneva. The goal of the organization is to develop internationally accepted GHG accounting and reporting standards for businesses and to promote broad adoption of the standards.

   Additionally, this bill requires sellers to establish targets for GHG emissions reductions in a manner that align with, at a minimum, target validation criteria promulgated by the Science Based Targets Initiative, a partnership of the United Nations Global Compact, the World Resources Institute, CDP, and the World Wide Fund for Nature. The Science Based Targets Initiative is a United Kingdom-based charity that describes itself as a corporate climate action organization that develops standards, tools, and guidance that allow companies to set GHG emissions reduction targets.

6) **Author's statement**:

   Fast fashion has fueled a global crisis. We cannot stand by while companies profit from depleting natural resources, and using toxic chemicals that pollute and harm our environment and people. The Fashion Environmental Accountability Act will hold them accountable. With California at the forefront of environmental leadership, it is critical that we take action to address the unchecked impact of fast fashion.

   By mandating transparency, this bill will push the industry to adopt more sustainable practices and reduce the harmful effects of fast fashion on our environment and our health. The time for change is now. Fast fashion can no longer thrive at the expense of our environment and the health of our future generations.

7) **Double referral**. This bill was passed by the Environmental Safety and Toxic Materials Committee on April 8 with a vote of 5-2.

8) **Suggested amendments**.

   a) Penalties under this bill are based on a percentage of the revenues of the company in violation of the Act. While this may tailor the amount of the penalty to the size of the company, it may result in very high penalties for violations. Moreover, this structure may be difficult for DTSC or ARB to implement, given the fluctuations in revenue from year to year. In contrast, the penalties for violations of SB 253 are capped at a maximum

of $500,000 per reporting year. The *committee may wish to amend the bill* to structure the penalties to be consistent with similar statutes by authorizing civil penalties of up to $10,000 for a first violation and $50,000 for subsequent violations.

b) This bill establishes a reporting protocol based on the Greenhouse Gas Protocol Corporate Accounting and Reporting Standards, the Scope 2 Guidance, and the Corporate Value Chain (Scope 3) Accounting and Reporting Standard for GHG emissions as part of the Environmental Due Diligence Report. This protocol does not align with existing GHG reporting systems enacted by the Legislature. The *committee may wish to amend the bill* to require GHG emissions reporting to use the reporting system developed under SB 253.

c) The *committee may wish to make* related technical and clarifying amendments to the bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance of Nurses for Healthy Environments
Asian American Student Association, Stanford University
Association for Farmers Rights Defense
Blue Ocean Warriors
Breast Cancer Prevention Partners
CA College and High School Students
California Climate Reality Coalition
California Environmental Voters
California Public Interest Research Group (CALPIRG) Students
Californians Against Waste
Cardinal Policy Group, Stanford University
Changing Markets Foundation
Clean Earth 4 Kids
Community Action Against Plastic Waste
Communitymade
Consumer Federation of California
Dayenu Circle of Jewish Silicon Valley
Defend Our Health
Ecofashion Corp
Eileen Fisher
Faherty Brand
Fashion Revolution CIC
Fast At Cal Fashion Club
Flap Happy
Global Uprising (dba Cotopaxi)
Heirs to Our Oceans
Indigenous Designs Corporation
Indivisible Marin
Lymi, INC. (dba Reformation)
MapxGuild

MRImpact Consulting
Patagonia INC
Plastic Pollution Coalition
Project Ropa
Ray Brown's Talking Birds
San Diego Physicians for Clean Air
Save the Albatross Coalition
Shark Stewards
Sierra Club
Students for a Sustainable Stanford, Stanford University
Surfrider Foundation
Surfrider, UC Berkeley
Sustainable Fashion Program, California State University, Northridge
The Climate Center
The Design Kids, Stanford University
The Fashion Network Association, San Francisco State University
The Last Plastic Straw
UC Berkeley Eco Office of Student Government
University of San Diego Social Justice Club
Unravel At UCLA
Unspun
Zero Waste Club, UC Davis
Zero Waste San Diego
9 Climate and health advocates
91 Individuals

Opposition

American Apparel & Footwear Association
California Chamber of Commerce
California Retailers Association
Center for Baby and Adult Hygiene Products

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 527 (Papan) – As Amended April 21, 2025

SUBJECT: California Environmental Quality Act: geothermal exploratory projects

SUMMARY: Establishes an exemption from the California Environmental Quality Act (CEQA) for geothermal exploratory projects, if a county is the lead agency and specified conditions are met, including full reclamation of the project site.

EXISTING LAW:

1) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000 *et seq.*)

2) Provides that the Geologic Energy Management Division (CalGEM) shall be the CEQA lead agency for all geothermal exploratory projects. However, CalGEM is authorized to delegate its lead agency responsibility to a county that has adopted a geothermal element for its general plan. Requires a county to assume lead agency responsibility upon the request of a geothermal exploratory project applicant to the county and CalGEM. Requires a county lead agency to confer with CalGEM regarding necessary information that should be included in the environmental review for the project to facilitate CalGEM's exercise of its authority as a responsible agency. (PRC 3715.5)

3) Defines "geothermal exploratory project" as a project composed of not more than six wells and associated drilling and testing equipment, whose chief and original purpose is to evaluate the presence and characteristics of geothermal resources prior to commencement of a geothermal field development. Wells included within a geothermal exploratory project must be located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities. (PRC 21065.5)

4) Defines "geothermal field development project" as a development project composed of geothermal wells, resource transportation lines, production equipment, roads, and other facilities which are necessary to supply geothermal energy to any particular heat utilization equipment for its productive life, all within an area delineated by the applicant. (Government Code 65928.5)

THIS BILL:

1) Provides that CEQA does not apply to a geothermal exploratory project for which a county is the lead agency, if the lead agency determines that the project meets all of the following conditions:

    a) The project does not include the production of geothermal resources in commercial quantities.

b) The project does not disturb more than 20 acres of previously undisturbed ground.

c) The project's footprint does not include any of the following:

   i) Wetlands.

   ii) Rivers, streams, or riparian corridors, except temporary road or electric distribution line crossings.

   iii) Lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.

   iv) Identified habitat for species of special status identified by state or federal agencies.

   v) Lands with a conservation easement unless determined consistent with the terms or requirements of the easement.

d) Unusual circumstances do not exist that would cause the project to have a significant impact on the environment.

e) The project site is not on the "Cortese List" (i.e., known contaminated sites).

f) The project will not cause a substantial adverse change in the significance of a historical resource or a tribal cultural resource.

g) The project includes full reclamation of all well pads, temporary routes, and other disturbances, including the reestablishment of vegetative cover with native plants, unless those disturbances are incorporated into a subsequent geothermal field development project.

h) The project applicant has certified to the lead agency that either of the entirety of the project is a "public work" or all construction workers will be paid prevailing wages, as specified.

2) Requires the lead agency to post a written notice of the intent to apply the exemption on its internet website and at the project site at least 30 days before making a determination to approve or carry out a change in use.

3) Revises the definition of "geothermal exploratory project" to include "equipment and activities necessary to establish interconnectivity between wells and reservoirs, roads, electric distribution lines, and infrastructure to provide power for drilling and testing equipment" and eliminate the requirement that exploratory project wells must be "located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities."

4) Makes related findings.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. Geothermal is a form of renewable energy defined as heat energy from the earth. Geothermal resources are reservoirs of hot water that are naturally occurring or are manufactured to operate at varying temperatures and depths below the earth's surface. Wells, ranging from a few feet to several miles deep, can be drilled into underground reservoirs to tap steam and hot water that can be brought to the surface for use in electricity generation, direct heating, and industrial processes. The United States is the world's largest producer of geothermal electricity and California has the highest geothermal capacity of all states. "The Geysers" geothermal steam field, located within Lake, Mendocino, and Sonoma Counties, contains 349 out of California's 563 high-temperature geothermal wells within the state. Imperial County (including the Salton Sea) houses 194 of these wells, and the remaining 20 are located in Lassen, Modoc, and Mono Counties. California has installed 2,627 MW of geothermal nameplate capacity – accounting for 72% of the total geothermal plant capacity in the United States. Many of these geothermal resource areas are known to have been inhabited and visited by Native Americans for thousands of years prior to European settlement.

   Under current law, a geothermal project is divided into two discrete components for purposes of CEQA. The "exploration" phase involves drilling one or more exploration wells at a given site to map out the subsurface environment and assess exactly where a new geothermal power plant should be located. The subsequent "geothermal field development" phase involves drilling the necessary injector and producer wells, building the power plant, grid connections, and associated infrastructure. This phase is much more complicated and expansive. Typically, a geothermal developer cannot move forward with geothermal field development until some level of exploration has taken place as they need to site the wells in precisely the right location to make sure they are getting enough heat to support power generation, and that information can only be ascertained through exploration.

   In 2024, the U.S. Department of Interior adopted add a new categorical exclusion from the National Environmental Policy Act (NEPA) for geothermal resource confirmation activities on federal geothermal resource leases. According to the author, the new categorical exclusion was based on the Bureau of Land Management's (BLM) assessment that geothermal exploration projects, when completed under a high-bar environmental standard, have virtually no negative impacts to the environment.

2) **Author's statement**:

   > AB 527 will accelerate the development of geothermal resources and advance California's climate goals by expediting exploratory well projects which have a de minimis impact. In order to gather essential subsurface data to determine the viability of a potential geothermal field, developers must drill exploratory wells. Currently, this exploratory endeavor is treated as a separate project, subject to its own environmental review process. The federal government has previously allowed latitude concerning exploratory wells. In October 2024, the Biden Administration proposed a categorical exclusion under NEPA for these de minimis exploration projects. AB 527 seeks to align California's approach with this federal exclusion, allowing carefully vetted exploratory geothermal projects to be exempt from CEQA. This alignment will eliminate redundant

regulatory hurdles, ensuring projects move forward more quickly and efficiently bringing us that much closer to our renewable energy goals.

3) **Is the NEPA exclusion a useful template for California**? The recently-adopted NEPA exclusion was adopted for use by BLM for projects on federal lands nationwide. Recent geothermal projects in Nevada and Utah are located on vast expanses of desert managed by BLM, with little potential for land use or environmental conflicts. BLM arrived at a 20 acre limit on total surface disturbance by looking back at the statistical details of 26 prior projects. Those 26 projects varied widely in well pad size and total disturbance, with 20 acres being the approximate median. The projects ranged from .08 acres (in New Mexico) to 143 acres (in Nevada). The 20-acre limit does not appear to be based on any particular environmental criteria and is not tailored to project or site characteristics.

   In California, the geothermal resource potential is not necessarily on federal land, and exploratory and development projects are not necessarily subject to NEPA. Nonetheless, the CEQA exemption in this bill applies regardless of whether the project is on federal land or otherwise subject to NEPA review. Of the 26 projects examined by BLM, three were in California (two in Inyo County and one in Imperial County). One of the three was on federal land (Inyo National Forest near Mammoth Lakes), and all were under 20 acres. Grading 20 acres in the steep mountains of the Geysers geothermal area is a different proposition than 20 acres in flat Nevada or Utah desert.

4) **Bill expands the scope of geothermal exploratory projects**. In addition to the exemption, this bill expands the definition of geothermal exploratory project, explicitly including roads and power lines, while also eliminating the prohibition on exploratory wells within one-half mile of existing commercial wells. Roads can be particularly impactful and difficult to reclaim to meet the bill's promise of no permanent impacts on the environment. In addition, roads and other infrastructure crossing waterways will likely require a Lake and Streambed Alteration Agreement from the Department of Fish and Wildlife, which may impose conditions independent of CEQA.

   To address concerns regarding the combination of increased scope and decreased environmental review, *the author and the committee may wish to consider* the following amendments:

   a) Replace the 20-acre disturbance limit with the 5-acre well pad limit in the prior (April 10) version of the bill.

   b) Require a 100 foot buffer from wetlands, rivers, streams, and conservation and habitat lands excluded from the exemption.

   c) Require the lead agency to confirm that the project applicant has filed an indemnity bond with CalGEM pursuant to PRC 3725, or with the lead agency, in a form and manner prescribed by the lead agency, in an amount sufficient to secure full reclamation of the project site.

   d) Require the lead agency to file a notice of exemption with the State Clearinghouse.

   e) Sunset January 1, 2031.

REGISTERED SUPPORT / OPPOSITION:

Support

Fervo Energy (co-sponsor)
International Union of Operating Engineers, Cal-Nevada Conference (co-sponsor)
Sonoma Clean Power (co-sponsor)
California Community Choice Association
California State Association of Electrical Workers
California State Pipe Trades Council
Citizens' Climate Lobby Santa Rosa and North
City of Cloverdale
County of Sonoma
Eavor
Geothermal Rising
Northern Sonoma County Air Pollution Control District
Ormat Technologies
USGBC California
Western States Council Sheet Metal, Air, Rail and Transportation
XGS Energy

Opposition (unless amended)

Center for Biological Diversity
Defenders of Wildlife
Mount Shasta Bioregional Ecology Center
Planning and Conservation League

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 555 (Jackson) – As Introduced February 12, 2025

SUBJECT: Air resources: regulatory impacts: transportation fuel costs

SUMMARY: Requires the Air Resources Board (ARB) to submit quarterly reports to the Legislature regarding the impacts of its transportation fuel regulations, including the low carbon fuel standard (LCFS), on the prices of those fuels to California consumers.

EXISTING LAW:

1) Requires a state agency proposing to adopt, amend, or repeal a "major regulation" (regulations with an estimated impact on California business enterprises and individuals exceeding $50 million) to prepare a standardized regulatory impact analysis (SRIA) in the manner prescribed by the Department of Finance (DOF). Requires the SRIA to address all of the following:
   a) The creation or elimination of jobs within the state.
   b) The creation of new businesses or the elimination of existing businesses within the state.
   c) The competitive advantages or disadvantages for businesses currently doing business within the state.
   d) The increase or decrease of investment in the state.
   e) The incentives for innovation in products, materials, or processes.
   f) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

   (Government Code 11346.3)

2) Requires the California Energy Commission (CEC) to submit a report to the Legislature, by March 1 of each year that includes a review of the price of gasoline in California and its impact on state revenues for the previous calendar year. (Public Resources Code (PRC) 25355.7)

3) Requires the CEC, on or before January 1, 2024, and every three years thereafter, to submit an assessment – known as the Transportation Fuels Assessment – to the Governor and the Legislature that identifies methods to ensure a reliable supply of affordable and safe transportation fuels in California. Requires the CEC and ARB, on or before December 31, 2024, and taking into account the assessment, to prepare a Transportation Fuels Transition Plan. (PRC 25371-25371.3)

4) Pursuant to Executive Order S-01-07, sets a statewide goal to reduce the carbon intensity (CI) of California's transportation fuels and requires ARB to consider adopting a LCFS to implement this goal. In 2009, ARB adopted the LCFS as a regulation. The LCFS attributes CI values to a variety of fuels based on direct and indirect greenhouse gas (GHG) emissions. The LCFS permits producers of certain low CI fuels to opt in to LCFS regulation for the

purpose of generating credits, which can be banked and used for compliance, sold to regulated parties, and purchased and retired by regulated parties. In addition, LCFS credits can be exported to other GHG emission reduction programs. (17 CCR 95840 *et seq.*)

THIS BILL requires ARB, on a quarterly basis, to submit to the relevant policy committees of the Legislature a report providing data and describing the impacts of its regulations of transportation fuels, including, but not limited to, the LCFS, on the prices of those fuels to California consumers.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. For rulemakings that have an estimated economic impact on California business enterprises and individuals in an amount exceeding $50 million (known as major regulations), ARB and other state agencies must prepare a SRIA. The SRIA addresses all costs and all benefits of the rulemaking, and jobs within the state, among other things. The agency must submit the SRIA to DOF upon completion for review. DOF must comment, within 30 days of receiving the SRIA, on the extent to which the analysis adheres to its regulations. The agency must provide a response to DOF's comments. SRIA requirements include:

   a) The specific categories of individuals and business enterprises who would be affected and the amount of the economic impact on such categories.

   b) Costs and benefits shall be separately identified for different groups if the impact of the regulation will differ significantly among identifiable groups.

   c) If feasible, an estimate made of the extent to which costs or benefits are regained within the business and/or by individuals or passed on to others, including customers, employees, suppliers, and owners.

   ARB addresses these requirements in various parts of the SRIA and identifies benefits to individuals, direct costs to individuals, and uses macroeconomic modeling to estimate impacts to individuals as measured through changes in real personal income. Commonly estimated benefits include energy costs savings and reductions in adverse health impacts.

   A state agency is also required to seek public input regarding alternatives from those who would be subject to or affected by the regulations prior to filing the notice of proposed action with the Office of Administrative Law (OAL) and to document those methods in the SRIA. This is often a multi-year process and could include numerous public workshops, community meetings, and meetings with individual stakeholders.

   ARB has previously answered to the questions asked by this bill specific to the LCFS. According to ARB, data published by third party commodities markets experts indicates about a $0.10 LCFS cost pass through per gallon of gasoline. This is consistent with the self-reported data by the fuel producers under SB 1322 (Allen), Chapter 374, Statutes of 2022, that also reflects an LCFS cost pass through of $0.08 to $0.10 per gallon of gasoline. SB 1322 requires all refiners of gasoline products in the state to provide monthly data about various price and volume information. The CEC must publish aggregated, volume weighted

reports of these data, within 45 days of the end of each calendar month. The data also show that there is a price difference between branded and unbranded gasoline. LCFS applies to both equally, indicating other factors are inducing differences in prices even for the same fuel, subject to the same regulation, depending on the way it is marketed to consumers.

https://ww2.arb.ca.gov/sites/default/files/2024-10/LCFS_Fuel_FAQ.pdf

2) **Author's statement**:

AB 555 seeks to improve the state's approach to fuel regulation by enhancing transparency and providing clear data on the economic impacts of ARB's policies, such as the LCFS. While California is committed to environmental progress, it's essential to also consider how these policies affect consumers, particularly those in low-income and rural communities who face higher fuel costs. By requiring these reports, AB 555 gives lawmakers and the public the information they need to better understand the economic implications of environmental policies. With this data, we can make more informed decisions that protect both the environment and the financial well-being of all Californians, especially those in vulnerable communities. This bill is about striking a balance – ensuring that California remains a leader in environmental policy while also being mindful of the financial challenges faced by many of our residents.

REGISTERED SUPPORT / OPPOSITION:

Support

County of San Joaquin

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 605 (Muratsuchi) – As Amended April 10, 2025

SUBJECT: Lower Emissions Cargo Handling Equipment Pilot program

SUMMARY: Enact the Lower Emissions Equipment at Seaports and Intermodal Yards Program.

EXISTING LAW:

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

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

    b) Requires the GHG emissions reduction limit, pursuant to AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022) to be at least 85% below the 1990 level by 2045, and establishes a goal of zero net carbon emissions by 2045, commonly known as carbon neutrality.

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

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

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

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

THIS BILL:

1) Establishes the Lower Emissions Cargo Handling Equipment Pilot program (pilot program).

2) Establishes the intent of the Legislature to encourage the purchase of equipment and vehicles that are built to existing decarbonization standards adopted by other jurisdictions, including the European Union (EU), prior to the state's adoption of its own zero-emission standards.

3) Finds and declares that all emission reductions generated by the deployment of zero-emission cargo handling equipment (CHE) and prior to the adoption of regulations by ARB will result in a cumulative reduction in diesel toxic air contaminants, a cumulative reduction of nitrogen oxides emissions, and a cumulative reduction of GHG emissions for the life of the equipment being approved when compared to the current diesel engine standards.

4) Defines "cargo handling equipment" as any off-road, self-propelled vehicle, or equipment used at a port or intermodal railyard to lift or move container cargo that meets the carbon dioxide (CO_2) emission performance standard of less than 1 gram (g) CO_2/kWh or less than 1 g CO_2/km. Provides that CHE includes but is not limited to, top handlers, side handlers, straddle carriers, reach stackers, forklifts, loaders, and aerial lifts. Excludes any equipment that is licensed as an on-road vehicle, excavators, or dozers.

5) States that CHE does not mean any fully automated CHE, including equipment that is remotely operated and remotely monitored with or without the exercise of human intervention or control.

6) Provides that a piece of CHE has qualified for participation in the pilot program when all of the following have occurred between the time the CHE is purchased and the CHE is delivered:

    a) The manufacturer has certified that the equipment meets the emission specifications of less than 1 g CO_2/kWh or less than 1 g CO_2/km, the purchase requirement of this bill, and the date of delivery of the piece of equipment;

    b) The manufacturer procures the opinion of an independent third party to validate that the certification rendered in this bill meets the emissions rate of less than 1g CO_2/kWh or less than 1g CO_2/km;

    c) The manufacturer physically affixes a label to the CHE, or otherwise makes a note, in a prominent and readily viewable location on the CHE, that contains both of the following:

        i) A description that reads, "Purchased pursuant to the Lower Emissions Cargo Handling Equipment Pilot program;" and,

        ii) The dates of purchase and expected delivery.

7) Requires the manufacturer to produce written copies confirming and containing the manufacturer certification, third-party validation of certification, and proof of equipment labeling or marking pursuant to this bill.

8) Requires, at all times, post-delivery a piece of pilot technology equipment to maintain its labeling or notation as a piece of pilot technology equipment.

9) Requires a piece of CHE subject to this bill to include, at the time of delivery, a description, warrant, or both, of the useful life of the piece of CHE from the manufacturer. A piece of CHE that does not have a description, warrant, or both, of the useful life of the CHE shall not be protected by the terms of this bill.

10) Provides that, under no circumstances, the useful life of the piece of equipment to exceed the average useful life in years for port or rail operations provided for any specific equipment type as designated in the Emission Estimation Methodology for Cargo Handling Equipment Operating at Ports and Intermodal Rail Yards in California, Table II-6, as prepared by the board in support of adoption of Section 2479 of Title 13 of the California Code of Regulations.

11) Prohibits ARB from adopting a future regulation that prohibits or disallows for the use of its entire useful life from the date of delivery any CHE that is purchased pursuant to the terms of this bill before December 31, 2027, and subsequently certified, operated, and maintained for the duration of its entire useful life.

12) Provides that this bill is not intended to prescribe or otherwise preclude the application of any future emission standards by ARB.

13) Provides that this bill is self-executing as adopted and does not require any implementing or interpretive rulemaking by ARB or any other agency to become operative.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Air quality at California's ports**. California has 12 ports, through which large volumes of goods are both imported and exported internationally. These ports process about 40% of all containerized imports and 30% of all exports in the United States. CHE such as yard trucks (hostlers), rubber-tired gantry cranes, container handlers, and forklifts are central to port operations. Historically, most port equipment has been powered by diesel or gasoline. In recent years, California's ports have faced several challenges, including congestion and air pollution from associated facilities and vehicles. The Ports of Los Angeles and Long Beach remain some of the largest sources of air pollution in the South Coast Air Basin. These ports are responsible for about 10% of the basin's total nitrogen oxide (NOx) emissions.

   Communities that neighbor ports face the highest exposure of air pollutants from port operations. As a result, these communities tend to experience a disproportionate share of the pollution burden in the state. For example, nearly all of the census tracts that surround the Ports of Long Beach and Los Angeles are ranked in the top one-third of the most pollution burdened in the state, according to the California Communities Environmental Health Screening Tool, a tool which assesses communities' pollution burden and vulnerability.

2) **Cargo Handling Equipment Regulation to Transition to Zero-Emissions**. Mobile CHE is any motorized vehicle used to handle cargo or perform routine maintenance activities at California's ports and intermodal rail yards. The type of equipment includes off-road, self-propelled vehicle or equipment used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable

process upsets. Equipment includes, but is not limited to, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, aerial lifts, excavators, and dozers.

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

ARB resolution 17-8 adopted in March 2017 directed ARB staff to develop new regulatory requirements for CHE that will require up to 100% zero-emissions technologies at ports and intermodal railyards by 2030. In March 2018, ARB staff presented a plan to begin development of a regulation to minimize emissions and community health impacts from CHE. Staff would assess the availability and performance of zero-emission technology as an alternative to all combustion-powered cargo equipment and evaluate additional solutions that may include efficiency improvements. Proposed regulatory amendments would establish an implementation schedule for new equipment and facility infrastructure requirements, with effective dates beginning in 2026. In this potential action, all mobile equipment at ports and rail yards, including but not limited to: diesel, gasoline, natural gas, and propane-fueled equipment, would be subject to new requirements. ARB staff would also consider opportunities to prioritize the earliest implementation in or adjacent to the communities most impacted by air pollution. No changes to the regulations have been adopted by ARB.

If the staff proposal is ever adopted, this action could potentially achieve emission reductions of criteria pollutants, air toxics, and GHGs, beginning in 2026, with more than 90% penetration of zero-emission equipment by 2036. The proposed changes to the CHE Regulation are in line with the 2022 Scoping Plan, which calls for 100% of CHE be zero-emission by 2037 and 100% of drayage trucks are zero emission by 2035.

3) **Challenges to state regulations**. California has aggressively adopted GHG reduction targets to reduce the state's portfolio of climate emissions and hope to achieve carbon neutrality by 2045. That goal includes phasing out fossil fuels and requiring all new cars to be zero-emission by 2035, requiring cleaner trucks, locomotives, commercial ships, and off-road diesel vehicles, like tractors and construction equipment.

   Under the federal Clean Air Act, states must comply with the federal air quality attainment standards for air emissions from stationary and mobile sources. In 1967, Congress gave California the authority to set its own standards for cars and other vehicles through a waiver to the Federal Clean Act Air. Each of California's emission standards must be granted a waiver from the U.S. Environmental Protection Agency (U.S. EPA) before it can take effect.

   With the election of President Trump, who was expected to deny or try to revoke all of the waivers that California has been seeking to enforce its clean air standards, the state moved to withdraw from the U.S. EPA application requests for the Advanced Clean Fleets regulation and In-Use Locomotive Regulation, as well as limited aspects of the Commercial Harbor Craft Regulation and Transportation Refrigeration Units regulation. (The state does not need a waiver from the U.S. EPA for the CHE regulations, and, arguably, the pause in enforcement of the other air quality regulations creates pressure to advance other ambitious GHG reduction regulations, like the CHE regulation.)

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

4) **Pilot program**. This bill sets up a pilot program for lower-emission (near zero-emission) CHE technologies that are purchased before December 31, 2027.

   To be eligible under the pilot, CHE must be certified by the manufacturer, and verified by a third party, as meeting the emission specifications of less than 1 g CO_2/kWh or less than 1 g CO_2/km. Certified CHE is protected from future regulation mandating lower emissions than the covered CHE produces, but the CHE purchased under the pilot cannot remain in use beyond the average useful life of the piece of equipment as designated in the Emission Estimation Methodology for CHE operating at Ports and Intermodal Rail Yards in California, as established in the California Code of Regulations.

5) **Eligible technologies**. Hydrogen Internal Combustion Engines (H2ICE) is a potential CHE equipment technology that the sponsors of the bill envision as eligible as covered equipment under this bill. H2ICE combusts hydrogen in a traditional internal combustion engine and uses existing CHE architecture and supply chains. It is recognized that it is not a replacement for battery electric or hydrogen fuel cell technology, but the sponsors of this bill see it as a complimentary technology that can become a major part of the solution. The H2ICE equipment is not yet available. It is believed that there is likely an 18-24 month lead-time for equipment orders as they are not yet in full production.

6) **To invest or not to invest in lower-emission equipment: that is the question**. The useful life of CHE can be up to 22 years, and ARB regulations are expected to have earlier zero emission deadlines. To address that, this bill prohibits ARB from adopting a future regulation that prohibits or disallows for the use of its entire useful life any CHE, as defined, that is purchased pursuant to the program before December 31, 2027. Investing in expensive equipment in spite of the state's goals to achieve carbon neutrality may fly in the face of ARB's impending regulatory update, but the bill is attempting to provide a stepping stone to compliance with zero emission requirements. Also, the pilot program will be voluntary, so investments would only be made in new equipment if an entity chose to do so.

7) **Double referral**. This bill was heard in the Assembly Transportation Committee on April 21 and approved by a vote of 15-0.

8) **Related legislation**:

   a) AB 2760 (Muratsuchi, 2024) would have enacted, until January 1, 2032, the Lower Emissions Equipment at Seaports and Intermodal Yards Program at ARB to approve as covered equipment applicable CHE that will reduce cumulative emissions at seaports and intermodal yards in the state. This bill was held in the Assembly Appropriations Committee.

   b) AB 1743 (Bennett, 2023) would have enacted the Lower Emissions Transition Program and required ARB to approve projects that reduce cumulative emissions from CHE, and

sources at seaports in the state during the transition period to zero-emissions CHE requirements. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Cleanearth4kids.org
International Longshore & Warehouse Union Local 13
International Longshore & Warehouse Union Local 63
International Longshore & Warehouse Union Local 94
Long Beach Area Chamber of Commerce
Pacific Merchant Shipping Association
South Bay Association of Chambers of Commerce
The Climate Reality Project Orange County Chapter
The Climate Reality Project, California State Coalition
The Climate Reality Project, Los Angeles Chapter
The Climate Reality Project, San Diego Chapter
The Climate Reality Project, San Fernando Valley CA Chapter

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 729 (Zbur) – As Amended April 21, 2025

SUBJECT: Public utilities: climate credits

SUMMARY: Requires the revenues received by an electrical investor-owned utility (IOU) as a result of the direct allocation of greenhouse gas (GHG) allowances that are credited directly to residential, small business, and emission-intensive trade-exposed customers (i.e., the Climate Credit) to be provided on customer bills in August and September. Requires the revenues received by a gas utility as a result of the direct allocation of GHG allowances that are credited directly to residential customers to be provided on customer bills in February.

EXISTING LAW:

1) Establishes the California Global Warming Solutions Act of 2006 [AB 32 (Núñez), Chapter 488, Statutes of 2006], which requires the Air Resources Board (ARB) to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030. Authorizes ARB to permit the use of market-based compliance mechanisms (i.e., the cap-and-trade program) to comply with GHG reduction regulations once specified conditions are met. (Health and Safety Code 38500 *et seq.*)

2) Requires the Public Utilities Commission (PUC) to allocate up to 15% of revenues received by an electrical investor-owned utility (IOU) as a result of the direct allocation of GHG allowances to electrical distribution utilities to be used for clean energy and energy efficiency projects and otherwise requires revenues to be credited directly to residential, small business, and emission-intensive trade-exposed customers. (Public Utilities Code 748.5)

FISCAL EFFECT: Unknown

COMMENTS:

1) **The California Climate Credit**. California ratepayers receive regular bill credits as part of the proceeds arising from their utility's participation in the state's cap-and-trade program. The cap-and-trade program applies to facilities that emit more than 25,000 metric tons of carbon dioxide equivalents per year, as well as any facilities with lower emissions that opt-in to the program. These facilities include large electric power plants, large industrial plants, and fuel distributors (e.g., natural gas and petroleum).

   ARB distributes allowances to the cap-and-trade market through direct allocation to regulated entities and through the sale at auction to all market participants. Electric and natural gas IOUs are required to consign to auction a certain portion of the GHG allowances they receive. The proceeds generated from such sales must be primarily used for the benefit of retail ratepayers. For electric IOUs customers, these funds are returned via a credit on their utility bills, known as the Climate Credit. Statute requires 85% of the funds to be used for the

Climate Credit and permits the CPUC to allocate the remaining 15% for clean energy and energy efficiency projects.

Proceeds are returned to customers via three mechanisms – the industrial assistance credit, the small business climate credit, and the residential Climate Credit. The residential Climate Credit is provided on residential customers' bills twice annually in the spring and fall.

2) **Author's statement**:

> As our communities face increasingly unaffordable living costs, ratepayers are burdened by their energy bills, which have risen at alarmingly high rates. Fortunately, revenues from the Cap-and-Trade program allow customers to receive Climate Credits on their utility bills. AB 729 requires that these credits are delivered to ratepayers during periods of the year when bills are at their highest. Electric credits will be delivered during the hottest summer months of the year while natural gas credits will be delivered during the coldest winter months. In this way, AB 729 will take a step toward addressing California's affordability crisis by ensuring that ratepayers receive reductions in their utility bills when those reductions are most impactful.

3) **Double referral**. This bill was heard by the Utilities and Energy Committee on April 23 and passed by a vote of 18-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Clean Power Alliance of Southern California
Edison International and Affiliates, Including Southern California Edison
San Diego Gas and Electric Company

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 803 (Garcia) – As Amended March 24, 2025

SUBJECT: Urban forestry: school greening

SUMMARY: Amends the California Urban Forestry Act of 1978 to clarify inclusion of green schoolyards and authorize the director of the Department of Forestry and Fire Protection (CAL FIRE) to authorize a negotiated indirect cost rate agreement (NICRA) within an approved project for purposes of urban forestry grants.

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

1) Finds and declares that trees are a vital resource in the urban environment and as an important psychological link with nature for the urban dweller; trees are a valuable economic asset in our cities; trees provide shade and humidity; trees help reduce noise, provide habitat for songbirds and other wildlife; and, trees planted in urban settings play a significant role in meeting the state's greenhouse gas emission reduction targets by sequestering carbon as well as reducing energy consumption.

2) Requires CAL FIRE to implement a program in urban forestry to encourage better tree management and planting in urban areas to increase integrated, multiple benefit projects by assisting urban areas.

3) Requires CAL FIRE to encourage demonstration projects that maximize the benefits of urban forests in conjunction with state and local agency programs to improve carbon sequestration, water conservation, energy conservation, stormwater capture and reuse, urban forest maintenance, urban parks and river parkways, school construction and improvements, school greening or sun-safe schoolyards, air quality, water quality, flood management, urban revitalization, solid waste prevention, and other projects.

4) Requires CAL FIRE to establish local or regional targets for urban tree canopy, with emphasis on disadvantaged communities that tend to be most vulnerable to the urban heat island effect.

5) Authorizes the director of CAL FIRE to enter into agreements and contracts with a public or private organization, including a local agency that has urban forestry-related jurisdictional responsibilities and an established and operating urban forestry program.

6) Authorizes the director of CAL FIRE to make grants to provide assistance of 25 - 90% of costs for projects meeting guidelines upon recommendation by the director.

7) Requires CAL FIRE to complete a statewide strategic plan to achieve a 10% increase of tree canopy cover in urban areas by 2035, with priority for increasing tree canopy cover in disadvantaged and low-income communities and low-canopy areas.

THIS BILL:

1) Defines the following terms:

   a) "Negotiated indirect cost rate agreement" as an agreement pursuant to Part 200 of Title 2 of the Code of Federal Regulations that is approved by the federal government.

   b) "School greening" as any project or action pursuant to Section 4799.12 or paragraph (2) of subdivision (d) of Section 12802.10 of the Government Code that can feasibly be completed on the schoolsite of a local education agency that reduces the ambient temperature.

2) Modifies the definition for "urban area" as an urban place defined by the most current United States Census Bureau definition.

3) Includes improved school greening in CAL FIRE's urban forestry program under the California Urban Forestry Act of 1978.

4) Extends the sunset date from June 30, 2025, to June 30, 2026, for when CAL FIRE is required to submit its statewide strategic plan to the Legislature.

5) Requires CAL FIRE to provide advice and guidance to specified entities on the use of trees in urban areas to promote community resilience and adaptation.

6) Includes improvement of public schools to create tree-shaded, natural school grounds in child-accessible areas to support student's health, well-being, and learning among the things CAL FIRE is required to provide technical assistance to urban areas.

7) Authorizes the director of CAL FIRE to authorize a NICRA within an approved project.

8) Additionally authorizes assistance to include funding for school greening projects to optimize tree canopy cover and nature-based learning.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

   > AB 803 will update several sections of the Urban Forestry Act to align with recent departmental changes and regulations to clarify CAL FIRE's role in greening California's K-12 schools to reduce ambient heat, improve student aptitude, and provide recreational opportunities. This bill ensures that we are aligning with the state's efforts to fight climate change and promote the safety and well-being of K-12 students.

2) **Urban forestry**. CAL FIRE's Urban & Community Forestry Program (Program), pursuant to the California Urban Forestry Act, works to optimize the benefits of trees and related vegetation through multiple objective projects. The Program provides seven different grants,

including grants for Green Schoolyards projects. Eligible applicants for the urban forestry grants include cities, counties and qualifying districts, which includes, but is not limited to school, park, recreation, water, and local taxing districts.

3) **School greening.** California has about 10,000 public schools of which the majority have less than 5% canopy cover and a high degree of impervious surfaces. This leaves children, who are already disproportionally impacted by extreme urban heat, in even unhealthier environments than the surrounding urban areas.

   CAL FIRE's Green Schoolyards Grant program provides funding to public PK-12 school districts and childcare facilities for the planning or implementation phases of schoolyard greening projects, including for schoolyard forests. The 2022-23 grant period awarded more than $121 million for 29 grants[i]. However, many public schools, which are historically understaffed and underfunded, don't apply for a grant because they feel the grant application process is complex and time-consuming. To address grant application challenges, CAL FIRE has provided grant writing assistance, stakeholder engagement, cost estimation, benefits estimation, and proposal/application submission assistance to school greening applicants with the greatest need to ensure that high quality yet feasible school greening projects are implemented. Further, CAL FIRE maintains a free online resource library filled with practical resources to support schools and school districts as they plan, develop, use, and manage schoolyard forests.

   CAL FIRE's grant application solicitation period under the Program is not currently open; CAL FIRE is reviewing and making award decisions for 2024 federal Inflation Reduction Act (IRA) funding (which may or may not materialize under the Trump Administration). In 2023, the U.S. Department of Agriculture Forest Service Urban and Community Forestry Program awarded $1.5 billion to states, projects, and national initiatives that support urban communities in ensuring equitable access to trees and their benefits via the IRA. Grants will be available to schools and school districts starting at $150,000 for school greening projects. Also, last November, the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Proposition 4) was approved by voters authorizing $100 million for the Natural Resources Agency for competitive grants for urban greening. Eligible projects include those that support the creation of green recreational parks and green schoolyards in park-poor communities. Additionally, Proposition 4 includes $50 million for CAL FIRE to protect or augment California's urban forest program.

4) **Tree canopy goals**. AB 2251 (Calderon), Chapter 186, Statutes of 2022, requires CAL FIRE to develop a statewide strategic plan to achieve a 10% increase of tree canopy cover in urban areas by 2035. California currently has 1,256 square miles of urban forest canopy. Statute requires CAL FIRE to submit its final strategic plan to the Legislature by June 30, 2025. This bill extends that timeframe by one year to 2026. The author explains that funding for the implementation of AB 2551 was only made available last year, so this extension conforms the statutory deadline with the realistic ability of CAL FIRE to do the work that was delayed due to lack of funding.

5) **Negotiated indirect cost rate agreement**. This bill authorizes the director of CAL FIRE to authorize a NICRA within an approved project, which is a document that outlines the percentage of indirect costs (i.e., facilities and administrative costs) that a federal agency will allow an organization to charge on its federal grants. These agreements help

streamlines the grant process for both the government and the organization, as it establishes a clear and agreed-upon rate for indirect costs. There is currently no process for a nonprofit organization to acquire a state indirect cost rate agreement with state agencies in California. Therefore, this amendment would be limited to grant agreements funded with federal funds, such as from the IRA.

6) **Committee amendments**. To clarify the author's intent to allow use of a NICRA for any grant provided under the Program, the *committee may wish to consider* amending PRC 4799.12 to allow the director to authorize a NICRA within an approved project that is funded with state and/or federal dollars.

7) **Related legislation**:

AB 527 (Calderon, 2023) requires CAL FIRE to administer a competitive grant process to support school greening by providing grants to eligible local education agencies (LEA), nonprofit organizations, cities, counties, and districts, including special districts, through a competitive grant process. It would require no less than 60% of the school greening features supported by a grant to occur within areas on a schoolsite of an LEA used by students. This bill was held in the Assembly Appropriations Committee.

AB 57 (Kalra, 2023) proposes to establish the California Pocket Forest Initiative at CAL FIRE. This bill was vetoed.

AB 2251 (Calderon), Chapter 186, Statutes of 2022, requires CAL FIRE to complete a statewide strategic plan to achieve a 10% increase of tree canopy cover in urban areas by 2035.

AB 2114 (Kalra, 2022) proposes to establish the California Pocket Forest Initiative at CAL FIRE. This bill is was held in the Senate Appropriations Committee.

AB 347 (Caballero), Chapter 104, Statutes of 2021, requires moneys transferred to the California Community and Neighborhood Tree Voluntary Tax Contribution Fund to be continuously appropriated and allocated to CAL FIRE to the grant program for urban forest management activities under the California Urban Forestry Act of 1978.

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

REGISTERED SUPPORT / OPPOSITION:

Support

100k Trees for Humanity
A Cleaner, Greener East LA
Amigos De Los Rios
Angelenos for Trees
Arborpro
Audubon California
Benicia Tree Foundation
CA Parks Now - Coalition
California Releaf
Canopy
Climate Action Now
Clockshop
Coastal Corridor Alliance
Davey Resource Group INC.

Earth Team
From Soil2soul
Green Schoolyards America
Growing Together
Hills for Everyone
Industrial District Green
Koreatown Youth and Community Center
Latino Outdoors
Living Classroom
Los Angeles Beautification Team
Los Angeles Conservation Corps
Los Angeles Neighborhood Land Trust
North East Trees
Once Upon a Watershed
Our City Forest
Outdoor Outreach
Pacific Forest Trust
Planting Justice
Releaf Petaluma
Roseville Urban Forest Foundation
Sacramento Tree Foundation
San Diego Green Infrastructure Consortium
Save Our Forest
Ten Strands
The Trust for Public Land
The Watershed Project
Tree Foundation of Kern
Treepeople
Undauntedk12
Watsonville Wetlands Watch
Woodland Tree Foundation
Your Children's Trees

Opposition

None on file

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

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[i] 2022-2023 Green Schoolyards Grant Awards.xlsx

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 854 (Petrie-Norris) – As Amended April 22, 2025

SUBJECT: California Environmental Quality Act: exemptions

SUMMARY: Establishes a California Environmental Quality Act (CEQA) exemption for "reconductoring," as defined, and related wires maintenance and improvements to existing transmission lines within existing rights of way.

EXISTING LAW:

1) Requires, pursuant to CEQA, lead agencies with the principal responsibility for carrying out or approving discretionary projects to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR), unless the project is exempt from CEQA. CEQA includes several statutory exemptions, as well as categorical exemptions in the CEQA Guidelines. (Public Resources Code (PRC) 21000 *et seq.*)

2) Defines "project" as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, including an activity that involves the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (PRC 21065)

3) Requires the CEQA Guidelines to include a list of classes of projects that have been determined by the Secretary of the Natural Resources Agency to not have a significant effect on the environment and that shall be exempt from CEQA. (PRC 21084)

   The list of "categorical exemptions" includes:

   a) Repair and maintenance of existing public or private facilities, involving negligible or no expansion of use, including existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services. (Guidelines 15301)

   b) Replacement or reconstruction of existing facilities on the same site with the same purpose and capacity, including existing utility systems and/or facilities involving negligible or no expansion of capacity. (Guidelines 15302)

   c) New construction or conversion of small structures, including electrical, gas, and other utility extensions of reasonable length to serve such construction. (Guidelines 15303)

4) Requires the PUC to certify the "public convenience and necessity" require a transmission line over 200 kilovolts (kV) before an investor-owned utility (IOU) may begin construction (Certificate of Public Convenience and Necessity, or CPCN). The CPCN process includes CEQA review of the proposed project. A CPCN confers eminent domain authority for construction of the project. A CPCN is not required for the extension, expansion, upgrade, or

other modification of an existing electrical transmission facility, including transmission lines and substations. (Public Utilities Code (PUC) 1001)

5) Requires an IOU to obtain a discretionary permit to construct (PTC) from the PUC for electrical power line projects between 50-200 kV. A PTC may be exempt from CEQA pursuant to PUC orders and existing provisions of CEQA. IOU electrical distribution line projects under 50 kV do not require a CPCN or PTC from the PUC, nor discretionary approval from local governments, and therefore are not subject to CEQA. (PUC General Order (GO) 131-E)

6) Requires the PUC, by January 1, 2024, to update the former GO 131-D to authorize IOUs to use the PTC process or claim an exemption under GO 131-D Section III(B) to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above 200 kV. (PUC 564)

7) Defines "reconductored with advanced conductors" as replacing the existing electric conductor with a conductor that has a direct current electrical resistance at least 10 percent lower than existing conductors of a similar diameter on the system and may include rebuilding support structures or other associated facilities. (PUC 454.58)

THIS BILL:

1) Exempts from CEQA a project that consists of the inspection, maintenance, repair, restoration, reconditioning, reconductoring with advanced conductors, replacement, or removal of a transmission wire or cable used to conduct electricity or other piece of equipment that is directly attached to the wire or cable and that meets both of the following:

    a) The project is undertaken within an existing right-of-way. For a project undertaken within a private right-of-way, requires the project applicant to obtain permission from the underlying property owner.

    b) The project applicant enters into a legally binding agreement to restore the right-of-way to its condition before the commencement of the project.

2) Requires the lead agency to file a notice of exemption with the Office of Land Use and Climate Innovation and with the county clerk in each county in which the project is located.

3) Makes related findings.

FISCAL EFFECT: Unknown

COMMENTS:

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

significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

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

Electrical transmission line projects are eligible for a number of CEQA exemptions pursuant to the CEQA Guidelines and GO 131-E. Only larger, high-voltage projects over 200 kV, which also require a CPCN, are consistently subject to complete CEQA review, including an EIR. According to PUC data, from 2012 to 2023, 608 projects have been exempted from CEQA, 29 projects have been approved via negative declaration, and 27 have required an EIR.

GO 131-E specifically addresses the procedures to be followed in applications for siting of electric transmission infrastructure. GO 131-E establishes the distinction in the levels of review based on the voltage level of the project (under 50 kV, 50 to 200 kV, and above 200 kV) as described above. The PUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to CEQA, and (2) the review of project need and costs pursuant to PUC 1001 and GO 131-E.

Prior to adoption of the predecessor to GO 131-E (GO 131-D) in 1994, the construction of projects below 200 kV did not require utilities to obtain a permit. In GO 131-D, the PUC lowered that threshold to 50 kV, requiring most projects rated between 50-200 kV to obtain PTC.

SB 529 (Hertzberg), Chapter 357, Statutes of 2022, directed the PUC to revise GO 131-D to authorize a utility to use the PTC process or claim an exemption to seek approval to construct an extension, expansion, upgrade, or other modification to its existing transmission facilities regardless of the voltage level. In May 2023, the PUC opened a rulemaking to solicit comments that would revise the GO 131-D rules.

On January 30, 2025, the PUC adopted GO 131-E, replacing the previous GO 131-D. The new order establishes updated rules for the permitting, approval, and construction of electric transmission lines, substations, and generation facilities. It also clarifies and streamlines the regulatory process. Some of these reforms include:

- Allow applicant-prepared draft CEQA documents: Applicants may submit draft CEQA documents alongside their applications, providing an alternative pathway that can accelerate environmental review. This approach reduces duplication and allows applicants to complete much of the required analysis in advance, streamlining the overall permitting process.

- Require pre-filing consultation: Applicants are now required to meet with PUC staff at least six months before submitting their applications. This early engagement is intended to clarify requirements, address potential issues in advance, and support a more efficient and coordinated review process.

- Authorize pilot program to explore faster CEQA review: A pilot program will be created to track PUC CEQA review timelines and explore the potential for a faster CEQA review process for certain electric transmission projects.

- Implement presumption of need for projects: A "rebuttable presumption" will be implemented when the California Independent System Operator (CAISO) transmission planning process has already determined that a project is needed. This would streamline the CEQA review by removing CEQA's alternative analyses for projects already determined to be needed by the CAISO.

According to the PUC, GO 131-E exempts certain upgrades or modifications from PUC permitting (CPCN or PTC) under Section III.B.1 and III.B.2, but it does not provide a CEQA exemption. Utilities must still separately assess CEQA applicability. As a result, many reconductoring and replacement projects, particularly those in environmentally sensitive areas, remain subject to CEQA review today even if exempt from PUC permitting.

SB 1006 (Padilla), Chapter 597, Statutes of 2024, requires each transmission-owning utility to periodically study (1) the feasibility of using "grid-enhancing technologies" (GETs) and (2) the potential to reconductor its transmission lines with advanced conductors.

2) **Author's statement**:

In 1970, California was one of the first states to officially create statutory schemes for protecting endangered wildlife and environments. The benefits we all have enjoyed because of these protections are indisputable. Fast forward to today and the world is confronted with an unprecedented environmental catastrophe – climate change. The environmental protections that were designed to limit and slow the pace of building things are now impacting the pace of building the things we desperately need in order to transition to a carbon free economy. Many well intended protections of species and the environment are now overly time consuming, opaque, confusing, and seem to favor process over outcomes. Without question, some of these complexities are warranted. But for certain types of projects, it is questionable whether or not the benefits continue to outweigh the negative impacts like project delays and cost overruns. AB 854 is a narrowly tailored set of commonsense reforms that prioritize positive outcomes over process. It accelerates the development of critical energy and infrastructure projects while maintaining the species and environmental protections Californians have enjoyed for decades. California has set ambitious carbon reduction goals. It is incumbent on us to show the world that transitioning from a fossil-based economy to a net-zero carbon economy is possible.

3) **Suggested amendments**. In order to focus this bill more precisely on advanced reconductoring of existing transmission lines on non-sensitive lands, and support

implementation of the forthcoming GETs strategic plans, *the author and the committee may wish to consider* the following amendments:

a) Limit to reconductoring projects approved by the PUC.

b) Exclude projects on sensitive sites, including state parks and wilderness areas; national parks, wilderness, and recreation areas; and habitation/conservation lands.

c) Exclude projects adversely impacting historical and tribal cultural resources.

d) Limit right-of-way width to 200 feet.

e) Sunset January 1, 2031.

4) **Double referral**. This bill has been double-referred to the Utilities and Energy Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

AES Corporation
American Clean Power - California
Arevon
Aypa Power Development
California Council for Environmental and Economic Balance
California Energy Storage Alliance
California Wind Energy Association
Independent Energy Producers Association
Intersect Power
Large-scale Solar Association
Leeward Renewable Energy
Solar Energy Industries Association

Opposition

Anza-Borrego Foundation
Audubon California
California Native Plant Society
Center for Biological Diversity
Defenders of Wildlife
Planning and Conservation League

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 881 (Petrie-Norris) – As Amended April 24, 2025

SUBJECT: Public resources: transportation of carbon dioxide

SUMMARY: Adds carbon dioxide (CO_2) to the substances included in the Elder California Pipeline Safety Act of 1981 (Elder Act), which currently applies to petroleum and other hazardous liquids. Requires the Office of the State Fire Marshall (OSFM) to adopt regulations governing the safe transportation of CO_2 by April 1, 2026, as specified, and lifts the statewide moratorium on pipelines transporting CO_2 to or from a carbon capture, removal, or sequestration project.

EXISTING LAW:

1) Requires the Air Resources Board (ARB), pursuant to the California Global Warming Solutions Act, to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to 1990 levels by 2020 and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. (Health and Safety Code (HSC) 38500 *et seq.*)

2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030. (HSC 38566)

3) Establishes, pursuant to the California Climate Crisis Act, the policy of the state to achieve net zero GHG emissions by 2045, maintain net negative GHG emissions thereafter, and ensure that by 2045, statewide anthropogenic GHG emissions are reduced to at least 85% below the statewide GHG emissions limit. (HSC 38562.2)

4) 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 GHG emissions. (HSC 38561)

5) Requires any direct GHG regulation or market-based compliance mechanism adopted by ARB to achieve GHG emissions reductions that are real, permanent, quantifiable, verifiable, and enforceable by ARB. (HSC 38562 (d))

6) Requires ARB to establish a Carbon Capture, Removal, Utilization, and Storage Program. (HSC 39741 *et seq.*)

7) Provides that pipelines shall only be utilized to transport CO_2 to or from a CO_2 capture, removal, or sequestration project once the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) has concluded its pending rulemaking regarding minimum federal safety standards for transportation of CO_2 by pipeline and the CO_2 project operator demonstrates that the pipeline meets those standards. This provision does not apply to carbon captured at a permitted facility and transported within that facility or property. (Public Resources Code (PRC) 71465(a))

8) Requires the Natural Resources Agency, in consultation with the Public Utilities Commission, to provide a proposal to the Legislature to establish a state framework and standards for the design, operation, siting, and maintenance of intrastate pipelines carrying CO_2 fluids. (PRC 71465(b))

9) Pursuant to the Elder Act:

   a) Grants the OSFM exclusive safety, regulatory, and enforcement authority over intrastate hazardous liquid pipelines. (Government Code (GC) 51010)

   b) Defines "pipeline" for the purposes of the Elder Act as every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances; and does not include an interstate pipeline subject to federal regulations, a pipeline that transports hazardous substances in a gaseous state, and other specified exclusions. (GC 51010.5)

   c) Requires OSFM to adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions. (GC 51011)

   d) Requires every newly constructed pipeline, existing pipeline, or part of a pipeline system that has been relocated or replaced, and every pipeline that transports a hazardous liquid substance or highly volatile liquid substance, to be tested in accordance with federal regulations and every pipeline more than 10 years of age and not provided with effective cathodic protection to be hydrostatically tested every three years, except for those on the OSFM's list of higher risk pipelines, which shall be hydrostatically tested annually. (GC 51013.5)

   e) Requires every operator of an intrastate pipeline to maintain each valve and check valve necessary for safe pipeline operations, and requires OSFM to promulgate regulations for maintaining, testing, and inspecting these valves. (GC 51015.4)

   f) Authorizes OSFM to assess and collect from every pipeline operator an annual administrative fee. (GC 51019)

10) Pursuant to federal law:

   a) Grants the United States Secretary of Transportation the regulatory and enforcement authority over gas and hazardous liquid pipelines, including CO_2 pipelines. (49 United States Code 60102)

   b) Prohibits the Secretary of Transportation from prescribing or enforcing safety standards and practices for an intrastate pipeline or intrastate pipeline facility to the extent that the safety standards and practices are regulated by a state authority, except as provided. (49 United States Code 60105)

   c) Defines "carbon dioxide," for the purposes of the PHMSA regulations, as a fluid consisting of more than 90% carbon dioxide molecules compressed to a supercritical state. (49 Code of Federal Regulations195.2)

THIS BILL:

1) Requires the OSFM, by April 1, 2026, to adopt regulations governing the safe transportation of CO_2 in pipelines that are "equivalent" to draft regulations issued by PHMSA on January 10, 2025. Provides that these regulations may be initially adopted as emergency regulations under the Administrative Procedures Act (APA).

2) Permits the OSFM to amend the regulations, as it deems necessary after adoption, to provide standards for various issues, including pipeline design, materials, use of odorants, leak detection, and emergency response, among other issues.

3) Requires all new and existing CO_2 pipelines to comply with the OSFM regulations and any amendments to those regulations.

4) Allows the OSFM to order a CO_2 pipeline to shut down for violations of state or federal law, or if continued operations present immediate danger.

5) Lifts the moratorium on intrastate pipelines used for CO_2 transport for CO_2 capture, removal, or sequestration projects on the OSFM has adopted regulations, and the pipeline operator demonstrates that the pipelines meets the standards in the regulations.

6) Establishes findings related to CO_2 pipelines, largely focused on carbon capture being part of the state's climate strategy.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. There are a number of CO_2 sources. An abundant source is from underground reservoirs where CO_2 under pressure occurs naturally. It can also be produced commercially in natural gas plants, ammonia plants, and recovered from power plant stack gas with carbon capture technology.

   At normal temperatures and atmospheric pressure, CO_2 is an odorless and colorless gas, not flammable, and denser than air. It will not combust, but it can be fatal to humans if enclosed due to the potential for suffocation. CO_2 may exist either as a solid or gas depending on temperature and pressure. Dry ice for refrigeration is a common use of CO_2 in solid form. When pressurized to extremely high pressures (1,200 pounds per square inch gauge (psig)), CO_2 enters a supercritical state. Supercritical CO_2 is a fluid state where CO_2 is held at or above its critical temperature and critical pressure, where its properties are midway between a gas and a liquid.

   PHMSA regulations define CO_2 as a fluid consisting of more than 90% CO_2 molecules compressed to a supercritical state. The remaining 10% may be comprised of gases such as water, nitrogen, oxygen, methane, or other impurities. Federal standards set CO_2 impurity limits for transportation pipelines.

   Pipeline transportation of CO_2 in the supercritical state is more practical than transportation in the gaseous state. As a dense vapor in the supercritical state, CO_2 can be transported more economically and efficiently using smaller pipelines and pumps because greater volumes of

fluid may be transported. Most CO_2 is transported in the supercritical state in steel pipelines kept at 2,200 psig.

CO_2 has been used for many years to aid in the production of crude oil. Because of its high degree of solubility in crude oil and abundance, CO_2 is a popular extraction tool in enhanced oil recovery (EOR) projects. In EOR, the CO_2 mixes with crude oil making the oil more mobile and easier to extract. Supercritical CO_2 has also grown in popularity as a solvent in the chemical industry, where it can replace more toxic, volatile organic compounds.

PHMSA has exclusive federal authority over interstate pipeline facilities. An interstate pipeline is defined as a pipeline that is used in the transportation of hazardous liquid or CO_2 in interstate or foreign commerce. Typically, these lines cross state borders or begin in federal waters.

OSFM regulates intrastate hazardous liquid pipelines pursuant to the Elder Act, while the PUC regulates intrastate gas pipelines (both natural gas and liquid petroleum gas, or propane). An intrastate pipeline is defined as a pipeline that is located entirely within state borders, including offshore state waters.

OSFM may regulate portions of interstate hazardous liquid pipelines located within the state, if there is an agreement between PHMSA and OSFM. OSFM is only allowed to enter into an agreement with PHMSA if it is given all regulatory and enforcement authority of the pipelines subject to the agreement. The vast majority of hazardous liquid pipelines in California carry petroleum.

The Elder Act was written in the 1980s to address petroleum pipelines. It has been updated over the years in the wake of petroleum pipeline accidents to add safety requirements based on issues unique to petroleum pipelines, most recently following the 2015 Refugio spill in Santa Barbara County. However, the original Act, as well as the updates, are geared towards petroleum infrastructure and characteristics, as well as lessons learned from petroleum pipeline accidents.

CO_2 is not currently defined as a hazardous substance under PHMSA regulations. As noted above, the most dangerous hazard of CO_2 is asphyxiation. Because CO_2 is denser than air, it may pool in enclosed spaces or fail to disburse when released in areas without strong air circulation. The most deadly incident involving CO_2 occurred in 1986 in Lake Nyos, Cameroon which is one of only three lakes in the world known to be naturally saturated with CO_2. An eruption of dissolved CO_2 in the lake suddenly released an estimated 1.6 million tons of CO_2 into the air, killing 1,700 people and 3,500 livestock. However, industrial CO_2 accidents may also occur, such as a 2008 leak at a fire extinguishing installation in Germany, which led to the hospitalization of 19 people. More recently, a CO_2 pipeline accident occurred in Satartia, Mississippi in February 2020, when a pipeline that was part of a network used for EOR ruptured, causing the evacuation of local residents and the hospitalization of 46 people.

According to a 2023 California Natural Resources Agency report to the Legislature, PHMSA has delegated regulatory authority for intrastate pipelines to OSFM. However, OSFM's jurisdiction under this delegation is limited to enforcing the federal standards, rather than establishing state standards. Currently, PHMSA has only established safety standards

regarding the transport of CO_2 in a supercritical state at a concentration of 90% or higher. The transport of CO_2 in concentrations of less than 90%, or in liquid or gas form is unregulated. PHMSA has noted this regulatory gap is due to the limited (supercritical-phase only) CO_2 pipelines in operation in 1991 during the creation of the original federal rules.

PHMSA initiated an update to its CO_2 pipeline safety standards after the Satartia accident, and on January 10, 2025, issued draft regulations. These draft regulations included 18 proposals, including:

- Redefining "carbon dioxide" to be a fluid of more than 50% CO_2 molecules in any combination of gas, liquid, or supercritical phases.

- Establishing procedures to convert steel pipelines for CO_2 or hazardous liquid transport.

- Requiring all CO_2 pipeline operators to provide training to emergency responders that addresses threats specific to CO_2 releases and provide equipment to local first responders for use during a CO_2 pipeline emergency.

- Requiring leak detection, fixed vapor detection, and alarm systems for CO_2 pipelines.

- Requiring operators of all CO_2 pipelines to establish emergency planning zones extending two miles on either side of their pipelines that will inform operators' efforts in ensuring members of the public have adequate emergency response information.

2) **Author's statement**:

Carbon capture is a critical and necessary strategy to reduce GHG emissions and achieve our climate goals. Models published by the Intergovernmental Panel on Climate Change (IPCC) and the International Energy Agency (IEA) require removing up to 20 gigatons of CO_2 per year from the atmosphere to limit global warming to 1.5 degrees celsius.

Recognizing its importance, billions of dollars are being invested in carbon capture by industry, the private sector, and governments. In 2022 the Department of Energy committed $3.7 billion to finance projects to remove planet-warming carbon from the atmosphere to meet the nation's goal of net-zero GHG emissions by 2050.

On January 10, 2025, the Biden Administration released draft federal regulations that would have lifted the SB 905 moratorium. Unfortunately, there was not enough time to formalize these regulations by adding them to the federal registry. Under the current administration, federal pipeline safety regulations will be, at best, delayed, or, at worst, dangerous.

California must act to establish robust pipeline safety regulations. By picking up where the Biden Administration left off, we can accelerate the safe deployment of carbon pipelines in California, leverage billions of dollars in federal support to meet our climate goals, and create thousands of high-road green jobs.

3) **Suggested amendments**. The author and the committee may wish to consider the following amendments:

   a) Require OSFM to consider the use of odorants, and require the use of odorants if OSFM finds the use of an odorant is feasible, safe, and effective.

   b) Prohibit OSFM from approving the conversion of existing liquid or gas pipelines to CO_2 pipelines.

   c) Require CO_2 captured and claimed for GHG requirements under AB 32 that is transported in a pipeline, to be transported in a pipeline that meets or exceeds the standards established pursuant to this bill.

4) **Double referral**. This bill was heard by the Utilities and Energy Committee on April 23 and passed by a vote of 17-0.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Pipe Trades Council (co-sponsor)
Sacramento Municipal Utility District (co-sponsor)
California & Nevada State Association of Electrical Workers (IBEW)
California Carbon Solutions Coalition
Calpine Corporation
Clean Energy Systems
Coalition of California Utility Employees
IBEW Local 1245
Pacific Gas and Electric Company
United Association Local 250
United Association Local 342

Opposition

1000 Grandmothers for Future Generations Bay Area
350 Bay Area Action
350 Contra Costa Action
350 Humboldt
350 Santa Barbara
Asian Pacific Environmental Network
Biofuelwatch
California Youth vs. Big Oil
Center for Biological Diversity
Climate Equity Policy Center
Climate Hawks Vote
Climate Health Now Action Fund

Climate Reality San Francisco Bay Area Chapter
El Pueblo Para El Aire y Agua Limpia de Kettleman City
Elders Climate Action
Elders Climate Action, Northern California Chapter
Extinction Rebellion San Francisco Bay Area
Food & Water Watch
Food Empowerment Project
Fossil Free California
Good Neighbor Steering Committee
Greenpeace USA
Interfaith Climate Action Network of Contra Costa County
Labor Rise Climate Jobs Action Group
Oil & Gas Action Network
Oil Change International
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Progressive Democrats of Benicia
Protect Monterey County
San Francisco Bay Physicians for Social Responsibility
San Francisco Baykeeper
SanDiego350
Santa Cruz Climate Action Network
See (Social Eco Education)
Sierra Club California
Sunflower Alliance
Unidos Network
West Berkeley Alliance for Clean Air and Safe Jobs

Oppose Unless Amended

Center on Race, Poverty & the Environment
Central California Environmental Justice Network
Leadership Counsel Action

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 914 (Garcia) – As Amended March 24, 2025

SUBJECT: Air pollution: indirect sources: toxic air contaminants

SUMMARY: Requires the Air Resources Board (ARB) to adopt rules to control emissions of criteria pollutants and toxic air contaminants (TACs) from indirect sources, as defined, and authorizes ARB to adopt fees on indirect sources, as specified.

EXISTING LAW:

1) The federal Clean Air Act (CAA) and its implementing regulations set National Ambient Air Quality Standard (NAAQS) for six criteria pollutants, designate air basins that do not achieve NAAQS as nonattainment, and require states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. (42 U.S.C. 7401 *et seq.*)

2) Establishes ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the CAA. (Health and Safety Code (HSC) 39000 *et seq.*)

3) Requires, subject to the powers and duties of the ARB, air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. (HSC 40001)

4) Requires air districts to develop attainment plans detailing how they will attain and maintain state air quality standards, and submit those plans to ARB. (HSC 40910 *et seq.*)

5) Requires ARB to:

    a) Review the district attainment plans to determine whether the plans will achieve and maintain state air quality standards by the earliest practicable date.

    b) Review district rules, regulations and programs to determine whether they are sufficiently effective to achieve and maintain state air quality standards.

    c) Review district and other local enforcement practices to determine whether reasonable action is being taken to enforce their programs, rules, and regulations.

    (HSC 41500)

6) Authorizes ARB, if it finds that the program or the rules and regulations of a district will not likely achieve and maintain state air quality standards, to establish a program, or rules and regulations it deems necessary to enable the district to achieve and maintain such standards, which shall have the same force and effect as a district program, rule, or regulation and shall be enforced by the district. (HSC 41504)

7) Authorizes ARB, if it finds that a district is not taking reasonable action to enforce the statutory provisions, rules, and regulations relating to air quality in such a manner that will likely achieve and maintain state air quality standards, to exercise any of the powers of that district to achieve and maintain such standards. (HSC 41505)

8) Requires ARB to adopt rules and regulations that, in conjunction with measures adopted by the air districts and the U.S. Environmental Protection Agency, will achieve and maintain NAAQS. (HSC 39602.5)

9) Requires ARB to adopt airborne toxic control measures (ATCMs) to reduce emissions of TACs from non-vehicular sources, as specified. (HSC 39666)

10) Authorizes a district to adopt and implement regulations to reduce or mitigate emissions from indirect and areawide sources of air pollution, while preserving the existing authority of counties and cities to plan or control land use. (HSC 40716)

11) Requires each district with moderate air pollution to include provisions to develop areawide source and indirect source control programs in its attainment plan. (HSC 40918)

12) Authorizes a district to adopt a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the district to recover the costs of district programs related to these sources. (HSC 42311)

THIS BILL:

1) Requires ARB, if necessary to carry out its duties to adopt rules and regulations to achieve NAAQS, to adopt and enforce rules and regulations applicable to indirect sources of emissions. Requires ARB to do all of the following:

    a) Consult with affected districts to ensure that any state regulation supports district emission reduction needs.

    b) Establish a schedule of fees on facilities and mobile sources limited in amount to cover only the reasonable costs of implementing and enforcing the regulations.

    c) Eliminate or minimize impacts to disadvantaged, low-income, and high-poverty communities.

    d) Prioritize controls for indirect sources that have the most significant impact on air quality or contribute to high-level, localized concentrations of pollutants in disadvantaged, low-income, and high-poverty communities.

2) Requires ARB to establish a statewide reporting program to quantify emissions and annually collect related information from indirect sources of emissions, including data from on-road and off-road mobile sources that visit those sources, but are not owned or operated by those sources.

3) Requires ARB, for a given TAC or ATCM, to adopt and enforce rules and regulations applicable to indirect sources of emissions. Requires ARB do all of the following:

a) Consult with affected districts to ensure that any state regulation supports district emission reduction needs.

b) Establish a schedule of fees on facilities and mobile sources limited in amount to cover only the reasonable costs of implementing and enforcing the regulations.

c) Prioritize controls for indirect sources that have the most significant impact on air quality or contribute to high-level, localized concentrations of pollutants in disadvantaged, low-income, and high-poverty communities.

4) Authorizes ARB to assess and collect fees on emitters of TACs, limited to an amount sufficient to cover ARB's reasonable costs, which may be used for:

a) Developing new, and amending existing, ATCMs.

b) Developing new, and amending existing, emission reduction measures for on-road and nonroad sources.

c) Implementing and enforcing ATCMs and emission reduction measures for on-road and nonroad sources.

d) Identifying, quantifying, inventorying, monitoring, evaluating, and reducing emissions of toxic pollutants in communities across the state, as determined to be necessary by the state board.

5) Defines "indirect source" by reference to the CAA definition, i.e., "a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution…" (42 U.S.C. 7410(a)(5)(C))

6) Makes related findings.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> My constituents are all too familiar with the deadly and harmful effects of air pollution – for years, it was difficult to see the San Gabriel Mountains clearly through the smog. Though impressive and effective strides have been taken to address the impact of warehouses in the area, there is still more that could be done regarding other pollution hotspots. And while my district has the worst air quality in the nation, we are not unique in dealing with these issues, as 87% of Californians live in areas that do not meet federal air quality standards. AB 914 is an important measure that provides the state with the tools it needs to reduce emissions and safeguard public health, while prioritizing flexibility and collaboration.

2) **Background**. The CAA defines indirect sources as "a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of

pollution." For example, a warehouse or port could be an indirect source; it does not produce significant emissions itself, but it causes concentration of mobile sources in a place they may not otherwise have been. New indirect sources are reviewed to ensure they will not attract sufficient mobile sources to exceed any NAAQS.

Actions taken to reduce these emissions (indirect source rules, or ISRs) can vary significantly and be implemented flexibly. Implementing an ISR could look like installing zero-emission vehicle infrastructure, requiring mobile sources to use cleaner technology, or requiring other mitigations or fees. In California, ISRs are currently the exclusive purview of the air districts, although many of the actions required under an ISR may have significant overlap with other mobile source regulations imposed by ARB. Still, other actions considered as part of an ISR could resemble actions taken by local governments, such as carrying out projects that are part of a Sustainable Communities Strategy. In short, the exact confines and contours of what an ISR can and cannot be are not entirely clear in statute.

In 2021, the South Coast Air Quality Management (SCAQMD) adopted the Warehouse ISR, which requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide (NOx) and diesel particulate matter (PM) emissions, or to otherwise reduce emissions and exposure of these pollutants in nearby communities.

According to SCAQMD, warehouses are a key destination for heavy-duty trucks and have other sources of emissions like cargo handling equipment, all of which contribute to local pollution, including toxic emissions, to the communities that live near them. Emissions from sources associated with warehouses account for almost as much NOx emissions as all the refineries, power plants, and other stationary sources in the South Coast Air Basin combined. Those living within a half mile of warehouses are more likely to include communities of color, have higher rates of asthma and heart attacks, and a greater environmental burden.

As part of the rule, warehouse operators need to earn a specified number of points annually. These points can be earned by completing actions from a menu that includes acquiring and using natural gas near-zero and/or zero-emission on-road trucks, zero-emission cargo handling equipment, solar panels, or zero-emission charging and fueling infrastructure and more. As alternatives to the points system, warehouse operators can prepare and implement a custom plan specific to their site or choose to pay a mitigation fee. Funds from mitigation fees will be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in communities near the warehouse that paid the mitigation fee.

In 2020, ARB adopted the Advanced Clean Truck (ACT) regulation to accelerate a large-scale transition to zero-emission medium-and heavy-duty vehicles from Class 2b to Class 8. One component of the regulation is a manufacturer sales requirement. Manufacturers who certify Class 2b-8 chassis or complete vehicles with combustion engines would be required to sell zero-emission trucks as an increasing percentage of their annual California sales from 2024 to 2035. By 2035, zero-emission truck/chassis sales would need to be 55% of Class 2b – 3 truck sales, 75% of Class 4 – 8 straight truck sales, and 40% of truck tractor sales.

To further the transition to a zero-emission fleet, at the end of 2020, Governor Newsom issued Executive Order (EO) N-79-20, which requires 100% of medium- and heavy-duty vehicles in the state be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. EO N-79-20 charged ARB with developing and proposing medium- and

heavy-duty vehicle regulations requiring increasing volumes of new zero-emission trucks and buses sold and operated in the state towards that goal. ARB proposed the Advanced Clean Fleet (ACF) regulation, which requires all Class 2b-8 vehicles sold into California must be ZEVs starting in 2036. Implementation of ACF relies on approval of CAA waiver by U.S. EPA, which has not been granted.

3) **If air districts have ISR authority, then ARB has ISR authority (if they want it)**. ARB's authority to regulate indirect sources is…indirect. Under current law, if ARB finds that a district is not taking reasonable action to enforce the statutory provisions, rules, and regulations relating to air quality in such a manner that will likely achieve and maintain state air quality standards, ARB may exercise any of the powers of that district to achieve and maintain such standards.

   This bill elevates ARB's role in the ISR world, giving ARB direct and broad authority to regulate indirect sources to control both criteria pollutants and TACs, as well as authority to impose fees on sources to pay ARB's costs associated with these authorities. The bill also requires ARB to establish a statewide indirect source reporting program. Finally, the bill gives ARB broad authority to impose fees on emitters of TACs for a broad range of purposes beyond controlling emissions of TACs from indirect sources.

4) **Related legislation**. SB 318 (Becker) makes numerous changes to permitting processes for local air districts and ARB, in large part to expand the scope of lower- or zero-emission alternatives considered when permitting polluting sources. The bill also included indirect source regulation and fee provisions similar to this bill. SB 318 passed the Senate Environmental Quality Committee on April 23, by a vote of 5-3, with amendments to remove the ISR provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

Earthjustice (sponsor)
Alliance of Nurses for Healthy Environments
American Lung Association in California
Asthma Coalition of Los Angeles County
Better World Group Advisors
Breathe Southern California
California Environmental Voters
California Nurses for Environmental Health and Justice
California Thoracic Society
CCEAJ
Center for Climate Change & Health
Center for Environmental Health
Central California Environmental Justice Network
Cleanearth4kids.org
Climate Action California
Climate Health Now
Coalition for Clean Air
Comite Civico Del Valle

Communities for a Better Environment
East Yard Communities for Environmental Justice
Environmental Defense Fund
Environmental Health Coalition
Facts: Families Advocating for Chemical & Toxics Safety
Leadership Counsel for Justice & Accountability
National Association of Pediatric Nurse Practitioners - San Francisco Bay Area Chapter
National Association of Pediatric Nurse Practitioners, Los Angeles
Natural Resources Defense Council
Nurse Heroes for Zero
Ocean Conservancy
Pacific Environment
People's Collective for Environmental Justice
Physicians for Social Responsibility - Sacramento Chapter
Public Health Advocates
Regional Asthma Management and Prevention (RAMP)
San Francisco Baykeeper
Santa Clara County Medical Association
Sierra Club California
Society of Latinx Nurses
St John's Community Health
The Climate Center
Union of Concerned Scientists
Vote Solar

Opposition

Agricultural Energy Consumers Association
American Pistachio Growers
American Trucking Associations
Associated General Contractors
Association of Equipment Manufacturers
Building Owners and Managers Association of California
California Advanced Biofuels Alliance
California Airports Council
California Association of Port Authorities
California Business Properties Association
California Chamber of Commerce
California Cotton Ginners and Growers Association
California Council for Environmental & Economic Balance
California Forestry Association
California Fresh Fruit Association
California Grocers Association
California Manufacturers & Technology Association
California Moving and Storage Association
California Railroads Association
California Renewable Transportation Alliance
California Retailers Association
California State Council of Laborers

California Tomato Growers Association
California Trucking Association
Chemical Industry Council of California
Clean Energy
Forest Landowners of California
Harbor Trucking Association
Hexagon Agility
International Warehouse Logistics Association
NAIOP California
NAIOP SoCal Chapter
Pacific Merchant Shipping Association
Specialty Equipment Market Association
Supply Chain Federation
The Transport Project
Transportation California
Trillium
Western Growers Association
Western Plant Health Association
Western Propane Gas Association
Western States Petroleum Association
Western Tree Nut Association

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 996 (Pellerin) – As Amended April 21, 2025

SUBJECT: Public Resources: California Coastal Act of 1976: California Coastal Planning Fund

SUMMARY: Establishes a process for local governments to seek consultation from the California Coastal Commission (Commission) on sea level rise planning and establishes the California Coastal Planning Fund (Fund) to help local governments adequately plan for the protection of coastal resources and public accessibility to the coastline.

EXISTING LAW:

1) Establishes the Coastal Act, which provides for the planning and regulation of development within the coastal zone. (Public Resources Code (PRC) 30000)

2) Requires local governments in the coastal zone to have a local coastal program (LCP) approved by the Commission for the local government's land use plans. (PRC 30500)

3) Establishes the San Francisco Bay Conservation and Development Commission (BCDC) to regulate the San Francisco Bay and the first 100 feet inland from the shoreline around the Bay. (Government Code 66620)

4) Requires the Commission to take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise. (PRC 30270)

5) Requires the Commission to adopt procedures for the preparation, submission, approval, appeal, certification, and amendment of a LCP, including recommendations and guidelines, which shall be periodically updated by the commission to incorporate new information as it becomes available, for the identification, assessment, minimization, and mitigation of sea level rise within each local coastal program, taking into account local and regional conditions and the differing capacities and funding available to local governments. (PRC 30501)

6) Creates the California Sea Level Rise State and Regional Support Collaborative within the Ocean Protection Council to provide state and regional information to the public and support to local, regional, and other state agencies for the identification, assessment, planning, and, where feasible, the mitigation of the adverse environmental, social, and economic effects of sea level rise within the coastal zone, as provided. (PRC 30972 (a)(1))

7) Requires a local government lying, in whole or in part, within the coastal zone or within the jurisdiction of BCDC, to develop a sea level rise plan as part of either of their LCP or subregional San Francisco Bay shoreline resiliency plan, whichever is applicable. Requires all covered local governments to comply by January 1, 2034. (PRC 30985)

8) Authorizes, pursuant to the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Proposition 4) $10 billion in general obligation bonds to

finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs. (PRC 90000 – 95015)

THIS BILL:

1) Establishes the Fund in the State Treasury to help local governments adequately plan for the protection of coastal resources and public accessibility to the coastline. Upon appropriation by the Legislature, requires moneys deposited into the Fund to be available to the Commission for the following:

    a) Costs for local governments to prepare, adopt, and revise LCPs;

    b) Costs for local governments to prepare, adopt, and revise sea level rise plans; and,

    c) Costs for Commission staff to review LCPs and for BCDC staff to review sea level rise plans. Those costs shall not exceed 20% of the annual deposits into the Fund.

2) Requires the Commission to expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients.

3) Requires eligible recipients of funding to be local agencies, including cities and counties, the Commission, and BCDC.

4) Requires, to be eligible for funding, grants, loans, contracts, or services provided to a local government to have a clear and definite purpose associated with the planning efforts required to provide public benefits related to coastal resource protection and public accessibility of the California coast.

5) Authorizes the Commission to undertake any of the following actions to administer the Fund:

    a) Provide for the deposit of any of the following moneys into the Fund:

        i) Federal contributions;

        ii) Voluntary contributions, gifts, grants, or bequests; and,

        iii) Financial participation by a public agency in an activity authorized for funding from the Fund.

    b) Enter into agreements for contributions to the Fund from the federal government, local or state agencies, private corporations, and nonprofit organizations.

    c) Direct portions of the Fund to a subset of eligible applicants as required or appropriate based on funding source.

    d) Take additional action as may be appropriate for adequate administration and operation of the Fund.

    e) Set appropriate requirements as a condition of funding.

6) Provides that actions to administer the Fund are not subject to the Administrative Procedure Act.

7) Provides that this bill does not expand any obligation of the state to provide resources for the provisions of this bill or to require the expenditure of additional resources beyond the amount of moneys deposited into the Fund.

8) Authorizes the Commission or BCDC to deem existing sea level rise information or sea level rise plans prepared by a local government to satisfy one or all of the requirements of the sea level rise plan required as part of a LCP or subregional San Francisco Bay shoreline resiliency plan.

9) Encourages a local government to consult with the Commission, on or before January 1, 2029, in preparation of a LCP or an amendment to a LCP to ensure that, upon formal submission of the LCP or an amendment to the LCP to the Commission, the materials are sufficient for a thorough and complete review.

10) States that a local government's participation in an early consultation is voluntary.

11) States the intent of an early consultation is to help a local government to timely meet the requirements of the sea level rise planning requirements. Participation in an early consultation at any time does not prevent a local government from submitting a required sea level rise plan.

12) Requires, if a local government seeks to engage in an early consultation at any time with the Commission, the following to occur:

    a) A local government is required to initiate the early consultation by notifying Commission staff in writing that the local government seeks to engage in a consultation. After providing this notification, the local government is required to provide the Commission a summary report on the status of its efforts to develop a sea level rise plan, including any draft components, and authorizes the local government to provide a draft LCP or an amendment to a LCP that is intended to satisfy the sea level rise plan requirements;

    b) Authorizes an early consultation to include a singular meeting or regular meetings. The meeting schedule is required to be mutually agreed upon by the local government and the Commission;

    c) Commission staff is required to offer written recommendations to a local government about what may preclude certification of a LCP or an amendment to a LCP including, but not limited to, information about what satisfies the requirements for the sea level rise plan; and,

    d) Commission staff is required to provide recommendations in a reasonable timeframe that is mutually agreed upon by both the local government and the Commission.

13) Finds and declares that this bill serves the public purpose of protecting coastal resources and public accessibility to the coastline and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Due to recent legislation which requires Local Coastal Programs to include robust sea level rise planning by 2034, coastal jurisdictions are anticipating new and updated LCPs to be submitted to the California Coastal Commission around the same time. This has the potential for causing a bottleneck in the review and certification process. AB 996 would encourage local governments to engage in early consultation with the Coastal Commission before they finalize and submit their LCPs for Commission certification. AB 996 also establishes the California Coastal Planning Fund in the State Treasury, where future contributions and appropriations will support the preparation, adoption and revision of LCPs, including the incorporation of sea level rise plans, ensuring that local governments and the Commission have the resources they need to comply with state law and effectively address climate change impacts.

2) **Sea level rise planning**. Some communities have conducted vulnerability assessments and begun planning for sea level rise and extreme storms, but many have not and few projects have been launched. SB 1 (Atkins), Chapter 236, Statutes of 2021, was enacted to direct the Commission to prioritize sea level rise when approving required LCP and provide up to $100 million a year in grant funding to local and regional governments for planning.

   Subsequently, SB 272 (Laird), Chapter 384, Statutes of 2023, requires coastal cities to develop sea level rise plans by January 1, 2034, as part of their LCPs, or submit a subregional San Francisco Bay shoreline resiliency plan to BCDC consistent with the guidelines established by BCDC that recognize and build upon the guiding principles of the Bay Adapt Joint Platform. The law also requires specified coastal agencies to establish guidelines for the plans by December 31, 2024.

   Pursuant to SB 272, a sea level rise plan is required to, at a minimum, use the best available science and include a vulnerability assessment that includes efforts to ensure equity for at-risk communities; sea level rise adaptation strategies and recommended projects; identification of lead planning and implementation agencies; and, a timeline for updates, as needed, based on conditions and projections and as determined by the local government in agreement with the Commission or BCDC. That timeline for plan updates is required to include economic impact analyses of costs to critical public infrastructure and recommended approaches for implementing the sea level rise adaptation strategies and recommended projects.

3) **Funding for sea level rise planning**. The Commission's LCP Local Assistance Grant Program, which pre-dates SB 1, provides grants to support local governments in completing or updating LCPs consistent with the California Coastal Act, with special emphasis on planning for sea level rise and climate change. As of April 2024, 34 local governments have completed Coastal Commission-funded vulnerability assessments, and 18 have completed grant-funded adaptation planning studies. Twelve have used that information to update their LCP's Land Use Plan or Implementation Plans. In 2021, the Legislature approved a one-time, $30 million General Fund augmentation as part of the budget surplus. The Commission

has an approximate $4 million balance remaining. There has not been a line-item appropriation since 2021 given the availability of funds from the General Fund appropriation.

Last November, voters approved Proposition 4 to authorize, among many other things, $75 million for the California Sea Level Rise Mitigation and Adaptation Act of 2021, or SB 1. In anticipation of future appropriations, AB 996 sets up the Fund to help local governments adequately plan for the protection of coastal resources and public accessibility to the coastline. Local governments could receive funds to cover their costs to prepare, adopt, and revise LCPs or sea level rise plans.

4) **Sea level rise planning implementation**. Since SB 272 was enacted, no LCP has been certified as meeting the sea level rise requirements, and no subregional shoreline adaptation plan has been submitted to BCDC for review – but it's early (the law went into effect just last year), and development of these plans will take a lot of time and resources.

   Currently, 45 of the 55 local Bay Area jurisdictions in BCDC authority have some level of sea level rise planning in their General Plan. In December 2024, BCDC adopted Regional Shoreline Adaptation Plan to provide guidelines to local governments for fulfilling the requirements of SB 272, and will be rolling out a technical assistance program over the next two years to its local jurisdictions to complete their subregional plans.

   For jurisdictions in the coastal zone, it's more complicated. 85% of the coastal zone is governed by a local LCP, meaning some coastal cities have a LCP, and some do not. Further, some LCPs may be more current; others may not have been certified in years, which could necessitate more comprehensive updates to the LCP when amending the LCP to meet the SB 272 mandate. Development and approval of a LCP can take years, and a significant amount of staff to complete. Consulting with the Commission early in the process can facilitate a local government addressing any concerns related to sea level rise plan components.

   This bill does two things to acknowledge the magnitude of work for sufficient sea level rise planning: first, it authorizes the Commission or BCDC, whichever is applicable, when approving a LCP or an amendment to a LCP, to deem existing sea level rise information or plans prepared by a local government to satisfy the content requirements for a sea level rise plan. This is to reflect the work done to-date in advancing compliance with SB 272.

   Second, the bill would provide that local governments are encouraged to, on or before January 1, 2029, consult with the Commission, in a voluntary early consultation, regarding sea level rise plans in the preparation of a LCP or an amendment to a LCP.

5) **Committee amendments**. The *committee may wish to consider* amending the bill to clarify in PRC 30527(d)(5) that the Commission and BCDC may each set appropriate requirements as a condition of funding for their respective funding.

REGISTERED SUPPORT / OPPOSITION:

Support

League of California Cities

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1095 (Papan) – As Amended April 21, 2025

SUBJECT: Data centers: waste heat energy

SUMMARY: Makes projects that capture and convert data centers' waste heat eligible for the Climate Catalyst program administered by the Infrastructure and Economic Development Bank (I-Bank).

EXISTING LAW establishes the Climate Catalyst Revolving Loan Fund Program at the I-Bank and prescribes which projects are eligible for funding within the program. (Government Code 63048.91 *et seq.*)

THIS BILL adds to the Climate Catalyst Fund projects that enable the capture and conversion of data centers' waste heat.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. Thermal energy storage is a technology that stores thermal energy, or heat, for use at a later time. There are several ways that thermal energy can be stored for later use, including changing temperature of a specific material like steel slag or volcanic rock that retains the heat, or by performing a chemical reaction that can release energy at a later time. These types of technology can enable industrial waste heat recovery. Thermal energy storage technologies have the possibility to be implemented across multiple industries.

   Data centers are facilities that house large volumes of high-performance computers, storage systems, and computing infrastructure. They are crucial for maintaining internet-based communications and providing certain services, including virtually all cloud-based computing. These systems require continuous power and cooling, which requires a substantial amount of electricity. According to the U.S. Department of Energy, data centers consume 10 to 50 times more energy than similarly sized commercial office buildings. The California Energy Commission estimated that data centers accounted for 2% of California's electricity demand in 2019. Since then, the technology sector has seen a boom in artificial intelligence (AI) and a corresponding growth in load. As a result, grid planners expect electricity consumption by data centers to accelerate more rapidly over the next five years and beyond.

   The Climate Catalyst Program was established by AB 78 (Chapter 10, Statutes of 2020), a budget trailer bill. The program authorizes the I-Bank to provide financial support for infrastructure projects that work toward the state's climate goals. The Climate Catalyst fund is available to a variety of projects that further the state's climate goals.

2) **Author's statement**:

   > AB 1095 is a pivotal step toward enhancing California's clean energy innovation. This bill will make data centers that pursue waste heat conversion technologies eligible for

financing under the state's Climate Catalyst Program. With data centers accounting for a significant portion of the state's energy consumption and their waste heat largely going untapped, AB 1095 provides an innovative solution by encouraging the recycling of this otherwise wasted energy. By supporting investment in projects where data center operators repurpose their waste heat, this bill not only incentivizes energy efficiency but also aligns with California's broader climate goals of decarbonization and reducing greenhouse gas emissions. The proposal is timely, as it aligns with the growing demand for cloud services and regenerative AI technologies, ensuring that California remains at the forefront of clean energy advancement while effectively addressing the energy needs of the future.

3) **Double referral**. This was heard in the Utilities and Energy Committee on April 23 and passed by a vote of 18-0.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1106 (Michelle Rodriguez) – As Amended March 24, 2025

SUBJECT: State Air Resources Board: regional air quality incident response program

SUMMARY: Requires the Air Resources Board (ARB), subject to appropriation, to expand its incident air monitoring program to provide support for a regional network of air quality incident response centers (AQIRCs) operated by local air districts in order to facilitate emergency air monitoring response at the local and regional level.

EXISTING LAW:

1) The federal Clean Air Act (CAA) and its implementing regulations set National Ambient Air Quality Standard (NAAQS) for six criteria pollutants, designate air basins that do not achieve NAAQS as nonattainment, and require states with nonattainment areas to submit a State Implementation Plan (SIP) detailing how they will achieve compliance with NAAQS. (42 U.S.C. 7401 *et seq.*)

2) Establishes ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and coordinate with local air districts to control emissions from stationary sources in order to implement the CAA. (Health and Safety Code (HSC) 39000 *et seq.*)

3) Requires ARB to (1) divide the state into air basins based upon similar meteorological and geographic conditions, and consideration for political boundary lines whenever practicable, and (2) adopt air quality standards for each air basin in consideration of the public health, safety, and welfare. (HSC 39606)

4) Requires, subject to the powers and duties of the ARB, air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal air quality standards in all areas affected by emission sources under their jurisdiction, and to enforce all applicable provisions of state and federal law. (HSC 40001)

5) Requires air districts to develop attainment plans detailing how they will attain and maintain state air quality standards, and submit those plans to ARB. (HSC 40910 *et seq.*)

THIS BILL:

1) Requires ARB, subject to appropriation, to expand its incident air monitoring program to provide support for a regional network of AQIRCs operated by districts in order to facilitate emergency air monitoring response at the local and regional level.

2) Requires ARB to establish AQIRCs throughout the state, in coordination with districts and including at least one AQIRC in the south coast district. Requires ARB to coordinate with, and provide funding to, districts.

3) Requires ARB and each district that operates an AQIRC to coordinate to provide emergency air monitoring response for disasters or other crises impacting air quality and public health.

4) Authorizes funding for specified purposes.

5) Requires the State Air Quality Health Officer to support local response by doing both of the following:

   a) Providing expertise to translate air monitoring data collection, analyses, and modeling results in terms of impacts on public health.

   b) Coordinating with relevant state and local agencies, local governments, and public health departments, including districts, to provide unified command and joint information centers, and with other organizations with air quality data and analysis to inform the public and local response and recovery efforts.

6) Requires, as part of the operation of an AQIRC, air quality monitoring to be conducted for targeted air contaminants of concern, in coordination with unified command centers, joint information centers, other state agencies, and other entities, as appropriate.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. The Palisades and Eaton Fires burned 23,700 and 14,000 acres, respectively. The University of California – Los Angeles' Anderson School of Management estimates that the economic impacts of the wildfires could range between $76 billion and $131 billion, with insured losses estimated up to $45 billion. The impact on local businesses and employees in the affected areas is an estimated $297 million.

   On top of the economic impacts, wildfires are devastating to public health. Wildfire smoke poses a significant public health threat, particularly due to fine particulate matter (PM2.5), which can cause respiratory and cardiovascular problems and exacerbate existing health conditions. It can travel deep into the lungs and may even enter the bloodstream. For urban wildfires, air toxics are a concern as smoke and ash from homes and businesses can contain asbestos, metals, and other pollutants of concern.

   Wildfires are not the only health-impacting events requiring localized air monitoring. In November 2023, a fire at a historic hangar at the former Tustin Air Base led to a public health emergency due to the presence of asbestos in debris and ash samples collected near the hangar. The smoke and debris also tested positive for heavy metals, including lead, arsenic and nickel. The city of Tustin declared a local state of emergency, and the Orange County Board of Supervisors declared a county-wide state of emergency. The cleanup costs exceeded $54 million. A similar event also took place in January 2025, when a fire erupted at the Moss Landing Power Plant, a large battery storage facility, located south of San Francisco. The incident led to evacuation orders for about 1,200 nearby residents. About 80% of the structure and its batteries were destroyed in the fire. After burning through the night, emergency officials declared the fire a local emergency.

According to the author, these events highlight the critical need for enhanced localized air monitoring response to emergency events. Once funded, AB 1106 would provide timely information on existing levels of potentially dangerous air pollutants emitted as a result of wildfires and other disasters or emergencies to increase public awareness and inform health and emergency response agencies. This information will help improve emergency preparedness and response, protect public health, and strengthen statewide and local air quality management.

2) **Author's statement**:

Over the last several years numerous catastrophic events affecting air quality and public safety have occurred throughout the state. The recent unprecedented urban wildfires in Southern California have further demonstrated the critical need for increased resources to expand and enhance localized air monitoring response to emergency events.

AB 1106 would strengthen California's existing air quality incident response program by establishing a modernized, well-equipped, and coordinated regional network of Air Quality Incident Response Centers, in collaboration with CARB and local air districts.

AB 1106 would provide timely information on existing levels of potentially dangerous air pollutants emitted as a result of wildfires and other disasters or emergencies, to increase public awareness and better inform health and emergency response agencies. This information will help improve emergency preparedness and response, protect public health, and strengthen statewide and local air quality management.

REGISTERED SUPPORT / OPPOSITION:

Support

South Coast Air Quality Management District (sponsor)
California Air Pollution Control Officers Association
San Diego County Air Pollution Control District

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1207 (Irwin) – As Amended March 17, 2025

SUBJECT: Climate change: market-based compliance mechanism: price ceiling

SUMMARY: Specifies that the full social cost associated with emitting a metric ton of greenhouse gases (GHGs), i.e., "social cost of carbon," which is a factor the Air Resources Board (ARB) must consider when establishing a price ceiling on allowances in its cap-and-trade regulation, is "as determined by the U.S. Environmental Protection Agency (USEPA) in November 2023."

EXISTING LAW:

1) Requires ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020, to ensure that statewide GHG emissions are reduced to at least 40% below the 2020 statewide limit no later than December 31, 2030, and to adopt rules and regulations to achieve maximum technologically feasible and cost-effective GHG emission reductions. (Health and Safety Code (HSC) 38500 *et seq*.)

2) Declares the policy of the state to achieve net 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 any direct regulation or market-based compliance mechanism to achieve GHG reductions that are real, permanent, quantifiable, verifiable, and enforceable by ARB. (HSC 38562)

4) Authorizes ARB, in furtherance of achieving the 2020 statewide limit, to adopt a regulation that establishes a system of market-based declining annual aggregate emission limits for sources or categories of sources that emit GHG emissions, applicable from January 1, 2012, to December 31, 2020, to comply with GHG reduction regulations, once specified conditions are met. Under this authority, ARB adopted a cap-and-trade regulation which applies to large industrial facilities and electricity generators emitting more than 25,000 metric tons of carbon dioxide equivalent per year, as well as distributors of fuels, including gasoline, diesel, and natural gas. In 2017, AB 398 (E. Garcia), Chapter 135, Statutes of 2017, extended ARB's cap-and-trade authority to 2030, required ARB to establish a price ceiling on GHG emission allowances in consideration of specified factors, including the social cost of carbon, added several new conditions governing the management and allocation of allowances, and reduced limits on compliance offsets. (HSC 38562)

   Specifically, AB 398 requires ARB to:

   a) Evaluate and address concerns related to over-allocation of the number of available allowances;

b) Establish allowance banking rules that discourage speculation, avoid financial windfalls, and consider the impact on complying entities and volatility in the market;

c) Limit the use of offsets to 4% of a covered entity's compliance obligation from 2021 to 2025 and 6% from 2026 to 2030, of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in state;

d) Report to the Legislature, in consultation with the Independent Emissions Market Advisory Committee (IEMAC), if two consecutive auctions exceed specified allowance price limits; and,

e) Report to the relevant fiscal and policy committees of the Legislature, including the Joint Committee on Climate Change Policies (JLCCCP), regarding implementation of the cap-and-trade regulation.

5) Requires ARB, when it adopts regulations to achieve GHG emission reductions beyond the 2020 statewide limit, to consider social costs and prioritize direct emission reductions at large stationary, mobile, and other sources. (HSC 38562.5)

6) Defines "social costs" as an estimate of the economic damages, including, but not limited to, changes in net agricultural productivity; impacts to public health; climate adaptation impacts, such as property damages from increased flood risk; and changes in energy system costs, per metric ton of greenhouse gas emission per year. (HSC 38506)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. Beginning on January 1, 2013, the cap-and-trade regulation set a firm, declining cap on total GHG emissions from sources that make up approximately 80% of all statewide GHG emissions. Sources included under the cap are termed "covered entities." The cap is enforced by requiring each covered entity to surrender one "compliance instrument" for every emissions unit (i.e., metric ton of carbon dioxide equivalent or $MTCO_2e$) that it emits at the end of a compliance period.

   Two main forms of compliance instruments are used: allowances and offsets. Allowances are generated by the state in an amount equal to the cap and may be "banked" (i.e., allowing current allowances to be used for future compliance). An offset is a credit intended to represent a real, verified, permanent, and enforceable emission reduction project from a source outside a capped sector (e.g., a certified carbon-storing forestry project). Allowances and offsets both have some controversy surrounding their design and implementation in California's cap-and-trade program.

   The oversupply and banking of allowances has been an ongoing debate for years. The banking of past years' allowances to fulfill future compliance obligations can become problematic.

   Offsets are widely used by individuals, corporations, and governments to mitigate their GHG emissions on the assumption that offsets reflect equivalent climate benefits achieved elsewhere. These climate-equivalence claims depend on offsets providing real and additional

climate benefits beyond what would have happened, counterfactually, without the offsets project. In California, offsets constitute a significant source (6.3%) of the supply of compliance instruments in the market, with forest offsets producing about 80% of offset supply to date.

According to the author's office, ARB is currently required to account for the social cost of carbon when determining the allowance price ceiling in the cap-and-trade market. However, the source or value for the social cost of carbon are not specified. By specifying the source and value that ARB should use, the bill will ensure that the market structure of California's cap-and-trade program is built on the best available data.

According to a December 2023 announcement by USEPA:

> In the regulatory impact analysis of EPA's December 2023 Final Rulemaking, "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review," EPA estimated climate benefits using a new set of Social Cost of Greenhouse Gas (SC-GHG) estimates. These estimates incorporate recent research addressing recommendations of the National Academies of Science, Engineering, and Medicine (2017), responses to public comments on an earlier sensitivity analysis using draft SC-GHG estimates included in the December 2022 supplemental proposed rulemaking, and comments from a 2023 external peer review of the accompanying technical report.
>
> The final technical report, "Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances," explains the methodology underlying the new set of SC-GHG estimates and is included in the docket for the final Oil and Gas rule (HQ-OAR-2021-0317). EPA also conducted an external peer review of the report.

https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf

2) **Author's statement**:

> California's cap-and-trade program is one of our state's flagship climate policies and is regarded as one of the most effective, and most cost-effective, mechanisms for greenhouse gas emission reduction worldwide. As the federal government retreats from efforts to address climate change, it is more important than ever that California's climate policies remain strong and grounded in rigorous scientific research. AB 1207 directs ARB to use the social cost of carbon value published by USEPA in 2023 to structure the cap-and-trade market, ensuring that California's cap-and-trade program continues to be informed by the best available science and promoting affordability by maximizing the environmental benefit of perhaps our most cost-effective emissions-reduction program.

REGISTERED SUPPORT / OPPOSITION:

Support

Verified Emissions Reduction Association (VERA)

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1227 (Ellis) – As Amended April 11, 2025

SUBJECT: California Environmental Quality Act: exemption: wildfire prevention projects

SUMMARY: Exempts specified wildfire prevention projects from the California Environmental Quality Act (CEQA).

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.

THIS BILL:

1) Exempts wildfire prevention projects from CEQA.

2) Defines "wildfire prevention project" as the installation and maintenance of fuel breaks, fuels reduction, roadside fuels reduction, forest thinning, prescribed fire, reforestation, timber harvesting, fuel treatments in the wildland-urban interface, dead fuel removal, and other projects that reasonably could be considered fuels reduction or vegetation management.

3) Provides that no reimbursement is required by this bill pursuant to the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Government agencies should not be forced to wait for paperwork and environmental impact reports before they can clear brush or cut firebreaks. The California Environmental Quality Act was never meant to stop life-saving wildfire prevention efforts, but that's exactly what it's doing. AB 1227 cuts through bureaucratic red tape and allows wildfire prevention projects to move forward without CEQA delays, ensuring that California is better prepared to prevent and mitigate the next catastrophic wildfire event.

2) **Emergency proclamation**. On January 7, multiple major wildfires erupted concurrently in Los Angeles burning an area nearly the size of Washington, D.C., killing 28 people and damaging or destroying nearly 16,000 structures. In response, Governor Newsom issued Executive Order (EO) N-4-25 exempting rebuilding efforts from CEQA and the Coastal Act to accelerate redevelopment, and issued EO N-18-25 to provide local agencies moderate and high fire hazard maps and compel the development of "zone 0" regulations for defensible space for ember resistance around homes. Further, on March 1 the Governor issued an emergency proclamation ordering a suspension of all laws, regulations, rules, and requirements that fall within the jurisdiction of boards, departments, and offices within the California Environmental Protection Agency (CalEPA) and the California Natural Resources Agency (NRA) to be suspended for expediting critical fuels reduction projects initiated this calendar year.

   Fuels reduction projects include:

   - Removal of hazardous, dead, and/or dying trees;
   - Removal of vegetation for the creation of strategic fuel breaks as identified by approved fire prevention plans, including without limitation CAL FIRE Unit Fire Plans or Community Wildfire Preparedness Plans;
   - Removal of vegetation for community defensible space;
   - Removal of vegetation along roadways, highways, and freeways for the creation of safer ingress and egress routes for the public and responders and to reduce roadside ignitions;
   - Removal of vegetation using cultural traditional ecological knowledge for cultural burning and/or prescribed fire treatments for fuels reduction; or,
   - Maintenance of previously-established fuel breaks or fuels modification projects.

   Under the proclamation's exemptions, there is a process established for use of the exemptions. Entities are required to ask NRA to make a determination that the activities are eligible under the proclamation, and all of the departments and agencies under NRA and CalEPA will post on their respective websites the approved CEQA and Coastal Act exemptions. Further, any activity conducted under the temporary exemptions is still required to comply with the state Environmental Protection Plan

3) **This bill**. This bill would exempt a suite of unspecified wildfire prevention projects that may be covered under existing exemptions, including the emergency proclamation from CEQA.

4) **Committee amendments**. The *committee may wish to consider* seeing how implementation of the Governor's emergency proclamation is implemented before adopting these exemptions indefinitely, and amend the bill to limit the CEQA exemption to 2 years for vegetation management projects conducted in communities in very high fire hazard severity zones, and require, on or before January 31, 2026, NRA and CalEPA to each report to the Legislature on the implementation of the emergency proclamation.

5) **Related legislation**:

   a) AB 442 (Hadwick) exempts from CEQA all prescribed fire, thinning, or fuel reduction projects undertaken within a community with a single ingress and egress evacuation route. This bill is referred to the Assembly Natural Resources Committee.

   b) AB 623 (Dixon) exempts from CEQA and the California Coastal Act fuel modification projects to maintain defensible space of 100 feet from each side and from the front and rear of a building or structure or a fuel reduction project to prevent and contain the spread of wildfires. This bill is referred to the Assembly Natural Resources Committee.

   c) AB 687 (Patterson) authorizes projects exclusively for noncommercial wildfire fuels reduction in timberland, paid for in part or in whole with public funds, to prepare a timber harvesting plan (THP) as an alternative to complying with CEQA, and would require these projects to be regulated as timber operations. AB 687 is referred to the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Independent Insurance Agents & Brokers of California, Inc.

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1280 (Garcia) – As Amended March 25, 2025

SUBJECT: Energy

SUMMARY: Makes heat pump and thermal energy storage projects that decarbonize industrial facilities' use of heat and power eligible for specified Infrastructure and Economic Development Bank (I-Bank) and California Energy Commission (CEC) funding programs. Requires an industrial decarbonization project funded by the I-Bank to include a project labor agreement and a community benefits fund or agreement.

EXISTING LAW:

1) Establishes the Climate Catalyst Revolving Loan Fund Program at the I-Bank and prescribes which projects are eligible for funding within the program. (Government Code 63048.*91 et seq.*)

2) Establishes and prescribe requirements for the Long Duration Energy Storage (LDES) Program at the CEC to provide financial incentives for energy storage projects that have power ratings of at least one megawatt and are capable of reaching a target of at least eight hours of continuous discharge of electricity. (Public Resources Code (PRC) 25640 *et seq.*)

3) Establishes the Industrial Decarbonization and Improvements to Grid Operations (INDIGO) Program at the CEC to provide incentives for the implementation of projects that provide significant benefits to the electrical grid, reduce greenhouse gas (GHG) emissions, achieve the state's clean energy goals, and exceed compliance requirements. (PRC 25662 *et seq.*)

THIS BILL:

1) Adds to the Climate Catalyst Fund projects that enable decarbonization of industrial facilities' use of heat and power, including industrial heat pumps and thermal energy storage. Requires an industrial decarbonization project funded by the I-Bank to include a project labor agreement, as specified, and a community benefits fund or agreement.

2) Establishes the Industrial Facilities Thermal Energy Storage Program within the existing Long Duration Energy Storage Program allowing eligible thermal energy projects to qualify for existing financial incentives.

3) Includes thermal energy storage under the Industrial Decarbonization and Improvement of Grid Operations Program (INDIGO). Adds additional requirements and priorities within the INDIGO program language, including the creation of project labor agreements, pollution remediation plans and community benefit funds or agreements.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Background**. According to ARB's 2024 report tracking trends in emissions by economic sector, the industrial sector generated 23% of total GHG emissions in the state. The industrial sector emissions are primarily driven by refining and hydrogen production, oil and gas, cement production, and cogeneration emissions attributed to industrial process heat. Industrial process heat is defined as heat energy (thermal energy) used for preparation or treatment of materials that produce manufactured goods.

   Thermal energy storage is a technology that stores thermal energy, or heat, for use at a later time. There are several ways that thermal energy can be stored for later use, including changing temperature of a specific material like steel slag or volcanic rock that retains the heat, or by performing a chemical reaction that can release energy at a later time. These types of technology can enable industrial waste heat recovery. For example, the painting process in automobiles is one of the highest energy consumption steps in manufacturing, where the painting and curing involve significant consumption of electricity (fans, volatiles removal), fuel (curing ovens), and hot or chilled water. Thermal energy storage technologies have the possibility to be implemented across multiple industries, including the food, textile, chemical, and petrochemical industries, among others.

   The Climate Catalyst Program was established by AB 78 (Chapter 10, Statutes of 2020), a budget trailer bill. The program authorizes the I-Bank to provide financial support for infrastructure projects that work toward the state's climate goals. The Climate Catalyst fund is available to a variety of projects that further the state's climate goals.

   The LDES Program was established by AB 205 (Chapter 61, Statutes of 2022), a budget trailer bill. The program provides financial incentives for projects that have power ratings of at least one megawatt and are capable of reaching a target of at least eight hours of continuous discharge of electricity. The goal of the program is to encourage energy storage to build resiliency in the grid and avoid generation issues during hours of peak energy usage in the state.

   The INDIGO Program was established by AB 209 (Chapter 251, Statutes of 2022), a budget trailer bill. AB 209 provided $90 million to INDIGO for incentives for industrial projects that provide benefits to the electric grid, reduce emissions, and local air pollution. The INDIGO program successfully funded industrial decarbonization projects, but the funds have since been exhausted. The CEC's current Long Duration Energy Storage (LDES) program also leverages funding from the California Climate Investments initiative and is intended to support grid resiliency and emissions reductions, but does not currently extend eligibility to solutions like thermal energy storage in the industrial sector which support the LDES program goals.

2) **Author's statement**:

   > The Inland Empire (IE) is home to over hundreds of industrial facilities and 4,000 warehouses, taking up 1 billion square feet of the region. As a consequence, the IE ranks among the worst in the nation for air pollution, particularly ozone and particulate matter. While California's industrial sector helps to employ more than 1.1 million people and generates roughly 10% of the state's total economic output, it is also responsible for nearly 25% of all greenhouse gas emissions in California. Many of these facilities are concentrated in regions that already suffer from poor air quality and can have

disproportionate health impacts on historically disadvantaged and environmentally burdened communities. Not to mention they are placed near residential neighborhoods and children's schools, exposing students and families to pollution, particularly for students that walk to school. To improve air quality and help achieve California's climate goals, AB 1280 would expand three existing state incentive programs to encourage new thermal energy storage projects without reducing in-state jobs or raising prices for consumers.

3) **Double referral**. This was heard in the Utilities and Energy Committee on April 2 and passed by a vote of 17-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Earthjustice (co-sponsor)
Industrious Labs (co-sponsor)
350 Bay Area Action
350 Humboldt
350 Southland Legislative Alliance
American Council for an Energy-Efficient Economy
Brightline Defense
California Climate Action
California Environmental Voters
Californians for Disability Rights
Center for Community Action and Environmental Justice
Central Coast Alliance United for a Sustainable Economy
Clean Coalition
Clean Power Campaign
Climate Action Campaign
Climate Reality Project - Silicon Valley Chapter
Coalition for Clean Air
East Yard Communities for Environmental Justice
Los Angeles Cleantech Incubator
Marin Clean Energy
NorCal Elders Climate Action
People's Collective for Environmental Justice
Physicians for Social Responsibility - San Francisco Bay
San Francisco Baykeeper
Santa Cruz Climate Action Network
Sierra Club California
SoCal Elders Climate Action
Sunflower Alliance
Sustainable Mill Valley
The Climate Center
Third ACT Sacramento
Vote Solar

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1311 (Hart) – As Amended March 28, 2025

SUBJECT: California Rangeland, Grazing Land, and Grassland Protection Program

SUMMARY: Appropriates, from the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Proposition 4), $400 million for the Wildlife Conservation Board (WCB) to award grants to eligible entities to acquire conservation easements on qualified property that is privately owned and supports the production of food and fiber and ecosystem services, including, but not limited to, wildfire fuel reduction, groundwater recharge, wildlife habitat, and open vistas.

EXISTING LAW:

1) Establishes the California Rangeland, Grazing Land, and Grassland Protection Program to protect California's rangeland, grazing land, and grasslands through the use of conservation easements. (Public Resources Code (PRC) 10331)

2) Authorizes, under the program, funds to be expended by WCB for the acquisition of conservation easements over qualified property and authorizes WCB to make grants of funds to a state agency, local public agency, or nonprofit organization for the acquisition of conservation easements over qualified property. (PRC 10334)

3) Requires WCB to authorize the acquisition of real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. (Fish and Game Code 1348)

4) Authorizes, pursuant to Proposition 4, $870 million, upon appropriation by the Legislature, to WCB for grant programs to protect and enhance fish and wildlife resources and habitat and achieve the state's biodiversity, public access, and conservation goals. (PRC 93010)

THIS BILL:

1) Defines "eligible entity" as an entity that meets all of the following criteria:

    a) The entity has received accreditation from the Land Trust Accreditation Commission at the time of applying for a grant;

    b) The entity demonstrates the capacity to acquire a conservation easement within 18 months of the award of a grant; and,

    c) The entity demonstrates the financial capacity to comply with perpetual stewardship monitoring requirements associated with accreditation from the Land Trust Accreditation Commission.

2) Appropriates $400 million from Proposition 4 to WCB.

3) Requires WCB to award the funds as grants to eligible entities to acquire conservation easements on qualified property that is privately owned and supports the production of food and fiber and ecosystem services, including, but not limited to, wildfire fuel reduction, groundwater recharge, wildlife habitat, and open vistas.

4) Provides that a grant awarded to an eligible entity may comprise both of the following amounts:

   a) Up to 100% of the appraised value of a conservation easement, as determined by a qualified appraisal that has been reviewed and approved by the Department of General Services.

   b) Up to $75,000 for expenses related to the processing of a conservation easement.

5) Requires, on or before June 30, 2027, WCB to disburse 75% of the funds to grantees through grant agreements.

6) Requires, on or before June 30, 2028, WCB to disburse the remaining 25% of the funds to grantees through grant agreements.

7) Requires WCB to allocate the funds as follows:

   a) $25 million to eligible entities in the northern region, consisting of the Counties of Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, and Trinity.

   b) $40 million to eligible entities in the north coast region, consisting of the Counties of Del Norte, Humboldt, Lake, Mendocino, and Sonoma.

   c) $10 million to eligible entities in the mountain region, consisting of the Counties of Alpine, El Dorado, Mono, Nevada, Placer, and Sierra.

   d) $20 million to eligible entities in the Sacramento Valley region, consisting of the Counties of Butte, Colusa, Glenn, Sacramento, Solano, Sutter, Yolo, and Yuba.

   e) $55 million to eligible entities in the San Joaquin Valley region, consisting of the Counties of Amador, Calaveras, Fresno, Kern, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tulare, and Tuolumne.

   f) $75 million to eligible entities in the bay area region, consisting of the Counties of Alameda, Contra Costa, Marin, Napa, Santa Clara, Santa Cruz, San Francisco, and San Mateo.

   g) $95 million to eligible entities in the central coast region, consisting of the Counties of Monterey, San Benito, Santa Barbara, and San Luis Obispo.

   h) $5 million to eligible entities in the desert region, consisting of the Counties of Inyo and San Bernardino.

   i) $75 million to eligible entities in the southern region, consisting of the Counties of Imperial, Los Angeles, Orange, Riverside, San Diego, and Ventura.

8) Authorizes, if WCB determines, on or before June 30, 2027, that it is unable to allocate funds in that schedule due to a lack of demand, WCB to, in its discretion, reallocate those funds to another region where there is a higher demand.

9) Requires, on or before June 30, 2029, a grantee to expend the grant funds to acquire a conservation easement and record the conservation easement.

10) Authorizes WCB to partner with, and receive funds from, land trusts that are certified by the Natural Resources Conservation Service of the United States Department of Agriculture under the federal Agricultural Conservation Easement Program, as part of the Agricultural Land Easement component of the program, for purposes of implementing this bill.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> AB 1311 will help California reach our 30x30 goals by funding voluntary conservation easements through the Wildlife Conservation Board's Rangeland, Grazing Land and Grassland Protection Program. The bill will provide financial incentives to landowners to protect rangelands, while simultaneously helping the state meet our conservation goals through a cost-effective approach. AB 1311 will help advance conservation on California's working lands, support wildfire fuel reduction, groundwater recharge, wildlife habitat, and the preservation of open space.

2) **Proposition 4**. The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, approved by the voters as Proposition 4 at the November 5, 2024, statewide general election, authorized $10 billion in general obligation bonds to finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs.

   Of these funds, the bond act makes $870 million available to WCB for grant programs to protect and enhance fish and wildlife resources and habitat and achieve the state's biodiversity, public access, and conservation goals.

3) **Rangelands**. California is home to 38 million acres of rangeland that provides open space, watersheds, carbon storage, food, fiber and habitat for diverse plants and wildlife. On average, approximately 50,000 acres of farmland and rangeland are lost per year, of that 21,000 acres per year are lost to urbanization. According to a 2016 American Farmland Trust report on the status of farmland across the nation, California is on track to lose 500,000 acres of rangeland and pastureland by 2040. Over the last two centuries, 75% of the state's native vegetation and more than 90% of wetlands have been altered, reducing biodiversity and ecological resilience. Conversion of rangeland to urban uses may increase GHG emissions up to 100-fold. The state's 2019 Draft *California 2030 Natural and Working Lands Climate Change Implementation Plan* notes that, to achieve conservation and carbon sequestration

goals on rangelands, the 2030 goal incudes increasing fivefold the acres of cultivated lands and rangelands under state-funded soil conservation practices.

According to the author, investing in rangeland conservation protects important ecosystem services or environmental benefits that all Californians depend upon. For example, conserving rangelands protects watersheds, as more than two-thirds of surface waters used for municipal and crop production in California are derived from rangeland watersheds.

4) **This bill**. AB 1311 prescribes how $400 million of the $870 million authorized by Proposition 4 will be distributed regionally, and specifies that the purpose is to acquire conservation easements on qualified property that is privately owned and supports the production of food and fiber and ecosystem services, including, but not limited to, wildfire fuel reduction, groundwater recharge, wildlife habitat, and open vistas

   The author may wish to work with the Budget Committee as it considers all of the Proposition 4 funds for inclusion in the Fiscal Year 2025-26 Budget Act.

REGISTERED SUPPORT / OPPOSITION:

Support

California Cattlemen's Association
California Farm Bureau
California Rangeland Trust

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1395 (Harabedian) – As Introduced February 21, 2025

SUBJECT: Forestry: internal combustion engines: industrial operations: fire toolbox

SUMMARY: Requires a dedicated set of tools, including a sufficient number of fire extinguishers, to be located within the operating area on or near any forest, brush, or grass-covered land and accessible in the event of a fire, so that, when added to any other tools on the industrial operation, each employee at the operation can be equipped to fight fire.

EXISTING LAW, pursuant to Public Resources Code (PRC) 4428:

1) Prohibits a person, except any member of an emergency crew or except the driver or owner of any service vehicle owned or operated by or for, or operated under contract with, a publicly or privately owned utility, which is used in the construction, operation, removal, or repair of the property or facilities of such utility when engaged in emergency operations, from using or operating any vehicle, machine, tool or equipment powered by an internal combustion engine (ICE) operated on hydrocarbon fuels, in any industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools in the amounts, manner and location prescribed in this bill.

2) Requires, on any such operation a sealed box of tools to be located, within the operating area, at a point accessible in the event of fire. This fire toolbox shall contain: one backpack pump-type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire.

3) Requires one or more serviceable chainsaws of three and one-half or more horsepower with a cutting bar 20 inches in length or longer to be immediately available within the operating area, or, in the alternative, a full set of timber-felling tools shall be located in the fire toolbox, including one crosscut falling saw six feet in length, one double-bit ax with a 36-inch handle, one sledge hammer or maul with a head weight of six, or more, pounds and handle length of 32 inches, or more, and not less than two falling wedges.

4) Requires each rail speeder and passenger vehicle, used on such operation to be equipped with one shovel and one ax, and any other vehicle used on the operation to be equipped with one shovel. Each tractor used in such operation shall be equipped with one shovel.

THIS BILL:

1) Requires, on an industrial operation, a dedicated set of tools to be located within the operating area, at a point accessible in the event of fire. This fire toolbox shall contain a sufficient number of fire extinguishers, axes, McLeod fire tools, and shovels, so that when added to any other tools on the operation, each employee at the operation can be equipped to fight fire.

2) Requires one or more serviceable chainsaws of three and one-half or more horsepower with a cutting bar 20 inches in length or longer shall be immediately available within the operating area, or, in the alternative, a full set of timber-felling tools shall be located in the fire toolbox, including one crosscut falling saw six feet in length, one double-bit ax with a 36-inch handle, one sledge hammer or maul with a head weight of six or more pounds and handle length of 32 inches or more, and not less than two falling wedges.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> This bill is a common-sense measure to protect our communities, natural resources, and industries from the devastating impacts of wildfires. By ensuring that industrial operations in fire-prone areas have proper fire prevention tools and emergency response capabilities, we can significantly reduce the risk of human-caused wildfires. With longer and more intense fire seasons, we must take proactive steps to prevent disasters before they start.

2) **Dangers of ICE-powered equipment**. ICE equipment, whether fueled by gasoline, diesel, propane, natural gas, or other fuels, can act as ignition sources. ICEs can ignite fires due to fuel leaks, electrical malfunctions, overheating, and exhaust sparks. Without proper precautions, industrial machinery can quickly turn a small spark into a large, uncontrollable wildfire. The California Occupational Safety and Health Administration has standards for professionals to use to ensure that ICE equipment is stored and used to prevent fire. Current law prohibits a person from using ICE-powered equipment on an industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools in the specified amounts, manner and location.

3) **Tool box**. Current law requires the availability of a sealed box of tools onsite of an industrial operation to be accessible in the event of fire onsite. The fire toolbox is required to contain one backpack pump-type fire extinguisher filled with water, two axes, two McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire.

   This bill updates the toolbox to remove the requirement for a backpack pump extinguisher with water and the two McLeod fire tools, and instead requires it to contain a sufficient number of fire extinguishers, unspecified number of McLeod fire tools, and qualifies the number of shovels to be enough so that when added to any other tools on the operation, each employee at the operation can be equipped to fight fire.

4) **Getting it right**. The Associated California Loggers expresses concern that this bill is premature because meetings are "underway between the Association and CAL FIRE to work out administrative direction to inspectors and other personnel on enforcement of regulations derived from PRC 4228 that AB 1395 would amend. The meetings are specifically to address

ambiguities in [current law].” Those meetings could inform the amendments in this bill to make the law less vague and work better for the loggers who have to comply with it.

The author may wish to consider working with both the Association and CAL FIRE to identify any proposed amendments to PRC 4228 that come out of those discussions that could be incorporated into this bill.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1425 (Arambula) – As Amended March 28, 2025

SUBJECT: San Joaquin River Parkway: pit dewatering

SUMMARY: Prohibits pit dewatering in areas with subsurface river flow or groundwater levels shallower than 50 feet below ground anywhere within the San Joaquin River Parkway.

EXISTING LAW: Pursuant to the Surface Mining and Reclamation Act (SMARA) of 1975 (Public Resources Code (PRC) 2710-2796):

1) Prohibits a person from conducting surface mining operations unless the lead agency for the operation issues a surface mining permit and approves a reclamation plan and financial assurances for reclamation. Depending on the circumstances, a lead agency can be a city, county, the San Francisco Bay Conservation and Development Commission, or the California State Mining and Geology Board (Board). Reclamation plans and financial assurances must be submitted to the Director of the Department of Conservation (DOC) for review.

2) Requires the Board to impose an annual reporting fee for each active or idle mining operation.

3) Requires the Board to adopt regulations that establish state policy for the reclamation of mined lands in accordance with the intent of SMARA.

4) Requires lead agencies to require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan.

5) Requires the financial assurance to remain in effect for the duration of the surface mining operation and until the reclamation is complete. Requires the amount of financial assurance to be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

6) Requires lead agencies to conduct annual mine inspections to determine compliance with SMARA.

Pursuant to the California Environmental Quality Act (CEQA) (PRC 21000 *et seq*.):

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 a public review period for a draft EIR for no less than 30 days and requires the lead agency to consider comments it receives on a draft EIR, proposed negative declaration, or proposed mitigated negative declaration if those comments are received within the public review period.

THIS BILL:

1) Prohibits a person from conducting pit dewatering in areas with subsurface river flow or groundwater levels shallower than 50 feet below ground anywhere within the San Joaquin River Parkway, as defined in the "San Joaquin River Parkway Master Plan Update" from March 2018.

2) Defines "pit dewatering" means any water that is impounded or that collects in the pit and is pumped, drained, or otherwise removed from the pit through the efforts of the pit operator. This term also includes wet pit overflows caused solely by direct rainfall or ground water seepage.

3) Establishes this bill as an urgency because of the unique needs of the communities within and surrounding the San Joaquin River Parkway.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

   AB 1425 reflects a commitment to responsible stewardship of our natural resources, aligning with the broader goal of preserving California's environmental heritage for future generations.

   The San Joaquin River is a vital natural resource for our region, supporting diverse wildlife habitats and providing recreational opportunities for the community. Ensuring its protection is essential for the well-being of both the environment and local residents.

Assembly Bill 1425 aims to safeguard the San Joaquin River by prohibiting pit dewatering in areas where groundwater levels are shallower than 50 feet below ground. This bill will address concerns about potential negative environmental impacts to the river and ensure the river is protected from harm.

2) **San Joaquin River Parkway**. As the Master Plan describes it, the San Joaquin River Parkway is a planned 22-mile regional natural and recreation area primarily in the river's floodplain extending from Friant Dam to Highway 99, encompassing portions of both Fresno and Madera Counties. The adopted and proposed updated San Joaquin River Parkway Master Plan envisions: a primary multi-use trail from Friant Dam to Highway 99 (22+/- river miles); contiguous and continuous wildlife habitat and movement corridors; a regional, multifaceted parkway experience for visitors, consisting of river access, low-impact recreation, and conservation education; and, functional regional conservation and restoration of habitat, the watershed, and ecosystems. The Parkway today includes public lands and improvements owned by the San Joaquin River Conservancy, City of Fresno, County of Fresno, State Lands Commission, California Department of Fish and Wildlife/Wildlife Conservation Board, and Fresno County Office of Education, and those owned by the nonprofit San Joaquin River Parkway & Conservation Trust.

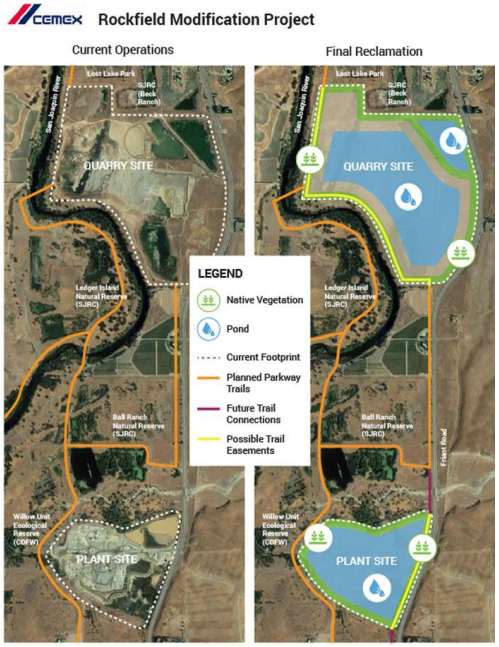
   By investing in conservation (more than 2,800 acres along the river) and providing green space to local communities, the parkway provides value to the community through educational opportunities, youth camps, recreation, and access to nature.

3) **Mining in California**. California has deposits of hundreds of different mineral commodities (such as gold, silver, tungsten, and boron) that have been mined over the state's history. Small-scale mining was well established in Southern California under Spanish and Mexican rule, but the discovery of gold in 1848 at Sutter's Mill near Coloma and the ensuing gold rush to the Sierra Nevada foothills in 1849 resulted in an enormous increase in mining activity in California. It was not until the 1970s that SMARA and the federal Surface Mining Control and Reclamation Act established comprehensive programs for the regulation of surface mining operations and the reclamation of mined lands.

   Today, there are 3,350 mines in California, more than a 1,000 of which are active, to remove aggregate for building material, metals, and minerals. Mining operators are required under SMARA to develop and implement reclamation plans, which will return the mine to a condition where it can be used for another purpose after the mining operation is complete.

4) **CEMEX**. The CEMEX Rockfield Quarry site is northeast of Fresno. Mining first occurred at the Quarry Site in 1913 through the 1920's. Mining and processing operations have been located on the site since 1924. Together, mining and processing operations have been continuous at the two sites for 106 years.

   In December of 2019, CEMEX filed the Rockfield Modification Project application with Fresno County proposing to modify operations with a new operational plan. Because the area is depleted by alluvial mining (i.e. extracting gravel, crushed stone, sand and clay from stream bed deposits), CEMEX is seeking county approval to blast and drill a 600-foot deep pit[i] into the San Joaquin River's bedrock bottom 3 miles outside the Fresno city limits.



Last December, the Fresno County Public Works and Planning Department published the draft Environmental Impact Report (EIR) for CEMEX's Rockfield Quarry Modification Project and issued a Notice of Intent to the public.

The comment period for the draft EIR closed mid-March and approximately 600 comments were received. The Planning Department is now responding to each of the comments as required by law. The Planning Department maintains the right to seek modifications to the plan in response to the comments. If the Planning Department approves the EIR, it must still go to the Fresno County Board of Supervisors for approval.

The U.S. Bureau of Reclamation (Reclamation) submitted comments concerning the impacts of the proposed project is located within the San Joaquin River Restoration Program (SJRRP) Restoration Area and has the potential to impact the Bureau of Reclamation's successful implementation of the San Joaquin River Restoration Settlement and the San Joaquin River Restoration Settlement Act (Public Law 111-11). Reclamation is concerned that the analysis presented in the draft EIR has an antiquated understanding of San Joaquin River hydrology and understates the current and future connectivity between the river and the pit proposed by CEMEX (?).

5) **This bill**. AB 1425 bans pit dewatering in areas with subsurface river flow or groundwater levels shallower than 50 feet below ground anywhere within the San Joaquin River Parkway, as defined in the "San Joaquin River Parkway Master Plan Update" from March 2018.

Pit dewatering refers to the process of removing water from an excavation site or pit, which is essential in construction and mining. An open pit mine, gravel pit, or rock quarry are all mine excavations that may require dewatering. Dewatering a mine excavation is necessary to provide dry access to the valuable mineral or aggregate when the excavation extends below the water table. Active dewatering usually involves pumping groundwater from inside or outside of the excavation in order to lower the groundwater table in the vicinity of the excavation.

According to the research *Effect of Open Pit Mine Dewatering and Cessation on a Semi-arid River Flows*, open pit mining that extends below the groundwater table captures groundwater and can cause a very large change to groundwater relations and river flow losses, due to dewatering that continued long after mining ceased during times when river baseflow is most important due to the lack of mine dewatering discharge into the river.

As currently proposed, the adaptive management plan in the draft EIR states that if, upon additional assessment it is confirmed "that a decrease in groundwater levels greater than 15 percent is exclusively attributable to mine dewatering, then corrective measures would be implemented." (4.10-109) Reclamation commented that the burden of proof is inappropriately placed in this circumstance, stating, "the applicant should bear the

responsibility to prove that their project does *not* contribute to impacts above 15 percent and, to the extent impacts may be attributable to them, appropriate corrective measures should be implemented." Reclamation expressed concern that the analysis of the proposed project provides limited data comparing the river stage and groundwater levels and does not evaluate the river at higher stages as are expected with continued implementation of the SJRRP.

6) **Overriding CEQA**. This bill circumvents the CEQA process for the proposed project before the review is complete, undercutting the value of that law.

CEQA is intended to inform government decision makers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage. The author acknowledges that CEQA is a powerful tool for protecting the environment, but worries its effectiveness hinges on appropriate implementation by responsible agencies. According to the author:

> Today, the San Joaquin River, one of the state's longest and most biologically diverse rivers is at risk due to an often unregulated process known as "pit dewatering." Pit dewatering, which involves removing water that accumulates in open-pit mines, risks altering groundwater tables and increasing the chance of water contamination. A proposed use of land adjacent to the river involving pit dewatering recently triggered a CEQA review to provide a clear evaluation and to outline mitigation measure necessary to address the environmental impacts posed by the project.
>
> Unfortunately, the published review failed to fully assess the hydrologic impacts of such operations near the San Joaquin River, including flood risk and groundwater-surface water interconnectivity. Public agencies, including the U.S. Bureau of Reclamation and the North Kings Groundwater Sustainability Agency, flagged several CEQA compliance failures, such as incomplete analysis of floodplain data and outdated hydrologic modeling.
>
> It is clear that the lead agency would be unable to make a decision that truly protects the SJR and its surrounding communities.

The California Construction & Industrial Materials Association (CalCIMA) writes in opposition that:

> This bill completely disregards the CEQA mitigation that was ordered upon the State when the San Joaquin River Parkway Master Plan Update was reviewed and approved. Mineral resources enhance our quality of life and infrastructure – they are, in fact, essential to our roads, bridges, housing, hospitals, clean drinking water, energy, and much more. As such, impacts on mineral resources are analyzed and mitigated within CEQA. The Parkway Master Plan includes such mineral resource mitigation policies to ensure respect for sand and gravel mining and provide for an orderly transition from working lands to conservation lands through the reclamation process. Indeed, the Master Plan includes revisions to the Draft EIR that further promote reclamation and protect conservation of those lands.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

Bizfed Central Valley
California Construction & Industrial Materials Association
California State Council of Laborers
Cemex INC.
International Union of Operating Engineers, Cal-Nevada Conference
State Building and Construction Trades Council

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

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[i] 45062-eir-7763-draft-project-description.pdf

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1426 (Kalra) – As Amended April 10, 2025

SUBJECT: Diablo Range Conservation Program

SUMMARY: Establishes the Diablo Range Conservation Program Act to preserve, and restore the Diablo Range's natural, cultural, and physical resources through the acquisition, restoration, and management of lands.

EXISTING LAW:

1) Establishes the California Natural Resources Agency (NRA), which oversees six state departments, 11 conservancies, 17 boards and commissions, three councils, and one urban park in Los Angeles that consists of two museums. (Government Code 12805)

2) Establishes the Wildlife Conservation Board (WCB) to investigate, study, and determine what areas within the state are most essential and suitable for wildlife production and preservation, and will provide suitable recreation, and authorize the acquisition of real property, rights in real property, water, or water rights as may be necessary, among other things. (Fish and Game Code 1320 – 1357)

3) Establishes 11 conservancies under the NRA to oversee restoration projects, land acquisitions, and recreational opportunities, among other things, in their respective regional jurisdictions. (Public Resources Code (PRC) Divisions 21-23.6)

4) Establishes the Santa Clara Valley Open-Space Authority and requires remote ranchlands east of the westernmost ridgeline of the Diablo Range to be acquired as permanent open space only from willing sellers through conservation easement or fee title purchases or the granting of lands or conservation easements by owners to the authority. (PRC 35152)

5) Authorizes the Department of Parks and Recreation to enter into a restoration agreement with Save Mount Diablo, a nonprofit organization, for the purpose of restoring the Mount Diablo Beacon on top of the Summit Building in Mount Diablo State Park. (PRC 5080.36.2)

6) Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Program (Proposition 12), approved by voters in 1991, authorized $250,000 Mount Diablo State Park. (PRC 5096.310 (w))

THIS BILL:

1) Establishes the Diablo Range Conservation Program Act.

2) Defines the following terms:

   a) "Diablo Range" as all areas extending from Carquinez Strait and Mount Diablo in the north to Orchard Peak, Polonio Pass, and State Route 46 in the south. The Diablo Range is bounded on the west by the San Francisco Bay, the Santa Clara Valley, State Route

101, and the Salinas Valley, and on the east by the San Joaquin River and Valley, and State Route 5.

b) "Fund" as the Diablo Range Conservation Fund.

c) "Program" as the Diablo Range Conservation Program.

d) "California Native American Tribe" has the same definition as PRC 21073.

3) Requires WCB to establish and administer, through the Department of Fish and Wildlife (DFW), the Program with the purpose and goal to do all of the following:

a) Protect, preserve, and restore the Diablo Range's natural, cultural, and physical resources through the acquisition, restoration, and management of lands;

b) Promote the protection and restoration of the biological diversity of the Diablo Range including the recovery of threatened and endangered species;

c) Provide for resilience within the Diablo Range to climate change, including, but not limited to, reducing the risk of natural disasters such as wildfires, controlling invasive species, protecting and improving habitat connectivity, and protecting soil carbon stores by limiting ground disturbance;

d) Protect and improve air quality and water resources within the Diablo Range; and,

e) Undertake efforts to enhance public use and enjoyment of lands owned by the public, with an emphasis on expanding opportunities for education and access to public lands for communities that currently lack access.

4) Requires WCB to approve projects to acquire, preserve, restore, and enhance habitat within the Diablo Range, consistent with conservation strategies approved by DFW, and coordinate its activities undertaken pursuant to the program with other resource protection activities of the board and other state agencies.

5) Requires the preservation and restoration of the Diablo Range landscape habitat to be a primary concern of WCB and DFW, and of all state agencies whose activities impact habitat within the Diablo Range.

6) Authorizes WCB to provide grants to local public agencies, nonprofit organizations, and California Native American tribes to be used for one or more of the following purposes:

a) The acquisition, restoration, and enhancement of fish and wildlife habitat and other natural resources, including resources impacted by wildfire, within and adjacent to the Diablo Range;

b) The improvement and expansion of public access, recreational areas, and recreational facilities, including trails;

c) The enhancement of interpretive and educational facilities related to the Diablo Range and its natural, cultural, and historic resources; and,

d) The control and removal of invasive species and the propagation of native species.

7) Requires, to the extent feasible, WCB to give preference to projects that use the services of the California Conservation Corps or Community Conservation Corps.

8) Establishes the Fund in the State Treasury to receive proceeds from bonds or other appropriations made in the annual Budget Act or other statutes for the benefit of the Diablo Range and related lands. Moneys in the fund shall be available, upon appropriation, for the purposes of this chapter. Moneys received by the board pursuant to this chapter shall be deposited in the Fund, unless otherwise provided by the State General Obligation Bond Law. WCB shall administer the moneys appropriated to it for purposes of the program and may expend those moneys for capital improvements, land acquisition, support for the program's operations, and other purposes consistent with this bill.

9) Authorizes WCB to accept money, grants, goods, or services contributed to it by a public agency or a private entity or person. Moneys received shall be deposited in the Donation Account, which is established in the Fund.

10) Provides that the Fund is continuously appropriated without regard to fiscal years to WCB.

11) Authorizes, upon receipt of goods and services, WCB to use those goods and services for the purposes of this bill.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> The Diablo Mountain Range is one of California's most precious ecological treasures, providing access to pristine natural land to hundreds of rare and culturally important species and millions of Californians that live in nearby towns and urban centers. It also serves as a critical wildlife corridor, allowing plants and animals to safely spread and migrate into other regional ecosystems. Yet, despite its innumerable benefits, we have only afforded protections to approximately a quarter of the Range, leaving the other three quarters at risk of irreversible damage. AB 1426 will help to address this shortfall by establishing the Diablo Range Conservation Program within the Wildlife Conservation Board, giving the Board the ability to approve and provide grants for projects that preserve and enhance the Range. With a centralized hub to coordinate and sustain work in the Diablo Range, California will be in a better position than ever to meet this critical conservation need.

2) **Diablo Range**. The Diablo Range extends from the Carquinez Strait in the north to Orchard Peak and Polonio Pass in the south, near the point where State Route 46 crosses over the Coast Ranges at Cholame, as described by the United States Geological Survey. It is bordered on the northeast by the San Joaquin River, on the southeast by the San Joaquin Valley, on the southwest by the Salinas River, and on the northwest by the Santa Clara Valley and San Francisco Bay.

In fact, the Diablo Range spans approximately 200 miles north to south and crosses twelve counties and covers 3.5 million acres—five times larger than Yosemite National Park.

The Diablo Range attracts far more raptors than coastal forests, such as red-tailed hawks. Golden eagle nesting sites are found in the Diablo Range, reaching their highest density in southern Alameda County. The Bay checkerspot butterfly, a federally listed threatened species, has habitat in the Range, especially at Mount Diablo. The California tiger salamander, also a federally threatened species and a vulnerable species of amphibian native to Northern California, lives in ponds in the range. The northern Pacific rattlesnake is thriving, as are many ground squirrels, hares, and various species of native and nonnative rodents. Tule elk were restored to Mount Hamilton between 1978–1981 and are slowly recovering in several small herds in Santa Clara and Alameda Counties.

Despite the ecological richness of the Diablo Range and the threats from energy development, suburban sprawl, and proposed dams and reservoirs, it has received remarkably little protection. In fact, only about 25% (875,000 acres) of the Range's land currently possesses any level of protection, and that has been through piece-meal efforts. Mount Diablo State Park covers about 20,000 acres, and other parks, including Alum Rock Park, Grant Ranch Park, Henry W. Coe State Park, Laguna Mountain Recreation Area, and the federal Clear Creek Management Area, cover smaller swaths of the Diablo Range. Some private land is held in conservation easements by the California Rangeland Trust, and around 100,000 acres have been protected by The Nature Conservancy. Save Mount Diablo, a nonprofit conservation group in the San Francisco Bay area, has worked to preserve space with local partners, like the East Bay Regional Park District, and plant native trees and plants.

The Coyote Valley Conservation Program is a comprehensive planning project for restoration of the Coyote Valley, which provides a critical corridor for wildlife migrating between the Santa Cruz Mountains and Diablo Range. The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Proposition 4) authorizes $25 million for the State Coastal Conservancy to protect and restore watersheds through the Coyote Valley Conservation Program in the County of Santa Clara. Funding to the Coyote Valley Conservation Program will help support the Diablo Range, but is emblematic of the patchwork conservation efforts for the Diablo Range.

3) **This bill**. This bill requires WCB to establish and administer the Diablo Range Conservation Program and approve projects to acquire, preserve, restore, and enhance habitat within the Diablo Range. Under the Program, WCB would provide grants to local public agencies, nonprofit organizations, and California Native American tribes to be used for acquisition, restoration, and enhancement of fish and wildlife habitat and other natural resources within and adjacent to the Diablo Range.

4) **Double referral**. This bill was heard in the Assembly Water, Parks & Wildlife Committee on April 8 and approved by a vote of 10-2.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Local Conservation Corps
Save Mount Diablo

Opposition

None on file

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1448 (Hart) – As Introduced February 21, 2025

SUBJECT: Coastal resources: oil and gas development

SUMMARY: Expands existing prohibition on offshore oil drilling to further prohibit the use of existing oil infrastructure to expand federal oil production.

EXISTING LAW:

1) Pursuant to the federal Outer Continental Shelf Lands Act, defines the outer continental shelf (OCS) as all submerged lands lying between the seaward extent of the state jurisdiction and the seaward extent of federal jurisdiction. (43 United States Code 1331 *et seq.*)

2) Defines "Pacific Outer Continental Shelf" as all submerged lands lying seaward of California, Hawaii, Oregon, and Washington and outside of the area of lands beneath navigable waters, as set forth by the federal Submerged Lands Act, and all of which appertain to the United States and are subject to its jurisdiction and control. (Public Resources Code (PRC) 6245)

3) Prohibits the State Lands Commission (SLC) or a local trustee from entering into any new lease or other conveyance authorizing new construction of oil- and gas-related infrastructure upon tidelands and submerged lands within state waters associated with OCS leases issued after January 1, 2018, with limited exceptions. (PRC 6245)

4) Requires SLC or local trustee, prior to approving any lease renewal, extension, amendment, or modification to authorize new construction of oil- and gas-related infrastructure upon tidelands and submerged lands within state waters associated with Pacific OCS leases issued after January 1, 2018, to consider whether the lease renewal, extension, amendment, or modification is necessary to protect the marine environment or to ensure human health and safety; whether the lease renewal, extension, amendment, or modification provides a benefit to the state beyond additional lease revenues; and, whether the lease renewal, extension, amendment, or modification will impact the volume of oil and gas that may be transported across state waters. (PRC 6245)

5) Authorizes SLC, in considering whether the approval of an assignment, transfer, or sublease of a lease or permit, to consider whether a proposed assignee is likely to comply with the terms of the lease or permit for the duration of both the primary term of the original lease or permit and any extended term of the lease because of production, as determined by specified factors. (PRC 6804)

6) Prohibits new or expanded oil and gas development from being considered a coastal-dependent industrial facility, and may be permitted only if found to be consistent with all applicable provisions and if all of the specified following conditions are met. (PRC 30262)

7) Requires all oil produced offshore California to be transported onshore by pipeline only. Requires the pipelines used to transport this oil to use the best achievable technology to

ensure maximum protection of public health and safety and of the integrity and productivity of terrestrial and marine ecosystems. (PRC 30262 (a)(5)(A))

8) Defines "expanded oil extraction" as an increase in the geographic extent of existing leases or units, including lease boundary adjustments, or an increase in the number of well heads, , on or after January 1, 2003. (PRC 30262 (a)(5)(C)(iii))

9) Authorizes repair and maintenance of an existing oil and gas facility to be permitted only if it does not result in expansion of capacity of the oil and gas facility, and if all applicable conditions are met. (PRC 30262 (b))

10) Pursuant to the Elder California Pipeline Safety Act of 1981:

    a) Requires the State Fire Marshal (SFM) to adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety, including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions. (Government Code (GC) 51011)

    b) Requires each pipeline operator to file with the SFM an inspection, maintenance, improvement, or replacement assessment for older pipelines built before January 1, 1960, and any pipeline installed on or after January 1, 1960, for which regular internal inspections cannot be conducted, or which shows diminished integrity due to corrosion or inadequate cathodic protection. (GC 51012.4)

    c) Requires every newly constructed pipeline, existing pipeline, or part of a pipeline system that has been relocated or replaced, and every pipeline that transports a hazardous liquid substance or highly volatile liquid substance, to be tested in accordance with federal regulations and every pipeline more than 10 years of age and not provided with effective cathodic protection to be hydrostatically tested every three years, except for those on the State Fire Marshal's list of higher risk pipelines, which shall be hydrostatically tested annually. (GC 51013.5)

    d) Requires the SFM, or an officer or employee authorized by the SFM, to annually inspect all intrastate pipelines and operators of intrastate pipelines under the jurisdiction of the SFM to ensure compliance with applicable laws and regulations. Prohibits, for portions of interstate pipelines that are not under the jurisdiction of the SFM, the SFM from becoming an inspection agent for those pipelines unless all regulatory and enforcement authority over those pipelines is transferred to the SFM from the federal Pipeline and Hazardous Materials Safety Administration (PHMSA). (GC 51015.1)

11) Pursuant to Governor Newsom's direction, requires the State Air Resources Board to evaluate how to phase out oil extraction by 2045 through the climate change scoping plan, the state's comprehensive, multi-year regulatory and programmatic plan to achieve required reductions in greenhouse gas (GHG) emissions. (Executive Order N-79-20)

THIS BILL:

1) Requires SLC or a local trustee, before approving a lease renewal, extension, amendment, assignment, or modification for oil- and gas-related infrastructure upon tidelands

and submerged lands within state waters associated with Pacific OCS leases, to additionally consider the following:

a) Whether the lease renewal, extension, amendment, assignment, or modification may impact public trust resources and values.

b) Whether the lease renewal, extension, amendment, assignment, or modification is for, or connected to, infrastructure that has experienced a reportable incident, such as an oil spill.

c) Whether the lease renewal, extension, amendment, assignment, or modification is related to the use of well stimulation treatments, extended reach drilling and production, horizontal drilling and production, or other unconventional drilling and production techniques for resource extraction.

d) Whether the operator has provided finalized certificates of financial responsibility obtained from the Office of Spill Prevention and Response and has provided financial assurances required for decommissioning.

2) Prohibits a lease renewal, extension, amendment, assignment, or modification that will increase the volume of oil and gas conveyed across state waters, including by commencing, increasing, intensifying, or restarting production from the Pacific OCS, from being approved at the same properly noticed public meeting at which the lease renewal, extension, amendment, or modification is first presented.

3) Provides that a lease shall be approved by not less than two-thirds of all members of SLC or the governing board of the local trustee.

4) Requires SLC to consider whether approval of an assignment, transfer, or sublease of a lease or permit is in the best interest of the state when considering whether a proposed assignee is likely to comply with the terms of the lease or permit for the duration of both the primary term of the original lease or permit and any extended term of the lease because of production.

5) Requires, once oil produced offshore California is onshore, it shall be transported to processing and refining facilities by pipeline that uses the best achievable technology.

6) Requires, whether onshore or offshore, the pipelines to be certified by the SFM as meeting all of the following conditions:

a) The pipeline meets the requirements of the federal Hazardous Liquid Pipeline Safety Act of 1979 (42 U.S.C. Sec. 60101 *et seq.*), Part 195 (commencing with Section 195.0) of Title 49 of, the Federal Code of Regulations, and Chapter 14 (commencing with Section 2000) of Title 19 of the California Code of Regulations.

b) The State Fire Marshal has not exempted the pipeline because the SFM determined that the risk to public safety is slight and the probability of injury or damage remote.

c) The pipeline complies with requirement that any new or replacement pipeline near environmentally and ecologically sensitive areas in the coastal zone shall use best available technology, including, but not limited to, the installation of leak detection

technology, automatic shutoff systems, or remote controlled sectionalized block valves, or any combination of these technologies, based on a risk analysis conducted by the operator, to reduce the amount of oil released in an oil spill to protect state waters and wildlife.

7) Redefines "expanded oil extraction" as an increase in the geographic extent of existing leases or units, including lease boundary adjustments, or an increase in the number of well heads, reactivation of a facility idled, inactive, or out of service for more than three years, or an increase in oil extraction from the use of hydraulic fracturing, extended reach drilling, acidization, or other unconventional technologies, on or after January 1, 2003.

8) Deletes provision allowing new or expanded oil extraction operations, if the crude oil is so highly viscous that pipelining is determined to be an infeasible mode of transportation, or where there is no feasible access to a pipeline, shipment of crude oil to be permitted over land by other modes of transportation, including trains or trucks, which meet all applicable rules and regulations, excluding any waterborne mode of transport.

9) Authorizes reactivation of an existing oil and gas facility to be permitted only if it does not result in expansion of capacity of the oil and gas facility, and if all applicable conditions are met.

10) Provides that repair, reactivation, and maintenance of an oil and gas facility that has been idled, inactive, or out of service for three years or more shall be considered a new or expanded development requiring a new coastal development permit (CDP).

11) Requires development for the repair, reactivation, or maintenance of an oil pipeline that has been idled, inactive, or out of service for three years or more to obtain a new CDP.

12) Requires the California Coastal Commission (Commission) or a local government with a certified local coastal program to review and approve, modify, condition, or deny the permit based on specified requirements.

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement**:

> Assembly Bill 1448 is a crucial step towards safeguarding California's iconic coastline and ensuring a sustainable future for our communities. By placing restrictions on oil extraction activities off the coast, the bill prohibits the California State Lands Commission from approving new leases that would expand the construction of oil- and gas-related infrastructure, as well as making revisions to existing leases. In addition, the bill takes proactive measures to protect our environment by requiring that all pipelines used to transport oil be certified by the Office of the State Fire Marshal. This certification ensures that the highest safety

standards are met, significantly reducing the risk of oil spills that could devastate our oceans and coastal ecosystems. Through these critical provisions, Assembly Bill 1448 empowers us to protect and preserve our cherished coastlines for generations to come, striking a balance between environmental preservation and responsible energy practices.

2) **Offshore oil production**. California's lands and offshore waters have hosted significant crude oil extraction for more than a century. In the Pacific OCS, 23 oil and gas production facilities have been installed in federal waters off the coast of California; twenty-two of these facilities produce oil and gas, and one is a processing facility. Six companies are operating offshore oil and gas facilities in the region. The federal Bureau of Ocean Energy Management's (BOEM) 2023 *Field & Reservoir Reserve Estimates Report* estimates that more than 1.3 billion barrels of oil have been cumulatively produced off the coast of California. Since the mid-1980s, however, crude oil extraction has declined each year largely due to decreasing levels of easily accessible crude oil. BOEM's 2021 *Assessment of Oil and Gas Resources: Assessment of the Pacific Outer Continental Shelf Region* estimated undiscovered, technically and economically recoverable oil and natural gas resources outside of known oil and gas fields on the Pacific OCS. The total resource endowment (original recoverable reserves and undiscovered resources) of the Pacific OCS is estimated to be 11.82 billion barrels of oil and 18.36 trillion cubic feet of gas.

3) **History of oil spills.** In June 1968, 2,000 gallons of crude oil spilled from Phillips' Platform Hogan, and in November, a local ballot referendum was successful in preventing the construction of an onshore oil facility at Carpentaria. Just six months later, in January 1969, the Santa Barbara oil spill in the Santa Barbara Channel ended up being the largest oil spill in United States waters at the time. It remains the largest oil spill to have occurred in the waters off California. The source of the spill was a blow-out on Union Oil's Platform A, and spilled an estimated 80,000 to 100,000 barrels of crude oil spilled, which polluted the coastline from Goleta to Ventura as well as the northern shores of the four northern Channel Islands. The spill had a significant impact on marine life in the Channel, killing an estimated 3,500 sea birds, as well as marine animals such as dolphins, elephant seals, and sea lions. The public outrage from the spill resulted in numerous pieces of environmental legislation within the next several years that forms the legal and regulatory framework for the modern environmental movement in the U.S.

   On May 19, 2015, a hazardous liquid pipeline known as the Line 901 pipeline owned and operated by Plains Pipeline failed and spilled more than 140,000 gallons of oil, known as the Refugio oil spill. The corroded pipeline that caused the spill closed indefinitely, resulting in financial impacts to the county estimated as high as $74 million as it and a related pipeline remained out of service for three years. The cost of the cleanup was estimated by the company to be $96 million with overall expenses including expected legal claims and potential settlements to be around $257 million.

   Plains represents that, following the Refugio incident and pursuant to PHMSA, it performed a comprehensive review of its Emergency Response Plan and Training Program, and revised and updated its Response Plan for Onshore Oil Pipelines for Line 901 and Line 903. As part of the revision, Plains identified the locations of culverts along the pipelines' rights-of-way and provided containment and recovery techniques for responding to spills that may occur near those culverts.

4) **State moratorium on offshore oil drilling.** SLC has had exclusive jurisdiction over the leasing of offshore state lands for oil and gas production since 1938 and also issues right-of-way leases for pipelines necessary to support offshore oil and gas infrastructure. SLC has not granted any new leases for offshore drilling within its jurisdiction – out to the three nautical miles limit – since 1969, although existing operations, such as at Platform Holly on the Ellwood field and Rincon Island on the Rincon field, have been allowed to continue. A proposal to slant drill into the state-controlled zone from an existing platform outside of it, on the Tranquillon Ridge, was rejected in 2009 by the SLC by a 2–1 vote.

   According to SLC, today, the state has three active crude oil/petroleum extraction platforms off its coast in state waters and there are eight active platforms in federal waters. These platforms are connected to the shore via undersea pipelines that transport crude oil from the offshore platforms to onshore facilities that process the oil for sale.

   Current law prohibits SLC or a local trustee from entering into any new lease or other conveyance authorizing new construction of oil- and gas-related infrastructure upon tidelands and submerged lands within state waters associated with OCS leases issued after January 1, 2018. Exceptions to this prohibition include an order from the President of the United States for distribution of the Strategic Petroleum Reserve, or if it is in the best interest of the state.

5) **Federal laws.** Production from existing leases has been allowed almost without break since the 1969 spill, as well as new drilling from existing platforms within lease boundaries. In 1976, leases were sold off the Orange County coast, resulting in the construction of Platforms Edith, Elly, Ellen, and Eureka; in 1979, Platforms Harvest and Hermosa were constructed in federal waters near Point Arguello, and in 1981, the oil fields in that area were further developed with the sale of another pair of leases which now contain platforms Hidalgo and Irene. No new leases have been granted in the OCS since 1981.

   In 1981 Congress enacted a moratorium on new offshore oil leasing, with exceptions in the Gulf of Mexico and parts of offshore Alaska, which remained in effect until 2008 when Congress did not renew it. Even though there was a moratorium on new leases, Exxon installed Platforms Harmony and Heritage in the Santa Barbara Channel in 1989, in more than 1,000 feet of water, completing development of their Santa Ynez Unit (which includes the Hondo and Pescado Oil Fields). Several federal leases remain undeveloped, including the Gato Canyon Unit southwest of Goleta.

   On January 6 of this year, President Biden blocked drilling for oil in more than 625 million acres of U.S. ocean — the entire East Coast and West Coast, the eastern Gulf of Mexico, and a portion of the Bering Sea. President Biden's action prohibits new leases in the identified regions; it does not affect any existing leases. All together, the swathes of ocean set aside in this action include more than a third of the offshore U.S. oil and gas that is likely economical to extract. Courts found that the OCS Lands Act allows a president to protect waters indefinitely, and doesn't include any provision for *removing* that protection.

6) **Sable pipeline.** Sable Offshore Corporation (Sable) is attempting to restart the Santa Ynez Unit oil and gas operation off the coast of Santa Barbara County. The Santa Ynez Unit includes three offshore platforms in federal waters connected to shore by offshore pipelines, onshore pipelines, the Ellwood Pier, mooring buoys, and the Las Flores Canyon Processing Facility. The onshore pipelines include pipelines identified as CA-324 and CA-325

(previously known as Lines 901 and 903), which were responsible for the 2015 Refugio oil spill.

Sable gained approval from the Santa Barbara County Planning Commission on October 30, 2024, to transfer the ownership and permits of Pipelines CA-324, CA-325A and CA 325B (collectively known as the Santa Ynez Unit) from Exxon Mobil (a current lease holder) to Sable.

For the pipeline to restart, Sable would have to receive county permits for the onshore processing facilities and the pipeline, a waiver from the SFM, permits for repair work on the pipeline's valves from the Commission and a decommissioning bond posted to the California Geologic Energy Management Division.

In February, PHMSA approved the waiver, which requires Sable to comply with more than 60 conditions, including this pipeline be hydrostatically tested using a "spike" hydrostatic test prior to putting the pipeline into operation, and the pipeline be inspected with ultrasonic thickness wall measurement and ultrasonic shear wave crack detection in-line inspection tools capable of assessing seam integrity and detecting corrosion, deformation, and cracking-type anomalies within seven days of achieving initial steady state operation of the pipeline. Thereafter, the pipeline must be reassessed at least every year.

The Department of Fish and Wildlife (DFW) issued a Notice of Violation to Sable for work conducted on state lands that violated the Fish and Game Code, and requested that Sable discontinue any work on the Carrizo Plain Ecological Reserve and contact DFW to discuss remedial measures at the impacted sites by December 20, 2024. DFW is continuing its investigation and may refer this matter to the local district attorneys or the Office of the Attorney General.

The Commission issued a cease-and-desist order and required Sable to file an application for a CDP before the pipeline can resume any construction activity, let alone operations. Sable has completed nearly all the work, with the exception of the work they need to do in Gaviota State Park and the Santa Barbara Conservancy property.

While the bill is not specific to Sable – it applies statewide, Sable is the only entity *currently* trying to revitalize existing platforms for oil production. According to Sable, more than 20 existing platforms, operated by a variety of companies, using pipelines with leases through state tidelands would be affected when they come up for routine extensions, amendments, or transfers; thus, the bill would have impacts farther reaching than Sable.

7) **This bill**. AB 1448 makes several changes to state entity's governing statutes that have jurisdiction over offshore oil drilling:

- Expands the existing prohibition on new oil and gas leases to any Pacific OCS lease upon tidelands and submerged lands within state waters;
- Specifies that the requirement regarding approval or disapproval of a lease renewal, extension, amendment, or modification also applies to a lease assignment;
- Requires the onshore transportation of oil to processing and refining facilities to use the best achievable technology;

- Revises the definition of "expanded oil extraction" to include reactivation of a facility idled, inactive, or out of service for more than 3 years, or an increase in oil extraction from the use of hydraulic fracturing, extended reach drilling, acidization, or other unconventional technologies; and,

- Requires a pipeline used for transporting the oil produced offshore to be certified by the SFM as meeting PHMSA requirements and state laws and regulations.

Environmental organizations in support of the bill argue that "the Trump Administration has pledged to drill everywhere and will undoubtedly seek to expand Pacific offshore drilling. Current gaps in state law leave untoward paths for federal oil expansion through existing infrastructure in state waters. AB 1448 takes a firm stand against efforts to expand drilling off our coast, to protect against associated risks to California interests."

Sable writes in response to the bill that, "AB 1448 would impact existing facilities with long-held leases and rights that are currently operating or working to reopen through an established and robust multi-agency regulatory framework. Functionally, AB 1448 is designed to do one thing - prevent the repair and restart of critical oil production facilities both offshore and onshore in Santa Barbara County. Halting this planned restart of Sable's Santa Ynez Unit and Las Flores Pipeline System would have serious implications for the region and California at large."

8) **Committee amendments.** The *committee may wish to amend the bill* to make the following changes:

   a) Maintain a date in PRC 6245 (a) and update it to January 1, 2025.

   b) Delete the 2/3 vote requirement in PRC 6245 (d)(2).

   c) Amend PRC 30262 to require the SFM to request authority from PHMSA to obtain interstate certification for interstate hazardous liquid pipelines not under its jurisdiction.

   d) Strike condition related to the SFM exempting a pipeline pursuant to GC 51011.

REGISTERED SUPPORT / OPPOSITION:

Support

Center for Biological Diversity (sponsor)
Environmental Defense Center (sponsor)
350 Bay Area Action
350 Santa Barbara
7th Generation Advisors
Azul
Ban Sup (single Use Plastic)
Business Alliance for Protecting the Pacific Coast
California Coastal Protection Network
California Environmental Voters
Central Coast Climate Justice Network
Citizens Planning Association
Clean Water Action
Climate Action California
Climate First: Replacing Oil & Gas
Climate Hawks Vote
Climate Reality Project San Diego
Clue-SB Environmental Justice Group
Coastal Band of the Chumash Nation

Defenders of Wildlife
Elected Officials to Protect America
Environmental Action Committee of West Marin
Food & Water Watch
Friends Committee on Legislation of California
Friends of the Earth
Get Oil Out!
Los Padres Forestwatch
Monterey Bay Aquarium
Natural Resources Defense Council
Ocean Conservation Research
Oceana
Oil & Gas Action Network
Patagonia
Pesticide Action & Agroecology Network
Sacred Places Institute for Indigenous Peoples
San Francisco Bay Physicians for Social Responsibility
San Francisco Baykeeper
Santa Barbara Channelkeeper
Santa Barbara County Action Network
Santa Lucia Chapter of the Sierra Club
Sierra Club California
Sierra Club Santa Barbara Group
Society of Fearless Grandmothers - Santa Barbara
Surfrider Foundation
Surfrider Foundaton, Santa Barbara Chapter
UCSB Environmental Affairs Board
UCSB Environmental Law Club
Vote Solar
Wishtoyo Chumash Foundation

Opposition

California Independent Petroleum Association
Sable Offshore Corp
Western States Petroleum Association

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

Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1456 (Bryan) – As Amended April 10, 2025

SUBJECT: California Environmental Quality Act: California Vegetation Treatment Program

SUMMARY: Requires, on or before January 1, 2027, the State Board of Forestry and Fire Protection (Board) to expand the treatable landscape under the California Vegetation Treatment Program (CalVTP).

EXISTING LAW:

1) Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code (PRC) 21000 *et seq*.):

    a) Authorizes the preparation and certification of an environmental impact report (EIR) for a program, plan, policy, or ordinance, commonly known as a "program EIR," and requires a lead agency to examine later activities in the program in light of the program EIR to determine whether an additional environmental document is required to be prepared.

    b) Provides that when an EIR has been prepared for a project, no subsequent or supplemental EIR is to be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

        i) Substantial changes are proposed in the project that will require major revisions of the EIR;

        ii) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the EIR; and/or,

        iii) New information, which was not known and could not have been known at the time the EIR was certified as complete, becomes available. (PRC 21166)

    c) Requires the Office of Land Use and Climate Innovation to prepare and develop proposed guidelines for the implementation of CEQA by public agencies.

2) Defines, under the CEQA Guidelines, a program EIR (PEIR) as an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either geographically, as logical parts in the chain of contemplated actions, in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways. (Title 14 California Code of Regulations 15168)

3) Requires, to the extent feasible, the Board's Vegetation Treatment Program Programmatic Environmental Impact Report (PEIR) to serve, in addition to any identified entities in the report, as programmatic environmental document for prescribed fires initiated by a third

party for a public purpose. Provides that this does not apply to a prescribed fire activity that is exempt from CEQA. (PRC 4483)

THIS BILL:

1) Defines "FPEIR" as the Final Program Environmental Impact Report.

2) Requires, on or before January 1, 2027, the Board to update the CalVTP FPEIR, certified by the Board in December 2019, in accordance with PRC 21166. Requires the update, at a minimum, to do all of the following:

   a) Expand the area that is treatable landscape under the FPEIR to portions of the state suitable for vegetation treatment consistent with the FPEIR, including for the treatment types of ecological restoration, fuel breaks, and wildland-urban interface (WUI) fuel reduction, regardless of fire suppression responsibility designation;

   b) Require a project under the FPEIR to incorporate in its project description the disposition of biomass generated by vegetation treatments, as necessary, including any commercial sale of biomass for the purpose of cost recovery; and,

   c) Include provisions that recognize the dual objectives of cultural and ecological restoration through vegetation management activities that integrate indigenous knowledge and tribal ecological knowledge, and recognize cultural burning conducted as a covered treatment activity.

3) Authorizes a public agency to partner with a federally recognized California Native American tribe to conduct a project under the FPEIR in the agency's jurisdiction.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Fire risk**. The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time, with more than 4.3 million acres burned across the state, double the previous record. The Los Angeles (LA) fires this year burned an area nearly the size of Washington, D.C., killed 28 people, and damaged or destroyed nearly 16,000 structures, according to the Department of Forestry and Fire Protection (CAL FIRE). Forest management, including fuel load reduction, is vital to preventing the ignition and spread of wildfires.

2) **California Vegetation Treatment Program**. CalVTP was developed and approved by the Board on December 30, 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 WUI, to construct fuel breaks, and to restore healthy ecological fire regimes.

   The Board certified a VTP FPEIR prepared pursuant to CEQA. The FPEIR can be used by a long list of specified public agencies, of which there are more than 200 with land ownership or land management responsibilities in the treatable landscape. The FPEIR provides a helpful

tool to expedite the implementation of vegetation treatments. The FPEIR is intended to provide broad CEQA coverage for individual projects consistent with the analysis and mitigation strategies set forth in the document. It provides a more efficient (though not perfect) process for vegetation management on 20.3 million acres of State Responsibility Land (SRA) in California (there are small portions of local responsibility areas (LRA) are covered as well). Geographic area is one of the factors identified in CEQA Guidelines that agencies may consider when determining whether a project is within the scope of a PEIR. The geographic area analyzed in the CalVTP PEIR is the treatable landscape. The treatable landscape consists of land primarily within the SRA and some areas of the LRA, and some Federal Responsibility Area. Therefore, areas of a treatment project outside the treatable landscape are not within the scope of the CalVTP PEIR. According to the Governor, 106 projects have been approved to date under CalVTP.

Although this program has made progress towards the governor's yearly goal of 250,000 treatment acres, the contribution is small and CalVTP has not yet reached its fullest potential for aiding the statewide mandate for increased forest fuel treatments.

3) **Emergency proclamation**. After the LA fires, the Governor issued an emergency proclamation on March 1 ordering a suspension of all laws, regulations, rules, and requirements that fall within the jurisdiction of boards, departments, and offices within the California Environmental Protection Agency and the California Natural Resources Agency (NRA) to be suspended for expediting critical fuels reduction projects initiated this calendar year.

   In that emergency proclamation, the Governor acknowledged that even with the success of CalVTP, more is needed to expedite critical fuels reduction projects in more areas of the state, including those not yet covered by CalVTP, to protect the lives and property of Californians. The proclamation directs the Board to take immediate steps to update the CalVTP FPEIR, in consultation with NRA and others as appropriate, to increase CalVTP's efficiency and utilization, in order to continue promoting rapid environmental review for large wildfire risk reduction treatments.

4) **This bill**. In lock step with the governor's direction, AB 1456 requires the Board, by January 1, 2027, to update the CalVTP FPEIR to expand the area that is treatable landscape to portions of the state suitable for vegetation treatment. To further improve the program, the bill also requires a project to incorporate in its project description the disposition of biomass generated by vegetation treatments, and requires the Board to recognize the dual objectives of cultural and ecological restoration through vegetation management activities that integrate indigenous knowledge and tribal ecological knowledge, and recognize cultural burning conducted as a covered treatment activity.

REGISTERED SUPPORT / OPPOSITION:

Support

California Forestry Association
City of Lafayette
City of Laguna Beach
City of Tustin
Rural County Representatives of California

US Green Building Council, California

Opposition

None on file

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