

**Vice-Chair**  
Flora, Heath

**Members**  
Chau, Ed  
Friedman, Laura  
Garcia, Cristina  
Mathis, Devon J.  
McCarty, Kevin  
Muratsuchi, Al  
Seyarto, Kelly  
Stone, Mark  
Wood, Jim

# California State Assembly

## NATURAL RESOURCES



**LUZ RIVAS**  
CHAIR

### AGENDA

Wednesday, April 28, 2021  
8 a.m. -- State Capitol, Room 4202

**Chief Consultant**  
Lawrence Lingbloom

**Principal Consultant**  
Elizabeth MacMillan

**Senior Consultant**  
Michael Jarred

**Committee Secretary**  
Sue Fischbach

### **BILLS HEARD IN FILE ORDER**

### **TESTIMONY MAY BE LIMITED**

- |     |         |                 |   |
|-----|---------|-----------------|---|
| 1.  | AB 500  | Ward            | Local planning: permitting: coastal development.  |
| 2.  | AB 1344 | Arambula        | State Department of Public Health: needle and syringe exchange services.                        |
| 3.  | AB 1346 | Berman          | Air pollution: small off-road engines.  |
| 4.  | AB 1390 | Boerner Horvath | State lands: school and lieu lands.   |
| 5.  | AB 680  | Burke           | Greenhouse Gas Reduction Fund: California Just Transition Act.                                  |
| 6.  | AB 1260 | Chen            | California Environmental Quality Act: exemptions: transportation-related projects.              |
| 7.  | AB 525  | Chiu            | Energy: offshore wind generation.   |
| 8.  | AB 1087 | Chiu            | Environmental Justice Community Resilience Hubs Program.  |
| 9.  | AB 992  | Cooley          | California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program.             |
| 10. | AB 354  | Cooper          | Energy efficient appliance rebate program.  |
| 11. | AB 1431 | Frazier         | Forestry: forest carbon plan: state goals.  |
| 12. | AB 962  | Kamlager        | California Beverage Container Recycling and Litter Reduction Act: reusable beverage containers. |

- |     |                    |                            |   |
|-----|--------------------|----------------------------|---|
| 13. | AB 963             | Kamlager                   | Baldwin Hills Conservancy: urban watersheds conservancy expansion.  |
| 14. | AB 322             | Salas                      | Energy: Electric Program Investment Charge program: biomass.  |
| 15. | AB 699             | Salas                      | Public Utilities Commission: large electrical corporations: Flexible Demand Appliance Rebate Program.       |
| 16. | AB 713             | Cristina Garcia            | State Air Resources Board: greenhouse gas emissions scoping plan: comprehensive health analysis.            |
| 17. | <del>AB 1004</del> | <del>Cristina Garcia</del> | <del>Environment: air pollution and mitigation measures for air and water quality impacts.</del>            |
| 18. | AB 579             | Flora                      | Fire prevention: purchases of personal protective equipment: Department of Forestry and Fire Protection.    |
| 19. | AB 792             | Flora                      | Forestry: prescribed burning agreements.  |
| 20. | AB 926             | Mathis                     | Fire prevention: local assistance grant program: projects: report.  |
| 21. | AB 1395            | Muratsuchi                 | Greenhouse gases: carbon neutrality.  |
| 22. | AB 1453            | Muratsuchi                 | Environmental justice: Just Transition Advisory Commission: Just Transition Plan.                           |
| 23. | SB 7               | Atkins                     | Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2021.(Urgency) |

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## **COVID FOOTER**

### SUBJECT:

We encourage the public to provide written testimony before the hearing by visiting the committee website at <https://antr.assembly.ca.gov>. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

Due to ongoing COVID-19 safety considerations, including guidance on physical distancing, seating for this hearing will be very limited for press and for the public. All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>.

The Capitol will be open for attendance of this hearing, but the public is strongly encouraged to participate via the web portal, Remote Testimony Station, or phone. Any member of the public attending a hearing in the Capitol will need to wear a mask at all times while in the building. We encourage the public to monitor the committee's website for updates.

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 500 (Ward) – As Amended April 19, 2021

**SUBJECT:** Local planning: permitting: coastal development

**SUMMARY:** Requires housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided by the California Coastal Act of 1976 (Coastal Act). Requires, no later than January 1, 2024, specified local governments within the coastal zone to adopt specified local coastal program (LCP) amendments related to accessory dwelling units (ADU) and supportive housing projects.

**EXISTING LAW,** pursuant to the Coastal Act:

- 1) Establishes the California Coastal Commission (Commission) in the Natural Resources Agency and requires the Commission to consist of 15 members (3 non-voting and 12 voting).
- 2) Requires a person planning to perform or undertake any development in the coastal zone to obtain a coastal development permit (CDP) from the Commission or local government enforcing a LCP.
- 3) 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.
- 4) Defines the "coastal zone" as the land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, the coastal zone 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. In developed urban areas, the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.
- 5) Requires lower cost visitor and recreational facilities to be protected, encouraged, and, where feasible, provided. Declares a preference for developments providing public recreational opportunities.
- 6) Prohibits LCP's from being required to include housing policies and programs.
- 7) Authorizes the Commission to consider environmental justice, or the equitable distribution of environmental benefits throughout the state, when acting on a CDP as the issuing agency, or as the Commission on appeal.

- 8) Declares that the Legislature finds that it is important for the Commission to encourage the protection of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

**THIS BILL:**

- 1) Requires housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided.
- 2) Requires new development in nonhazardous areas to preserve and enhance the supply of higher density residential, multifamily residential, and mixed-use development in areas with adequate public transit.
- 3) Deletes the prohibition on requiring local coastal programs to include housing policies and programs.
- 4) Requires, no later than January 1, 2024, a local government lying, in whole or in part, within the coastal zone that has a certified land use plan or a fully certified LCP to adopt and submit to the Commission the amendment that specifies streamlining of permitting procedures for the approval of ADUs and supportive housing projects.

**FISCAL EFFECT:** Unknown

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

ADUs and supportive housing are proven solutions to address the current housing crisis for middle- and low-income Californians, yet they are underutilized in the coastal zone, in part due to the time-intensive regulatory process. AB 500 will streamline the regulatory process for ADUs and supportive housing, and will give coastal communities the opportunity to partner with the California Coastal Commission to provide new affordable housing solutions for all Californians.

- 2) **Coastal Commission.** The Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the Coastal Act. In partnership with coastal cities and counties, the Commission plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a CDP from either the Commission or the local government with a certified LCP.

The Commission is an independent, quasi-judicial state agency, and is composed of 12 voting members, appointed equally (4 each) by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. Six of the voting commissioners are locally elected officials and six are appointed from the public at large. Three ex officio (non-voting) members represent the Natural Resources Agency, the Transportation Agency, and the State Lands Commission.

According to the Commission's mission statement:

The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations. It does so through careful planning and regulation of environmentally sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.

The Commission's implementation of the Coastal Act included guidelines for the protection of affordable housing, which were adopted in 1977. The Commission prohibited the demolition of low- and moderate-income housing for reasons other than health and safety. The Commission also included density bonuses and reduced parking requirements in their guidelines to prioritize new affordable housing opportunities. The guidelines were revised in 1979 and 1981 to require in-lieu fees, land dedication, and housing credits in certain circumstances. The Commission also required specified percentages of proposed housing units set aside for low- and moderate-income households. According to the Commission, its inclusionary housing program resulted in the approval of approximately 5,000 affordable units between 1977 and 1981. The Commission also states that it denied the demolition of more than 1,100 existing affordable units. The Commission also required approximately \$2,000,000 in "in lieu" fees for affordable housing between 1977 and 1981. In 1981, SB 626 (Mello), Chapter 1007, Statutes of 1981, repealed the Commission's authority to protect and provide affordable housing, but persevered its authority to protect and provide lower cost visitor and recreational facilities.

- 3) **Lower cost accommodations.** The Commission has carried out the Coastal Act mandate to protect and provide lower cost visitor-serving accommodations in various ways. The Commission has certified LCP policies throughout the coastal zone. Through CDP actions, the Commission has in some cases denied permit applications for development that would eliminate existing lower cost facilities, and has in other cases required lower cost accommodations to be constructed in conjunction with new higher cost hotels either on or off site.

The Commission has also collected over \$24 million in "in-lieu" fee mitigation for impacts to lower cost accommodations, and more than \$10 million of those fees have resulted in the development of significant lower cost accommodations along the California coast, including support for the 260-bed Santa Monica Hostel, the restoration of Crystal Cove Cottages in Orange County, and nearly 200 new State Parks campsites. However, millions of dollars in in-lieu fees remain unspent, and the Commission is currently engaged in an effort to document all past "in lieu" fee requirements. The Commission partnered with State Parks, the State Coastal Commission, regional agencies, local governments, and non-profits on projects funded by in-lieu fees.

- 4) **Affordable housing.** According to the California Housing Partnership Corporation, California needs 1,299,120 more affordable rental homes to meet the needs of its lowest income renters. At the same time, market pressures have driven prices up farther inland from the coastline, widening the gap that low- and moderate-income communities must cross to access the coast. The Coastal Act states:

The Legislature finds and declares that it is important for the Commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

However, the Commission is prohibited from requiring LCPs from having affordable housing policies. The Commission believes it is largely powerless to address the issue of affordable housing because of this prohibition. AB 500 would repeal that prohibition and require the Commission to protect and provide affordable housing. The Commission voted unanimously to support AB 500.

If the Commission is given the authority to protect and provide affordable housing, it may develop regulations that include similar requirements to those that existed prior to 1981 or what is currently required to protect lower cost accommodations. This could include “in lieu” fees. There are currently concerns with the “in lieu” fees generated from CDP that do not provide adequate lower cost accommodations because they are small relative to the total cost of a lower cost accommodation project. In addition, “in lieu” fees are a condition of an individual CDP and often have geographic and nexus requirements that makes it more complicated to fund appropriate projects. These same concerns may apply to any “in lieu” fees that could be required by the Commission to protect affordable housing.

- 5) **ADUs.** This bill also requires a local government with a certified LCP or land use plan to adopt an LCP amendment no later than January 1, 2024 to streamline permitting procedures for the approval of ADUs and supportive housing projects. Legislation that streamlined the approval process for ADUs such as AB 2299 (Bloom), Chapter 735, Statutes of 2016, and SB 1069 (Wieckowski) Chapter 720, Statutes of 2016, has preserved the applicability of the Coastal Act. However, the Commission has recommended that local governments adopt amendments to their LCP to streamline approval of ADUs in ways consistent with the Coastal Act and to the extent feasible meet the intent of the legislation. The Commission has offered to process ADU-specific LCP amendments as minor or de minimis amendments whenever possible. Approximately 19 local governments already have certified LCP amendments for ADU streamlining.
- 6) **Double referral.** This bill is double referred to the Housing and Community Development Committee.
- 7) **Prior legislation.**

AB 663 (Bloom, 2017) required, until January 1, 2023, housing opportunities for persons of low and moderate income to be protected, encouraged, and, where feasible, provided by the Coastal Act. This bill failed the Assembly Floor on a 33-37 vote.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Coastal Commission  
Elders Action Network

### **Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1344 (Arambula) – As Amended April 8, 2021

**SUBJECT:** State Department of Public Health: needle and syringe exchange services

**SUMMARY:** Establishes an exemption from the California Environmental Quality Act (CEQA) for needle and syringe exchange services, as specified.

**EXISTING LAW:**

- 1) Establishes the Clean Needle and Syringe Exchange Program (program) within the Department of Public Health (DPH) to provide a wide range of services, including providing sterile syringes, collecting use ones, and serving as a point of access to health education and other services for people who inject drugs.
- 2) Authorizes a needle exchange program to operate when authorized by DPH or any city, county, or city and county, as specified.
- 3) Requires an entity operating a needle exchange program to demonstrate to DPH that it will comply with specified minimum standards, including providing for the safe recovery and disposal of used syringes and sharps waste from all of its participants.
- 4) CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines.)

**THIS BILL:**

- 1) Provides that needle exchange program application submissions, authorizations, and operations performed pursuant to the program are exempt from review under CEQA, and states that the exemption added to statute by the bill is intended to be declaratory of existing law.
- 2) Provides that the provisions of the program section amended by the bill are severable.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

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

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

Needle and syringe exchange programs (SEPs) reduce the spread of HIV, acute hepatitis C virus (HCV), and other blood-borne pathogen infections and are an effective component of comprehensive community-based prevention and intervention programs that provide additional services. These include vaccination, testing, linkage to infectious disease and substance use treatment, and access to and disposal of syringes and injection equipment.

SEPs have been operating in California since the late 1980s, providing sterile syringes, collecting used ones, and acting as a point of access to health education and help for people who inject drugs. California SEPs provide a wide range of services in addition to syringe exchange and disposal, including HIV and HCV testing, overdose prevention training, and referrals to drug treatment, housing, and mental health services. They operate in a variety of settings, including in health clinics, mobile vans, storefronts, and churches. Some offer street-based services in multiple locations, others offer services daily during standard business hours, and still others provide home delivery services.

AB 604 (Skinner, 2011) permitted DPH to authorize hypodermic needle and syringe services “in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes.” Prior to AB 604, only local governments had the authority to establish syringe services programs.

This authority was made permanent in the 2018 budget bill (AB 1810). That bill provided that “[i]n order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly blood-borne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide [needle and syringe exchange] services...to apply for authorization” for such services “after consultation with the local health officer and local law enforcement leadership, and after a period of public comment...”.

DPH has authorized syringe services programs in 19 counties since 2011. These include programs offered by clinics, health departments and community-based organizations in Alameda, San Diego, Kern, Riverside, Santa Cruz, Humboldt, Sacramento, Inyo, El Dorado, Kings, Mono, Lake, Merced, Plumas, San Joaquin, Siskiyou and Yuba/Sutter counties.

Lawsuits have been filed against programs in Orange County, Butte County, and Santa Cruz, including CEQA claims. In the Orange County case, the court interpreted syringe services programs as “projects” subject to the CEQA because the program could not demonstrate that it collected all the syringes that it distributed. Subsequently that program was forced to shut down. Another program in Butte County has been forced to rescind its DPH-approved application in the face of similar litigation. Additionally, a similar lawsuit has been filed against a syringe service program in Santa Cruz in early 2021.



2) **Author's statement:**

SEPs are a cost effective strategy instituted to slow the spread of deadly and disabling conditions. They have a proven track record of reducing the transmission of many deadly diseases, including HIV and hepatitis C. Due to the pandemic, SEPs have expanded their services in the form of providing COVID education, PPE distribution, sharing information on access to housing and health services, and other vitally needed services. After consultation with local health and law enforcement agencies, and a period of public comment, these programs can be authorized by DPH. Unfortunately, in an effort to thwart sound public health policy, some attorneys have inappropriately weaponized CEQA against public health programs. This abuse of the intent of CEQA pits public health and environmental concerns inappropriately against each other and constitutes a very real threat to public health. AB 1344 is needed to protect these SEP harm reduction programs and reduce community spread of communicable diseases.

- 3) **CEQA litigation against SEPs.** On December 8, 2020, four residents of Santa Cruz County, organized under the organization name "Grant Park Neighborhood Association Advocates," (plaintiffs) filed a lawsuit in Sacramento Superior Court against DPH and the Harm Reduction Coalition of Santa Cruz County (HRCSCC), seeking to nullify DPH's authorization of HRCSCC's syringe services program. An initial hearing date has been scheduled for September 24, 2021.

The plaintiffs allege that DPH was in violation of CEQA when acting to authorize HRCSCC's program and that HRCSCC is a public nuisance pursuant to California Civil Code sections 3479 and 3480. The plaintiffs also raise several other matters in the complaint and seek relief from the court.

The plaintiffs' CEQA claim is that DPH was incorrect in its determination that HRCSCC's application to establish the program did not constitute a "project" pursuant to CEQA, but instead that a full environmental review was required. Plaintiffs argue that because of this, DPH's authorization of the HRCSCC SSP was unlawful and should be set aside.

The Santa Cruz lawsuit follows two previous suits filed against DPH and state-authorized programs in Orange (filed August 2018) and Butte (filed April 2020) counties. In the Orange County case, the court ruled in its initial statement of decision that the CEQA and public nuisance aspects of the complaint could proceed at trial, while rejecting several other causes of action. Soon after, and before a trial took place, the court issued a writ of mandate that (1) set aside DPH's authorization to operate a mobile syringe exchange program in Orange County through August 6, 2020, and (2) requires DPH to undertake a CEQA-compliant environmental review prior to authorizing any future mobile syringe program in Orange County.

The Butte County case was settled by stipulated agreement in October 2020 by the SEP agreeing to withdraw its application to DPH and cease providing syringe services. DPH agreed to complete an environmental review prior to authorizing a future SEP application in the county.

- 4) **SEPs could be shielded from CEQA litigation without eliminating environmental review entirely.** The three existing lawsuits against SEPs have included multiple non-CEQA claims, including nuisance, that are not cured by this bill. A prior version of the bill declared

that authorized SEP services, and consequences including improperly discarded syringes and needles, could not be considered a public nuisance. However, this nuisance provision was removed from the bill in the April 8 amendments, leaving only the CEQA exemption.

To the extent the CEQA claims center on the impact of discarded needles, the bill could instead provide that if a DPH-approved program meets the statutory requirements, and DPH guidelines, for safe recovery and disposal of used syringes and sharps waste from all of its participants, discarded needles shall not be considered a significant effect on the environment. This approach could be coupled with more robust requirements on DPH and local programs for monitoring and recovery of discarded needles, as well as findings regarding the overriding considerations related to SEP public health objectives.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Access Support Network  
Affordable Homeless Housing Alternatives  
Alcohol Justice  
American Addiction Institute of Mind and Medicine/Harm Reduction Institute  
American Civil Liberties Union/Northern California/Southern California/San Diego  
and Imperial Counties  
Any Positive Change  
APLA Health  
Asian American Drug Abuse Program  
Being Alive - Los Angeles  
Berkeley Needle Exchange Emergency Distribution  
CA Bridge  
California Syringe Exchange Programs Coalition  
Courage California  
Desert Aids Project  
Drug Policy Alliance  
End Hep C SF  
Face to Face  
Fresno Needle Exchange Program  
GLIDE  
Harm Reduction Coalition  
Harm Reduction Coalition of Santa Cruz County  
Harm Reduction Services  
HIV Education and Prevention Project of Alameda County  
Homeless Health Care Los Angeles  
Homeless Persons Legal Assistance Project  
Inland Empire Harm Reduction  
Los Angeles LGBT Center  
Mendocino County Aids/Viral Hepatitis Network  
Next Harm Reduction  
Northern Valley Harm Reduction Coalition  
Safer Alternatives Thru Networking and Education (SANE)  
SafeRX Santa Cruz County

San Francisco Aids Foundation  
Sierra Harm Reduction Coalition  
SLO Bangers Syringe Exchange and Overdose Prevention  
St. James Infirmary  
Stonewall Alliance of Chico  
The Los Angeles Trust for Children's Health  
The Sidewalk Project  
UCSF Alliance Health Project

**Opposition**

217 individuals  
City of Santa Cruz Mayor Donna Meyers  
Coastal Watershed Council  
County of Butte  
Valley Women's Club of San Lorenzo Valley

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



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1346 (Berman) – As Amended March 25, 2021

**SUBJECT:** Air pollution: small off-road engines

**SUMMARY:** Requires the Air Resources Board (ARB) to adopt regulations to prohibit emissions from new “small off-road engines” (SORE), to apply to engines produced on or after January 1, 2024, or as soon as ARB determines is feasible, whichever is later.

**EXISTING LAW:**

- 1) Imposes various limitations on the emissions of air contaminants for the control of air pollution from mobile and stationary sources, and assigns the responsibility for controlling mobile sources of air pollution to ARB.
- 2) ARB regulations impose exhaust and evaporative emission limits on SORE. ARB regulation defines SORE as follows:

“Small off-road engine” means any engine that produces a gross horsepower less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), or is designed (e.g., through fuel feed, valve timing, etc.) to produce less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), that is not used to propel a licensed on-road motor vehicle, an off-road motorcycle, an all-terrain vehicle, a marine vessel, a snowmobile, a model airplane, a model car, or a model boat. If an engine family has models below 25 horsepower (at or below 19 kilowatts) and models at or above 25 horsepower (above 19 kilowatts), only the models under 25 horsepower (at or below 19 kilowatts) would be considered small off-road engines. Uses for small off-road engines include, but are not limited to, applications such as lawn mowers, weed trimmers, chain saws, golf carts, specialty vehicles, generators and pumps. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category. Any compression-ignition engine, as defined in Section 2421, produced during the 2000 and later model years shall not be defined as a small off-road engine.

- 3) The Federal Clean Air Act prohibits states from enforcing emission control standards on engines smaller than 175 horsepower used in farm or construction equipment or vehicles.

**THIS BILL:**

- 1) Requires ARB, by July 1, 2022, to adopt cost-effective and technologically feasible regulations to prohibit engine exhaust and evaporative emissions from new SORE, as defined by the state board. Requires the regulations to apply to engines produced on or after January 1, 2024, or as soon as ARB determines is feasible, whichever is later.
- 2) Requires ARB to identify, and, to the extent feasible, make available, funding for commercial rebates or similar incentive funding as part of any updates to existing, applicable

funding program guidelines for air districts to implement to support the transition to zero-emission SORE operations.

3) Makes related findings.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **SORE regulatory background from ARB.** SORE have been a regulated category since 1990, when the first emission standards for this category were adopted. The current exhaust emission standards for SORE were implemented between model years 2000 and 2008. The current evaporative emission standards were implemented between 2006 and 2013. It is important to note that the emission standards apply only to manufacture of new equipment for sale or import into California. These regulations do not contain in-use requirements for equipment owners.

Many engines have emissions below the current exhaust emission standards. Since these emission standards were first implemented, many technological advancements that could reduce the exhaust emissions from this equipment have been made. However, the emission standards have not been updated to require the implementation of these technologies. The exhaust emission regulations require engines to meet emission standards through the engines' useful lifetime. Manufacturers determine the useful lifetime, which can be as low as 50 hours of operation.

The current evaporative emission regulations give manufacturers the option to certify their engines as a complete system (referred to as "performance certification") or using individually certified components (referred to as "design certification"). Many manufacturers use design certification to reduce their testing costs. Regardless of the certification method that the manufacturers choose, the compliance rates for evaporative emissions from this category are generally low, with equipment from both certification processes failing at a rate of nearly 40 percent.

In March 2021, ARB staff held a public workshop on a draft regulatory proposal to amend the SORE regulations. Staff plan to bring a proposal to the Board in the fall of 2021. The draft regulatory proposal includes updated emission standards for new SORE that would transition small off-road equipment to zero emissions. A new emission reduction credit program would facilitate the transition of generators from SORE to zero emissions.

The transition to zero-emission equipment would occur in two phases. The first would start in model year 2024, when both the exhaust and evaporative emission standards would be zero for all new SORE, except generators. Manufacturers could use banked emission reduction credits to offset emissions from SORE, but no new emission reduction credits could be earned. Starting in model year 2024, emission standards for generators would be more stringent. A zero-emission generator emission reduction credit generation program would be implemented as part of this phase. This program would allow manufacturers of zero-emission generators to earn emission reduction credits, which could be used to offset emissions of SORE-powered generators.

The second phase would begin with model year 2028, when the exhaust and evaporative emission standards for new generators manufactured for sale in California would be zero. Manufacturers could still use any previously banked emission reduction credits to offset the emissions from new SORE-powered generators produced for sale in California until they expire.

ARB staff have held three public workshops, including the March 2021 workshop, to discuss potential amendments to the SORE regulations. Staff have also participated in conventions and community meetings, met extensively with stakeholders, and conducted other outreach to get feedback on draft proposals. Staff will continue to consider feedback from stakeholders as we develop a proposal for the Board's consideration to transition small off-road equipment in California to zero-emission equipment.

2) **Author's statement:**

Today, operating the best-selling gas-powered commercial leaf blower for one hour emits air pollutants comparable to driving a 2017 Toyota Camry from Los Angeles to Denver. Smog-forming emissions from small engines will surpass those from passenger vehicles this year. We must look beyond transportation if we are to achieve the emissions reductions needed to fight climate change and improve air quality and health in our communities.

AB 1346 will require sales of new small off-road engines in California to be zero-emission by 2024 or when ARB determines is feasible, whichever is later. This bill also requires ARB to make funding available to help landscaping businesses transition to zero-emission equipment. Transitioning to zero-emission equipment will reduce the occurrence of asthma, cardiovascular disease, and premature death caused by pollution, and help California meet our air quality goals.

- 3) **SORE includes a wide range of equipment and uses, not all of which can be replaced feasibly with batteries.** While the author's intent seems focused on lawn and garden equipment, ARB's existing SORE definition is based on engine size and includes a much broader range of equipment types than lawn and garden equipment. According to ARB, the largest SORE contributors to smog-forming emissions in its jurisdiction are generators, followed by leaf blowers, lawn mowers, riding mowers, trimmers, chainsaws, and pressure washers. There are several more equipment types using ARB-regulated SORE with less significant total emissions.

ARB sets emissions standards for new SORE, it does not regulate the use of SORE equipment, and this bill does not give ARB that authority. Some cities have adopted restrictions on SORE equipment use, primarily on leaf blowers in urban and suburban communities. These restrictions are typically focused on noise and/or dust impacts, rather than exhaust or evaporative emissions.

Without a definition of SORE and a hard deadline, it's not clear how and when this bill will be implemented. The bill does require ARB to "prohibit" (as opposed to "control") emissions from SORE as soon as ARB determines feasible but the bill gives ARB broad discretion to determine the feasible dates for prohibiting emissions from engine and equipment types. As noted above, ARB staff currently proposes a longer lead time to get to a zero-emission standard for generators.

Within lawn and garden equipment, there is wide variation in the availability and utility of zero-emission equipment depending on the use. For residential uses, rechargeable electric lawnmowers, leaf blowers, and string trimmers have been available for years and have significant market share. For commercial uses, there is very little market for zero-emission equipment as today's technology is relatively expensive and requires multiple batteries and/or frequent recharging and replacement.

In other applications, such as pumps, generators, and chainsaws, current zero-emission SORE technology may be inadequate even if money is no object, particularly when used in rural areas without convenient access to recharging.

Banning sales of new combustion engines under 25 horsepower could have a few unintended consequences. As long as there is no statewide registration requirements or use restrictions for SORE equipment, banning new engines may lead to prolonged use of older, dirtier engines, increased manufacture and sale of engines over 25 horsepower, and purchase of non-compliant engines out of state for use in California.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Silicon Valley  
ActiveSGV  
American Lung Association in California  
Bay Area Air Quality Management District  
California Walks  
Carbon Free Mountain View  
Coalition for Clean Air  
Environment California  
Greentown Los Altos  
Natural Resources Defense Council  
Physicians for Social Responsibility - San Francisco Bay Area Chapter  
Regional Asthma Management and Prevention (RAMP)  
Sierra Club California  
Silicon Valley Youth Climate Action  
The Climate Center  
Union of Concerned Scientists  
Verdugo Woodlands West Homeowners Association

### **Opposition**

None on file

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



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 1390 (Boerner Horvath) – As Amended April 19, 2021

**SUBJECT:** State lands: school and lieu lands

**SUMMARY:** Modernizes laws related to the selling and leasing of the State Lands Commission's (SLC) school lands including allowing SLC to sell or lease state lands without maintaining an easement if it determines that selling or leasing the lands without the easement is in the best interests of the state.

**EXISTING LAW:**

- 1) Requires the SLC to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local governments.
- 2) Grants, in trust, public trust lands to over 70 local public agencies (local trustees) to be managed for the benefit of all the people of the state and pursuant to the Public Trust Doctrine and terms of the applicable granting statutes.
- 3) Authorizes lands owned by the state and under the jurisdiction of SLC to be leased by SLC for grazing, commercial, industrial, and recreational purposes.
- 4) Grants administrative control of school lands to SLC. Specifies that school lands are lands granted to the state from the federal government and held in trust to generate revenues that benefit public schools.
- 5) Authorizes SLC to take all action necessary to fully develop school lands into a permanent and productive resource base for the benefit of the California State Teachers' Retirement System (CalSTRS).
- 6) Declares that the consolidation of school land parcels into contiguous holdings is essential to sound and effective management of school lands.
- 7) Requires, before the disposition of state lands to a private party or other governmental agency, the intended recipient of such lands to submit to the SLC and to the Legislature a general plan, as specified by SLC, for the use of the subject lands to be transferred, together with the review and comments of other interested state agencies.
- 8) Establishes the School Land Bank Fund, which SLC may use to invest in real property with the objective of facilitating management of school lands for the purpose of generating revenue. Authorizes SLC to also use the School Land Bank Fund to pay for costs and expenses attributable to land acquisitions.

**THIS BILL:**

- 1) Repeals out-of-date and obsolete provisions related to school lands, such as a requirement that the SLC ask the United States for surveys and create a master plan for all school and lieu lands under its jurisdiction.
- 2) Authorizes SLC to sell or lease state lands without maintaining an easement if it determines that selling or leasing the lands without the easement is in the best interests of the state.
- 3) Repeals the requirement that before the disposition of state lands to a private party or other governmental agency, the intended recipient of such lands to submit to the SLC and to the Legislature a general plan, and instead requires, at least 10 days before a disposition of state lands to a private party or other governmental agency, SLC to notify, by letter, the chair of the relevant policy committees of the Legislature and each Member of the Legislature in whose district any part of the state lands is located of the proposed disposition, and make the information regarding the proposed disposition publicly available on SLC's internet website.
- 4) Specifies costs and expenses attributable to the acquisition include, but are not limited to, the fees and expenses of appraisals, escrow, broker's fees, title insurance, and other third-party costs, may be paid from the fund.
- 5) Authorizes SLC to delegate authority to their executive officer to make a nonrefundable down payment for a potential acquisition of real property or any interest in real property.

**FISCAL EFFECT:** Unknown

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

AB 1390 provides the State Lands Commission with additional tools to acquire and steward a category of public lands, known as school lands, which have been entrusted to the Commission to generate revenue for retired teachers and facilitate renewable energy development projects. The bill would remove constraints that make it difficult for the Commission to invest in property to generate revenue for CalSTRS. Removing these constraints, would also better position the Commission to avail itself of opportunities to work with the federal government to facilitate renewable energy projects, which would help California transition to a clean energy future, and help contribute to the state and federal 30 by 30 policies.

- 2) **SLC.** Established in 1938, the SLC manages four million acres of tide and submerged lands and the beds of natural navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. These lands, often referred to as sovereign or Public Trust lands, stretch from the Klamath River and Goose Lake in the north to the Tijuana Estuary in the south, and the Colorado River in the east to the Pacific Coast three miles offshore in the west to world-famous Lake Tahoe in the east, and includes California's two longest rivers, the Sacramento and San Joaquin.

The SLC also monitors sovereign land granted in trust by the California Legislature to approximately 70 local jurisdictions that generally consist of prime waterfront lands and coastal waters. SLC is required to protect and enhance these lands and natural resources by issuing leases for use or development, providing public access, and resolving boundaries between public and private lands.

- 3) **School lands.** In 1853, Congress granted the State of California 5.5 million acres of lands to support public schools. These lands, known as school lands, consisted of the 16th and 36th sections of land in each township, with exceptions. A township contains 36 equal sections. Each section within a township is 1 square mile, or 640 acres. Over time, the state sold several million acres of school lands (nearly 90%). There are now approximately 458,000 acres of school lands that SLC manages, along with the reserved mineral interests on an additional 790,000 acres where the surface land has been sold.

School lands were placed into a statutory trust in 1984 when the Legislature enacted the School Land Bank Act and established the School Land Bank Fund. The SLC is the trustee of the Fund. School lands and attendant interests are to be proactively managed and enhanced to provide an economic base supporting public schools. The SLC is required to take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base. AB 982 (Skinner), Chapter 485, Statutes of 2011, declared it is in the best interest of the state that school lands be managed as a revenue source and it is the intent of the Legislature that fair market value be a primary criterion in determining if proposed uses or dispositions of land should be approved. Revenues generated from school lands are used to benefit CalSTRS. In fiscal year 2019-20, \$6 million in revenue was transferred to CalSTRS. The bill would assist SLC in meeting the intent of AB 982 by modernizing school lands statutes to remove obsolete requirements and barriers to the lease or sale of school lands.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California State Lands Commission (sponsor)

### **Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 680 (Burke) – As Introduced February 12, 2021

**SUBJECT:** Greenhouse Gas Reduction Fund: California Just Transition Act

**SUMMARY:** Establishes the California Just Transition Act (Act), which requires the Labor and Workforce Development Agency (LWDA) to update, by July 1, 2023, the funding guidelines for administering agencies to ensure that all applicants for grant programs funded by the Greenhouse Gas Reduction Fund (GGRF) meet fair and responsible employer standards and provide inclusive procurement policies.

**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 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.
- 2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 3) 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.
- 4) Establishes the GGRF and requires all moneys, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the GGRF and available for appropriation by the Legislature.
- 5) Establishes the GGRF Investment Plan and Communities Revitalization Act to set procedures for the investment of GHG allowance auction revenues. Authorizes a range of GHG reduction investments and establishes several policy objectives:
  - a) Maximize economic, environmental, and public health benefits;
  - b) Foster job creation;
  - c) Complement efforts to improve air quality;
  - d) Direct investment toward the most disadvantaged communities and households in the state;
  - e) Provide opportunities for businesses, public agencies, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce GHG emissions; and,

- f) Lessen the impacts and effects of climate change on the state's communities, economy, and environment.
- 6) Specifies that moneys appropriated from the GGRF for investments may include funding to reduce GHG emissions through:
- a) Energy efficiency, clean and renewable energy generation, distributed renewable energy generation, transmission and storage, and other related actions;
  - b) The development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation;
  - c) Strategic planning and development of sustainable infrastructure projects;
  - d) Investments in programs implemented by local and regional agencies, local and regional collaboratives, and nonprofit organizations coordinating with local governments; and,
  - e) Funding research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded pursuant to the Act.
- 7) Requires the investment plan to allocate a minimum of 25% of the available moneys in the GGRF to projects that provide benefits to identified disadvantaged communities, and additional minimum of 5% to projects that benefit low-income households or to projects located within and benefitting individuals living in low-income communities, and an additional minimum of 5% to projects that benefit low-income households that are outside of, but within a 1/2 mile of, disadvantaged communities, or to projects located within the boundaries of, and benefitting individuals living in, low-income communities that are outside of, but within a 1/2 mile of, disadvantaged communities.
- 8) Directs ARB and agencies administering GGRF funding to maximize the co-benefits associated with funded projects.
- 9) Requires the Department of Finance to submit an annual report and a triennial investment plan to the Legislature on the status of projects funded by GGRF moneys.
- 10) Requires state agencies, prior to expending any moneys from the GGRF appropriated by the Legislature, to prepare a record consisting of the following:
- a) A description of each expenditure proposed to be made by the state agency pursuant to the appropriation;
  - b) A description of how a proposed expenditure will further the regulatory purposes of AB 32;
  - c) A description of how a proposed expenditure will contribute to achieving and maintaining GHG emission reductions;
  - d) A description of how the state agency considered the applicability and feasibility of other non-GHG reduction objectives; and,

- e) A description of how the state agency will document the result achieved from the expenditure.

**THIS BILL:**

- 1) By July 1, 2023, requires the LWDA to work with ARB to update the funding guidelines to administering agencies to ensure that all applicants for grant programs funded by the GGRF meet the following standards:
  - a) Fair and responsible employer standards, defined as documented compliance with applicable labor laws and labor-related commitments concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards;
  - b) Inclusive procurement policies, meaning applicant procurement policies that prioritize bids from entities that demonstrate the creation of high-quality jobs, the creation of jobs in disadvantaged, tribal, and low-income communities, or both; and,
  - c) Prevailing wage for any construction work funded in part or in full by the grant.
- 2) Requires applicants for grants to fund construction projects over \$1 million to provide evidence of a community workforce agreement.
- 3) Requires administering agencies to give preference to applicants that demonstrate a partnership with an educational institution or training program targeting residents of disadvantaged, tribal, and low-income communities in the same region as the proposed project.
- 4) Requires administering agencies to give preference to applicants that demonstrate that jobs created through the proposed project will be high-quality jobs.
- 5) If an applicant submits information that does not meet the standards established by the bill, requires administering agencies to work with the LWDA to provide guidance to the applicant for future grant applications.
- 6) Exempts applicants for projects that involve federal funding, technical assistance, and research from the requirements of the bill.
- 7) Specifies that applicants are responsible for ensuring the compliance of any contractors.
- 8) Requires the LWDA to work with administering agencies to leverage existing programs and funding to assist applicants with meeting the requirements of the bill.
- 9) Defines terms used in the bill, including:
  - a) “Administering agencies” as state agencies administering grant programs funded by the GGRF;
  - b) “Community workforce agreement” as a project labor agreement that includes a targeted hire plan;

- c) “Disadvantaged, tribal, and low-income community” as a community in a census tract with median household incomes at or below 80% of the statewide median income or with median household incomes at or below the threshold designated as low-income by the Department of Housing and Community Development’s list of state income limits and members of Native American groups;
- d) “High-quality job” as a job that facilitates economic mobility by providing retirement benefits, vacation and sick leave, training opportunities, and wages at or above the average median wage of a region;
- e) “Prevailing wage” as the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification, or type of work within the locality of a project and in the nearest labor market area;
- f) “Project labor agreement” as a collective bargaining agreement between the applicant and one or more labor organization that establishes the terms and conditions of employment for a specific project; and,
- g) “Targeted hire plan” as a strategy from the applicant to demonstrate how they will create jobs for disadvantaged, tribal, and low-income communities, and how they will ensure access to those jobs.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author’s statement:**

California has been a global leader in combating climate change. From energy efficiency upgrades to transportation decarbonization to renewable resources generation, California has led the way in aggressive emissions reductions all while rising to be the 5th largest economy in the world.

While this progress is laudable, its outcomes have been inconsistent, and a great deal of evidence shows wealthy communities benefit the most from the state’s climate investments. According to a report published last June by UCLA’s California Center for Sustainable Communities, affluent communities have a far greater ability to access existing programs and incentives. A separate report published in the Transportation Research Record evaluating the Clean Vehicle Rebate Project concluded that 83% of rebate recipients had annual incomes of \$100,000 or more.

Additionally, despite numerous statutory requirements to maximize the socioeconomic benefits of our climate investments, the State Auditor, just last month, released a report detailing the Air Resources Board’s limited collection and analysis of data regarding job creation and benefit outcomes. The California Workforce Development Board’s recently published report “Putting California on the High Road: A Jobs and Climate Action Plan for 2030” documents the potential for jobs of the carbon neutral economy to be low-wage with limited upward advancement, a finding supported by the State Building and Construction



Trades Council report titled “Would Green Jobs Offset Those Lost from a Phase-Out of Oil and Gas Production.”

AB 680 addresses these shortcomings by requiring grant applicants for GGRF funding to document high-quality job creation in disadvantaged and low-income communities while prioritizing applications that demonstrate partnerships with local educational institutions and training partnerships that target residents of marginalized communities.

These provisions, as recommended by the California Workforce Development Board’s report, would ensure equity and inclusion are considered on the front end of applications, rather than as an afterthought with a funding set aside, while incentivizing applicants to site projects in areas that have traditionally been excluded from the wider economic prosperity of our state.

This bill will ensure we are targeting high quality job creation efforts in communities which would benefit the most from our state’s climate investments and provide incentive to site projects in communities which often have the least resources but are most impacted by climate change.

- 2) **AB 32.** The Global Warming Solutions Act (AB 32) requires ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations, including market-based compliance mechanisms, to achieve maximum technologically feasible and cost-effective GHG emission reductions.

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

- 3) **GGRF.** The 2014-15 Budget Act allocated GGRF revenues for the 2014-15 fiscal year and established a long-term plan for the allocation of GGRF revenues beginning in fiscal year 2015-16. Thirty-five percent of GGRF is continuously appropriated for investments in transit, affordable housing, and sustainable communities. Twenty-five percent is continuously appropriated to continue the construction of the high-speed rail project. The remaining 40% is subject to annual appropriation by the Legislature for investments in programs that include low-carbon transportation, energy efficiency and renewable energy, and natural resources and waste diversion.

The Administration’s 2020 annual report to the Legislature on cap and trade investments includes an analysis of funds spent within and benefiting “priority populations,” which the report defines as disadvantaged and low-income communities and low-income households. According to the report, 57% of the overall funding benefited priority communities.

Auction proceeds have fluctuated significantly since they began in 2011, from a low of \$257 million in Fiscal Year 2012-13 to a high of over \$3.2 billion in Fiscal Year 2018-19. The most recent quarter generated nearly \$697 million.

In 2018, ARB updated its funding guidelines to require additional reporting of co-benefits

and job benefits from GGRF expenditures. According to the 2020 annual report to the Legislature, GGRF investments awarded in 2019 are expected to support 10,500 jobs.

- 4) **State reports and recommendations.** In February, the Bureau of State Audits released an audit report, *California Air Resources Board: Improved Program Measurement Would Help California Work More Strategically to Meet Its Climate Change Goals*. The report identified a number of areas that ARB can improve upon, including that ARB has not done enough to measure the economic benefits and job creation in disadvantaged and low- and moderate-income communities. The audit also finds that ARB has been slow to measure the jobs created by its programs or the benefits of job-training in spite of its funding guidelines that require programs to report the outcomes of the job training.

The audit identifies four key recommendations: 1) Establish a process to identify the overlap between its incentive programs and other programs that share the same objectives and develop metrics to demonstrate the socioeconomic benefits that result from each incentive program; 2) Develop a method to define, collect, and evaluate data on the behavioral changes that result from each of its incentive programs; 3) Refine the GHG emissions reductions estimates in its annual reports to the Legislature; and, 4) Make funding and program design recommendations based on which programs produce socioeconomic benefits and at what cost.

Last June, the California Workforce Development Board (Board) released *Putting California On the High Road: A Jobs and Climate Action Plan For 2020*. The report addresses workforce interventions to ensure that the transition to a carbon-neutral economy creates high-quality jobs, prepares workers with the skills needed to adapt to and master new zero- and low-emission technologies, broadens career opportunities for workers from disadvantaged communities, and supports workers whose jobs may be at risk. The report includes recommendations “for just transition” to assist the state in planning for the protection and support of workers at risk of declining opportunities in the fossil fuel industry. The Governor’s Executive Order N-79-20 directs the state to take a number of actions to combat the climate crisis, including requiring the LWDA and the Office of Planning and Research, in consultation with the Department of Finance and other state agencies to develop, by July 15, 2021, and expeditiously implement a Just Transition Roadmap, consistent with the recommendations of the Board’s report.

This bill is intended to address some of the shortcomings identified by requiring grant applicants for GGRF funding to document high-quality job creation in disadvantaged and low-income communities while prioritizing applications that demonstrate partnerships with local educational institutions and training partnerships that target residents of marginalized communities.

- 5) **Suggested amendments.** In addition to a minor technical amendment, the committee may wish to consider the following:

This bill includes the term “Native American groups.” The *committee may wish to amend the bill* to instead use the term “Native American tribes” to be consistent with related statutes.

This bill requires applicants seeking funding for construction projects over \$1 million to provide evidence of a workforce agreement, but it is not clear if the project is over \$1 million

or if the GGRF funding is over \$1 million. The *committee may wish to amend the bill* to clarify that this provision applies to GGRF funding over \$1 million.

The author's office has requested that *the committee amend the bill* to change the name of the Act to the California Jobs Plan Act of 2021.

6) **Previous and related legislation.**

AB 1453 (Muratsuchi) establishes the Just Transition Advisory Commission and tasks the Commission with developing a Just Transition Plan. This bill is also scheduled to be heard in this committee on April 28<sup>th</sup>.

AB 398 (E. Garcia) Chapter 135, Statutes of 2017, among other things, required the California Workforce Development Board to publish a report outlining recommendations on workforce development and training to help communities adapt to the economic and labor-market changes resulting from California's transition to a carbon neutral economy.

AB 2722 (Burke) Chapter 371, Statutes of 2016, established the Transformative Climate Communities Program administered by the Strategic Growth Council to disburse grants for projects that include multiple, coordinated GHG emissions reduction efforts that provide local economic, environmental, and health benefits to disadvantaged communities.

SB 535 (de León) Chapter 830, Statutes of 2012, among other things, directed administering agencies to develop guidelines on maximizing benefits for disadvantaged communities for GGRF grants and set aside 25% of those funds for those communities.

7) **Double referral.** This bill was heard by the Assembly Labor and Employment Committee on April 8th and passed with a vote of 5-1.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Elders Climate Action, NorCal and SoCal Chapters

**Opposition**

Western Electrical Contractors Association

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



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 1260 (Chen) – As Introduced February 19, 2021

**SUBJECT:** California Environmental Quality Act: exemptions: transportation-related projects

**SUMMARY:** Establishes a temporary (until January 1, 2023) CEQA exemption for a public transit agency project to construct or maintain infrastructure to charge or refuel zero-emission trains.

**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.
- 2) CEQA exempts specified transportation project types, including the following:
  - a) Approval of a bicycle transportation plan for an urbanized area for restriping of streets and highways, bicycle parking and storage, signal timing, and related signage, until January 1, 2030.
  - b) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.
  - c) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.
  - d) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.
- 3) Last year, SB 288 (Wiener), Chapter 200, Statutes of 2020, added temporary CEQA exemptions for the following “clean transportation” project types:
  - a) Pedestrian and bicycle facilities, including bicycle parking, bicycle sharing facilities, and bikeways.
  - b) Projects that improve customer information and wayfinding for transit riders, bicyclists, or pedestrians.
  - c) Transit prioritization projects, as defined.
  - d) On highways with existing public transit service or that will be implementing public transit service within six months of the conversion, a project for the designation and conversion of general purpose lanes or highway shoulders to bus-only lanes, for use either during peak congestion hours or all day.
  - e) A project for the institution or increase of new bus rapid transit, bus, or light rail service, including the construction of stations, on existing public rights-of-way or existing highway rights-of-way, whether or not the right-of-way is in use for public mass transit.

- f) The maintenance, repair, relocation, replacement, or removal of any utility infrastructure associated with a project listed above.
  - g) *A project to construct or maintain infrastructure to charge or refuel zero-emission transit buses, as specified.*
  - h) A project that combines any of the components of a project listed above.
  - i) A project carried out by a city or county to reduce minimum parking requirements.
- 4) SB 288 requires exempt projects meet all of the following criteria:
- a) A public agency is carrying out the project and is the lead agency for the project.
  - b) The project is located in an urbanized area, as defined.
  - c) The project is located on or within an existing public right-of-way.
  - d) The project does not add physical infrastructure that increases new automobile capacity on existing rights-of-way except for minor modifications needed for the efficient and safe movement of transit vehicles, such as extended merging lanes. The project shall not include the addition of any auxiliary lanes.
  - e) The construction of the project does not require the demolition of affordable housing units, including rent-controlled units and units occupied by low-income tenants.
- 5) SB 288 requires a project exceeding \$100 million to also meet all of the following criteria:
- a) The project is incorporated in a regional transportation plan, sustainable communities strategy, general plan, or other plan that has undergone a programmatic-level environmental review within 10 years of the approval of the project.
  - b) Construction impacts are fully mitigated.
  - c) The lead agency completes and considers the results of a project business case and a racial equity analysis.
  - d) The lead agency holds specified public meetings.
- 6) SB 288 requires the lead agency to certify that the project will be completed by a skilled and trained workforce, as specified.
- 7) SB 288 sunsets the section adding the exemptions above on January 1, 2023.

**THIS BILL** adds to the SB 288 list of temporary exemptions an exemption for a project to construct or maintain infrastructure to charge or refuel zero-emission trains, provided the project is carried out by a public transit agency and the project is located on property owned by a transit agency or within an existing public right-of-way.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

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

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

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

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

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

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

2) **Author's statement:**

San Bernardino County Transportation Authority (SBCTA) has been leading the charge for a greener passenger rail future by piloting self-powered zero-emission rail technology for their new service between San Bernardino and Redlands. They will be the first to operate the Zero-Emission Multiple Unit (ZEMU) in North America and will use a hybrid of hydrogen fuel cell and battery technology. This will provide a cleaner transportation option for my district and the state of California. AB 1260 will help deliver the most environmentally friendly rail vehicle in the United States. This bill is consistent with previous efforts to jumpstart sustainable transportation projects.

3) **The San Bernardino project.** While this bill exempts zero-emission train refueling statewide, SBCTA presents the only zero-emission train project likely to come forward before the exemption sunsets January 1, 2023. SBCTA's proposed Arrow Maintenance Facility (AMF) Hydrogen Fuel Upgrade Project includes augmentation of the AMF to allow for the integration and operation of ZEMU passenger rail vehicles. The ZEMU utilizes a hydrogen fuel cell-battery propulsion system in lieu of a diesel engine, thus allowing

deployment on existing infrastructure with minimal additional capital needs related to fueling and maintenance. The AMF maintenance building, which is currently outfitted for diesel vehicles, will undergo multiple retrofits to comply with state and local requirements to facilitate the use of hydrogen fuel. Improvements to the AMF maintenance building include HVAC, spark-proofing electrical wiring, battery charging outside of the maintenance building, and installation of a hydrogen detection system. The project also includes construction of hydrogen fueling infrastructure at the site. Development and production of the ZEMU is funded through a 2018 Transit and Intercity Capital Program grant. The vehicle is currently being designed and manufacturing is expected to start in fall 2021.

According to SBCTA, this would be the first hydrogen and battery self-powered passenger train in North America. As SB 288 included exemptions for projects to construct or maintain infrastructure to charge or refuel self-powered zero-emission transit busses, AB 1260 would extend those exemptions to rail and help build the critical infrastructure needed to support this zero-emission train. This project is consistent with the state's goals of reducing greenhouse gas emissions and fighting the impacts of climate change. With this in mind, SBCTA is proud their forward-looking vision in San Bernardino County will bring about this and other projects that will move us closer to cleaner public transit options.

- 4) **One more for good measure.** SB 288, approved by this committee and enacted in 2020, was billed as a measure to speed investment in “shovel-ready” clean transportation to boost COVID economic recovery. An essential part of the SB 288 agreement was a two-year sunset. While AB 1260 comes a year later, the exemption for zero-emission train refueling seems consistent with SB 288, which included an exemption for zero-emission transit bus refueling. Importantly, AB 1260 does not extend SB 288's sunset and the sponsors have indicated they do not intend to.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

San Bernardino County Transportation Authority (sponsor)

##### **Opposition**

350 Silicon Valley

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



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 525 (Chiu) – As Amended April 26, 2021

**SUBJECT:** Energy: offshore wind generation

**SUMMARY:** Requires the California Energy Commission (CEC) to establish megawatt offshore wind (OSW) planning goals for 2030 and 2045 by March 1, 2022. Further requires the CEC, in coordination with specified agencies, to develop a strategic plan, as specified, for OSW developments and to submit the plan to the Natural Resources Agency (NRA) and the Legislature by December 31, 2022.

**EXISTING LAW:**

- 1) The Renewables Portfolio Standard (RPS) requires “retail sellers” of electricity, i.e., investor-owned utilities (IOUs), electric service providers (ESPs) and community choice aggregators (CCAs), as well as publicly-owned utilities (POUs), to procure 60% of their retail electricity sales from eligible renewable energy resources by 2030 and thereafter, including interim targets of 33% by 2020, 44% by 2024, and 52% by 2027.
- 2) Provides that eligible renewable generation facilities must use biomass, solar thermal, photovoltaic, wind, geothermal, renewable fuel cells, small hydroelectric, digester gas, limited non-combustion municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current.
- 3) Establishes a policy that eligible renewable energy resources and zero-carbon electric generating facilities will supply all electricity procured to serve California customers by December 31, 2045, and directs the CEC, the Public Utilities Commission (PUC), and the Air Resources Board (ARB) to incorporate this policy into all relevant planning and programs.
- 4) Requires the PUC, in consultation with the CEC, ARB, and all California balancing authorities, to issue a joint report to the Legislature by January 1, 2021, reviewing and evaluating the 100 percent clean energy policy.
- 5) Requires the PUC to identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner. Requires the portfolio to rely upon zero carbon-emitting resources to the maximum extent reasonable and be designed to achieve any statewide greenhouse gas (GHG) emissions limit.

**THIS BILL:**

- 1) Requires the CEC, on or before March 1, 2022, to evaluate and quantify the maximum feasible capacity of OSW to achieve reliability, ratepayer, employment, and “decarbonization” benefits, and establish megawatt OSW planning goals for 2030 and 2045.

- 2) Requires the CEC, in coordination with the California Coastal Commission (CCC), the Ocean Protection Council (OPC), the State Lands Commission (SLC), the Office of Planning and Research (OPR), the Governor's Office of Business and Economic Development (GO-BIZ), the Independent System Operator (CAISO), the PUC, and other relevant federal, state, and local agencies as needed, to develop a strategic plan for OSW developments installed off the California coast in federal waters. Requires the plan to incorporate, but not delay, progress to advance responsible OSW development in other relevant policy venues. Requires the CEC to submit the plan to the NRA and the Legislature by December 31, 2022.
- 3) Requires the plan to include the following four chapters:
  - a) Identification of sea space. Requires the CEC to coordinate with the CCC, Department of Fish and Wildlife (DFW), OPC and SLC, and work with stakeholders, other agencies, and the OSW industry to identify sea space sufficient to accommodate the CEC's OSW planning goals.
  - b) Economic and workforce development and identification of port space and infrastructure. Requires the CEC to coordinate with relevant state and local agencies to develop a plan to improve waterfront facilities to support OSW manufacturing, construction, assembly, operation, and maintenance.
  - c) Transmission planning. Requires the CEC to consult with the PUC and CAISO to assess the transmission upgrades necessary to support the CEC's OSW planning goals.
  - d) Permitting. Requires the CEC to convene a working group including all relevant local, state, and federal agencies, as well as interested California Native American tribes, to collectively develop guidelines, timeframes, and milestones for a coordinated, comprehensive, and efficient permitting process for OSW facilities and associated electricity and transmission infrastructure.
- 4) Makes related findings.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background** (from Utilities and Energy Committee analysis):

*Offshore Wind Potential* – Over the last four decades, California has advanced land-based wind energy. As of 2019, almost 6 gigawatts (GW) of installed wind capacity was generating in the state, the fifth largest amount of wind capacity in the United States. Although California has no offshore wind generation, the National Renewable Energy Laboratory has identified 200 GW of offshore wind technical potential for California. However, approximately 96 percent of this potential is located in water deeper than 60 meters, where the mature, fixed-bottom turbine technology is not technically feasible. Off the coast of California, a steep continental shelf and increased wind speeds combine to make floating turbines the primary technically feasible option.

Floating turbines employ mooring (cabling) and an anchored substructure underwater which steadies a platform holding the wind turbine above water. The use of cabling to anchor the

turbine allows floating platforms to operate at depths between 60 and 1,300 meters. Depending on the type of floating structure, some assemblage of floating turbines may need to occur offshore, requiring naval cranes and vessels to stabilize such operations, and port infrastructure and specific port water depths.

In contrast, most of the development of offshore wind globally has occurred via fixed turbine technologies where the turbines are anchored to the seabed through a solid foundation. These designs prevent dynamic motion and do not allow the machine to move significantly in response to wave or wind pressures. Fixed foundations typically exhibit a maximum usable water depth of 50 to 60 meters; beyond this depth, fixed wind designs are not economically or technically feasible.

Many East Coast states and foreign countries have developed offshore wind projects employing fixed foundation turbines. The first was a 0.45 MW farm off the Danish coast in 1991. Since that early project, three markets – the United Kingdom, Germany, and China – account for 82.1 percent of the global installed capacity. In the United States, offshore wind development is being driven by a collection of eight East Coast states including New York, Massachusetts, and New Jersey, which account for at least 22.5 GW of project commitments through 2035. Nearly all project proposals are sited in federal waters – which start three nautical miles from shore out to 200 nautical miles – and fall under the jurisdiction of the federal Bureau of Ocean Energy Management (BOEM). They are all fixed foundation projects.

In total, BOEM has designated 13 active call areas in the United States. Call areas are regions of the ocean designated by BOEM as potential areas for offshore wind development. In total, these BOEM-designated call areas are estimated to have an energy resource potential of about 21 GW. These areas may be leased through an auction following a call for nominations, a formalized process to gauge interest from potential developers. In California, BOEM identified three call areas in 2018 as potentially suitable for offshore wind energy leasing: the Humboldt Call Area, the Morro Bay Call Area, and the Diablo Canyon Call Area. These three call areas are currently under consideration for offshore wind energy development. While there is a significant potential for offshore wind development off the California coast, considerable barriers remain. Among the challenges are significant transmission requirements and competing coastal uses, including shipping, fishing, recreation, marine conservation, and Department of Defense activities.

*Federal Action on Offshore Wind* – On the East Coast, offshore wind industry development is driven primarily by the technology's potential to decarbonize the power system, demand for low carbon resources near large, coastal load centers, and constraints on land availability. The primary support for offshore wind rollout in the United States has been an investment tax credit (ITC; 12 percent in 2019) that in late 2020 was extended through 2021. Also in late 2020, Congress established a 30% ITC for any offshore wind project that begins construction by December 31, 2025 or began construction before January 1, 2017. Once qualified, the project has several years to reach completion.

On March 29, 2021, the White House announced actions to spur the development of offshore wind energy projects. These actions include establishing a national target to deploy 30 GW of offshore wind by 2030; investing \$230 million for port and infrastructure projects to bolster offshore wind development; providing access for offshore wind projects to the

Department of Energy's loan programs office; funding research and development projects to study the impacts and challenges of offshore wind; and establishing a new BOEM call area off the New York-New Jersey coast.

On March 31, 2021, the White House announced its American Jobs Plan, which included a call to Congress for approximately \$15 billion for demonstration projects of climate research and development priorities, including floating offshore wind. Congress is still in the early days of considering this appropriation.

*California Action on Offshore Wind* – In October of 2016, The Bureau of Ocean Energy Management–California Intergovernmental Renewable Energy Task Force was created as a partnership of state, local, and federal agencies, including the CEC, BOEM, and tribal governments. The Task Force promotes coordination and communication among these entities on potential offshore leases for research or commercial development off the California coast. One of the first public meetings of the Task Force was held in April 2017 in San Luis Obispo to share offshore wind planning activities with the local community. Many public meetings and workshops on offshore wind have been held by the CEC since, with the most recent in October 2020.

In 2019, the CEC's Energy Research and Development Division began to assess research, development, and deployment opportunities to support cost-effective wind development off the California coast. A final report was released in August 2020 and focused on identifying opportunities to remove or reduce technological, manufacturing, logistics, and supply chain barriers to deployment; lower the development risk of offshore energy projects; and identify opportunities for early pilot demonstration projects. As part of the study, the project team developed a Research Database that aggregates publicly announced offshore wind research efforts. The majority of the projects in the database are funded by the federal government.

*SB 100's Joint Agency Report* – In 2018, the Legislature adopted SB 100 (de León, Chapter 312, Statutes of 2018) that establishes a target for renewable and zero-carbon resources to supply 100 percent of retail sales and electricity serving all state agencies by 2045. The statute calls upon the PUC, CEC, and ARB (collectively, the Joint Agencies) to use programs under existing law to achieve this policy and issue a joint policy report. The Joint Agency report was finalized on March 15, 2021, and notes it “is intended to be a first step in an iterative and ongoing effort to assess barriers and opportunities to implementing the 100 percent clean electricity policy.” Unlike the PUC IRP process, which forecasts system need out for 10 years, the Joint Agency report forecasts system need out 24 years, to 2045. However, the report notes “the preliminary findings [in the report] are intended to inform state planning and are not intended as a comprehensive *nor prescriptive* roadmap to 2045...future work will delve deeper into critical topics such as system reliability and land use and further address energy equity and workforce needs.”

Offshore wind was included as part of the core scenario in the Joint Agency report. The offshore wind system availability was limited to 10 GW over four resource zones: Morro Bay, Diablo Canyon, Humboldt Bay, and Cape Mendocino. The model was given an input assumption of 2030 as the first available year for bringing offshore wind online, given the current CAISO interconnection queue and resource development needs of offshore wind, with costs for the different zones estimated between \$69 and \$82 per MW hour (MWh) for 2030. Given these input assumptions, nearly all 10 GW of offshore wind was selected when

made available in the model. But this selection only occurred after 2035, regardless of the scenario, with the full 10 GW selected only in 2045.

The Joint Agency report likewise evaluated scenarios where no new out-of-state wind or offshore wind were selected. In these scenarios where wind resources are not available, the model selects increased geothermal capacity, with utility-scale solar and battery storage meeting the remaining energy system needs. These scenarios result in an additional 22 GW of solar capacity and 15 GW of storage capacity coming online, rather than 10 GW of offshore wind and 8.2 GW of out-of-state wind.

2) **Author's statement:**

AB 525 would further the state's goal of 100% clean energy by 2045 by planning for the development of utility-scale offshore wind energy in the state. On the east coast, states have set a total of 29 GW worth of offshore wind development goals, resulting in 16 projects under contract and counting. President Biden has made offshore wind a priority, with a goal of doubling offshore wind energy nationally. California has fallen behind, and has yet to make a significant investment in offshore wind power. This is despite the fact offshore wind could create over ten thousand jobs in the green economy and enable our state to meet our climate change goals.

California needs to site a huge quantity of diverse renewables on land and in the ocean to decarbonize the electric system reliably and affordably. One of the biggest challenges for California's current renewable energy sector is supplying consumers with consistent clean power due to the intermittent production of solar. Solar energy tapers off in the late afternoon and evening, just as people return home and are consuming more energy. Unlike solar energy, offshore wind typically produces energy in the evening and throughout the night. Thus, solar and wind are complimentary, and we will need large quantities of both energy sources for a clean and reliable electric system.

Offshore wind development in California has the potential to create a significant number of new labor-fueled jobs. Offshore wind development will create an opportunity to train a new generation of workers to perform high-quality, skilled jobs in manufacturing, construction, maintenance, and operations. According to the Workforce Development Institute, an estimated 74 different occupations are needed for the planning, development, and operation of a single offshore wind farm.

Offshore wind is an energy resource with the potential to transform the state in ways that will have extraordinary environmental and economic benefits.

3) **Come together, right now.** This bill demands an extraordinary level of coordination among many agencies, including multiple subgroups of state, federal and local agencies, as well as stakeholders, on a very short timeline. The final strategic plan is due December 31, 2022, one year from the date the bill may be enacted.

The bill requires the CEC to establish megawatt offshore wind planning goals for 2030 and 2045 prior to the multi-agency strategic plan process. The deadline for this assignment is even more aggressive – March 1, 2022 – just two months after the bill may be enacted.

These timelines seem extremely ambitious, and perhaps unrealistic.

The effect of the OSW planning goals and strategic plan on individual OSW projects is not entirely clear. No OSW project has yet filed for any of the various approvals that will be necessary to construct offshore turbines, transmission, and necessary shoreline infrastructure.

The existence of a CEC report with OSW planning goals and a plan to coordinate permitting does not relieve any of the various responsible agencies from their duties under public trust doctrine, the Coastal Act, the California Environmental Quality Act and other current law regarding project-specific review.

- 4) **Double referral.** This bill was approved by the Utilities and Energy Committee with amendments on April 21, 2021 by a vote of 14-0.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Humboldt: Grass Roots Climate Action  
 350 Sacramento  
 350 Silicon Valley  
 350 Ventura County Climate Hub  
 Alliance for Nuclear Responsibility  
 American Clean Power Association  
 Audubon California  
 Brightline Defense  
 California Alliance of Nurses for Healthy Environments  
 California Association of Port Authorities  
 California State Association of Electrical Workers  
 California Wind Energy Association  
 Ceres  
 Clean Power Campaign  
 Coalition of California Utility Employees  
 County of Humboldt  
 County of San Luis Obispo  
 E2 (Environmental Entrepreneurs)  
 East Bay Community Energy  
 Elders Climate Action, NorCal and SoCal Chapters  
 Emerald Cities San Francisco  
 Environmental Defense Fund  
 Environmental Working Group  
 Humboldt Bay Harbor, Recreation, & Conservation District  
 International Brotherhood of Boilermakers, Western States Section  
 International Union of Operating Engineers, Cal-Nevada Conference  
 Marin Clean Energy  
 Marin Interfaith Climate Action  
 Natural Resources Defense Council  
 Northern California Carpenters Regional Council  
 Offshore Wind California  
 Redwood Coast Energy Authority

Sierra Club California  
The Climate Center  
The Nature Conservancy  
Union of Concerned Scientists  
West Oakland Environmental Indicators Project

**Opposition**

None on file

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





Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1087 (Chiu) – As Amended April 21, 2021

**SUBJECT:** Environmental Justice Community Resilience Hubs Program

**SUMMARY:** Establishes the Environmental Justice Community Resilience Hubs Program (Program) to fund building upgrade projects in both public spaces and qualified housing, using 5% of the annual utility greenhouse gas (GHG) allowance revenue for five years.

**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.
- 2) Requires direct allocations of GHG allowances to electric and gas utilities to be used for the primary benefit of retail ratepayers of each utility consistent with the goals of AB 32, and specifies that they may not be used for the primary benefit of entities or persons other than such ratepayers. Allocated allowance auction proceeds must be used to reduce GHG emissions or returned to ratepayers.
- 3) Requires the California Public Utilities Commission (CPUC) 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.
- 4) Requires the CPUC, in consultation with the California Energy Commission (CEC), to develop and administer a program of incentives for near-zero and zero-emissions building technologies to significantly reduce GHG emissions below the minimum projected emissions that would otherwise be expected to result from the implementation of the state's building standards. From July 1, 2019 through June 30, 2023, requires the CPUC to allocate \$50 million annually from gas IOU GHG emissions allowance revenues for these purposes.
- 5) Establishes the California Alternate Rates for Energy Program (CARE) for assistance to low-income residential IOU customers with annual household incomes no greater than 200% of federal poverty guidelines. CARE discounts cannot be less than 30% nor greater than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers, and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer.

- 6) Establishes the Family Electric Rate Assistance Program (FERA) for assistance to low-income residential customers of the state's three largest IOUs whose household income is between 200% and 250% of the federal poverty guidelines. The FERA discount is an 18% line-item discount applied to an eligible customer's bill calculated at the applicable rate for the billing period.
- 7) Requires electric and gas IOUs to provide weatherization assistance, and specifies that weatherization means attic insulation, caulking, weather-stripping, a low-flow showerhead, water heater blanket, and door and building envelope repairs to reduce air infiltration and may also include other building conservation measures, energy-efficient appliances, and energy education programs, determined by the CPUC, for low-income customers. This program is known as the Energy Savings Assistance Program (ESAP).
- 8) Establishes the Multifamily Affordable Housing Solar Roofs Program (also known as the Solar on Multifamily Affordable Housing Program, SOMAH) to provide financial incentives for qualified solar installations at multifamily affordable housing properties funded, from July 1, 2016 through June 30, 2020 with the possibility of a six-year extension upon CPUC determination, from approximately 10% of electric IOUs' GHG allowances.

**THIS BILL:**

- 1) From July 1, 2022 through June 30, 2027, requires the CPUC to annually allocate 5% of the revenues from the IOU allocation to fund the Program. Excludes CARE and FERA program participants from this contribution. Specifies that the allocation pursuant shall not exceed 5% of the revenues and the total combined allocations of this bill and other programs funded by direct allowances shall not exceed 20% of the revenues.
- 2) Prohibits the CPUC from including the portions of the revenues credited directly to small businesses and emissions-intensive trade-exposed retail customers of the IOU.
- 3) Specifies that the allocation shall not reduce the credits available to residential customers that are participants of CARE or FERA.
- 4) Requires an electric IOU to award funds for the Program to a third-party administrator selected by the CPUC for competitive grants to owners of critical community institutions for building upgrade projects that demonstrate community engagement, multi-stakeholder partnerships, reflect the geographic diversity of the state, and are installed at the institutions.
  - a) Defines "critical community institutions" as institutions necessary for providing vital community functions during states of emergency and natural disasters in disadvantaged or vulnerable communities.
- 5) Permits an electric IOU or third-party administrator to accept additional funds from other sources to fund the grants.
- 6) By November 1, 2022, requires the CPUC to establish eligibility criteria for comprehensive building upgrades that meet the Program's goals to reduce GHG emissions and criteria air pollutants and to enhance community resilience to climate change events in disadvantaged or vulnerable communities. Requires that the upgrades do not receive duplicative funding for the same technology or measure from other programs.

- 7) Requires the CPUC to establish the Program, to be jointly operated among all the participating electrical corporations and consistent across the utility territories.
- 8) Prohibits more than 10% of the Program funds from being used for administration, technical assistance, and outreach.
- 9) Requires the administrator to:
  - a) Provide technical assistance to program applicants;
  - b) Assess the landscape of other public benefit programs that program applicants may be eligible to access. To the extent possible, the administrator shall support program applicants in accessing other public benefit programs relating to energy in order to coordinate any available, complementary funding sources; and,
  - c) Ensure that the competitive grants are only awarded throughout the applicable electrical IOU's service territory.
- 10) Requires the CPUC to establish local hiring requirements, wage requirements, requirements to partner with state-sanctioned apprenticeships programs, and strong workforce standards for the Program in order to provide economic development benefits to disadvantaged communities.
- 11) States legislative findings relating to the need for community resilience to cope with and survive during emergencies. Declares the goal of the Legislature to make clean, renewable, and resilient energy systems more accessible to disadvantaged communities and vulnerable populations and to install those systems in a manner that represents the geographic diversity of the state.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

AB 1087 is based on the premise that resilience is built before disaster. Currently, environmental justice communities are bearing the brunt of intersecting and intensifying crises – from wildfires and power shutoffs to extreme heat and flooding to a lack of secure and affordable housing.

This bill aims to rehab existing buildings that communities depend on for housing and vital support services. Improvements to these buildings will reduce local pollution, provide access to clean energy, improve safety and affordability of these buildings, and improve community resiliency against the worst effects of climate change. While the state offers a handful of underfunded and siloed clean energy programs, some of which are available to environmental justice communities, the existing offerings are uncoordinated, difficult to navigate, and insufficient in size and scope compared to the need for resilient infrastructure.

AB 1087 addresses these problems by reallocating funding from the California Climate Credit towards creating a new resilience hubs grant program. Currently, most consumers only receive a small credit, averaging \$120 annually on their utility

bill from this program. This bill allows consumers to pool those revenues towards coordinating existing programs and making improvements in shared community facilities.

This program would boost the climate change resilience of institutions that communities trust (such as affordable housing, libraries, schools, health clinics, and places of worship) with building upgrades such as improved building insulation for extreme heat protection, clean energy microgrids installation for backup power during grid outages, and air filtration systems to combat wildfire smoke. In addition to eliminating climate pollution and supporting the transition to a clean energy economy, these upgrades would transform buildings into what we call “resilience hubs”: community-serving facilities that offer people space to gather, organize, and access services not only during climate disasters, but on a daily basis.

- 2) **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.

From 2013 to 2020, the electric IOUs returned \$6.3 billion directly to customers. 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.

As ARB continues to lower the “cap” in the cap-and-trade program to help California reach its GHG emissions reduction goals, it is expected that the total amount of available allowances, including proceeds from electric IOU sales of their allowances, will decrease, which will result in reduced funding for the Climate Credit and associated programs.

- 3) **GHG allowance proceed programs.** Up to 15% of the electric IOU auction proceeds may be used for clean energy or energy efficiency projects. The largest of these programs is SOMAH, authorized by AB 693 (Eggman, Chapter 582, Statutes of 2015). The SOMAH program uses \$100 million or 10% of the IOUs' auction proceeds, whichever is less, to provide financial incentives for the installation of solar energy photovoltaic (PV) systems on multifamily affordable housing properties throughout California.

In addition to SOMAH, the CPUC developed three programs to increase the adoption of renewable generation in disadvantaged communities. The CPUC funded these programs with allowance proceeds, if funds were available under the 15% limit; otherwise, if such funds were

exhausted, the programs would access public purpose program funding. The Disadvantaged Communities Single-Family Solar Homes (DAC-SASH) program enables income-qualified homeowners in disadvantaged communities to receive no-cost rooftop solar installations. The Disadvantaged Communities-Green Tariff (DAC-GT) program enables income-qualified, residential customers in disadvantaged communities who may be unable to install solar on their roof to benefit from utility-scale clean energy and receive a 20% bill discount. The Community Solar Green Tariff (CSGT) program enables residential customers in disadvantaged communities who may be unable to install solar on their roof to benefit from a local solar project and receive a 20% bill discount.

- 4) **Double referral.** This bill was heard by the Assembly Utilities and Energy Committee on April 7th and passed with a vote of 8-3.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

350 Butte County  
350 Silicon Valley  
50 Acterra Action for a Healthy Planet  
Acterra  
ActiveSVG  
Asian Pacific Environmental Network  
Bay Area Regional Health Inequities Initiative  
California Alliance of Nurses for Healthy Environments  
California Coastkeeper Alliance  
California Environmental Justice Alliance  
California League of Conservation Voters  
California Releaf  
California Solar & Storage Association  
California Walks  
Carbon Cycle Institute  
Catholic Charities of The Diocese of Stockton  
Center for Community Action & Environmental Justice  
Center on Race, Poverty & the Environment  
Central Coast Alliance United for A Sustainable Economy  
Ceres  
Clean Water Action  
Climate Compassion  
Climate Equity Policy Center  
Coalition for A California Green New Deal  
Communities for a Better Environment  
Converging Storms Action Network  
Cooperation Humboldt  
Courage California  
Elders Climate Action, NorCal and SoCal Chapters  
Environmental Working Group  
Essential Food and Medicine  
Fossil Free California

Greenbank Associates  
Greenbelt Alliance  
Grid Alternatives  
Human Impact Partners  
Industrial District Green  
Little Manila Rising  
Local Clean Energy Alliance  
Local Government Commission  
Los Angeles Neighborhood Land Trust  
Natural Resources Defense Council  
NorCal Resilience Network  
People Power Solar Cooperative  
Physicians for Social Responsibility - Los Angeles  
Policy Link  
Re-Up Refill Shop  
Reclaim Our Power: Utility Justice Campaign  
Redwood Energy  
Regional Asthma Management & Prevention  
Resilience Cooperation Humboldt  
Rising Sun Center for Opportunity  
Romero Institute  
Sacramento Area Congregations Together  
Safe Routes to School National Partnership  
Sierra Club California  
Stone Energy Associates  
Strategic Concepts in Organizing and Policy Education  
Sunrise Bay Area  
Sunrun  
Surfrider Foundation  
Sustainable Claremont  
The Climate Center  
The Greenlining Institute  
Union of Concerned Scientists  
University of California Los Angeles  
Vote Solar  
1 Individual

**Opposition**

California Large Energy Consumers Association  
Edison International and Affiliates, Including Southern California Edison  
Pacific Gas and Electric Company  
Sempra Energy Utilities  
The Utility Reform Network (unless amended)

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

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 992 (Cooley) – As Amended March 25, 2021

**SUBJECT:** California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program

**SUMMARY:** Makes “peer-to-peer truck sharing platform demonstration” eligible for incentives under the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program (Clean Truck Program) administered by the Air Resources Board (ARB).

**EXISTING LAW:**

- 1) Establishes the Greenhouse Gas Reduction Fund (GGRF) and requires all moneys, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism (i.e., the Cap-and-Trade Program adopted by ARB under AB 32) to be deposited in the GGRF and available for appropriation by the Legislature.
- 2) Establishes the Clean Truck Program pursuant to SB 1204 (Lara), Chapter 524, Statutes of 2014, to use GGRF funds for development, demonstration, pre-commercial pilot, and early commercial deployment of zero- and near-zero-emission truck, bus, and off-road vehicle and equipment technologies including, but not necessarily limited to, medium- and heavy-duty trucks, vocational trucks, short-haul and long-haul trucks, buses, and off-road vehicles and equipment, port equipment, agricultural equipment, marine equipment, and rail equipment.
- 3) Requires, until December 31, 2021, that no less than 20% of funding for the Clean Truck Program support commercial deployment of existing zero- and near-zero-emission heavy-duty trucks.

**THIS BILL** adds “peer-to-peer truck sharing platform demonstration” as an eligible project under the Clean Truck Program.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** In 2014, SB 1204 (Lara) established the Clean Truck Program, which is administered by ARB. The intent of SB 1204 was to create a single, overarching program to develop and deploy heavy-duty vehicles primarily because the author felt that heavy-duty vehicles were not being adequately addressed in existing incentive programs. The Program works to develop zero-and near-zero emission technologies for specified vehicles and equipment not only for trucks, but also for buses, off-road vehicles, and equipment at the ports, as well as in agricultural, marine, and rail sectors. Within the Program, funding priority is generally given to projects that demonstrate benefits to disadvantaged communities, the ability to leverage additional public and private funding, and provide the potential for co-benefits.

ARB carries out the Clean Truck Program in concert with the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP), which provides point-of-sale voucher discounts to fleet owners, and the Zero-Emission Truck and Bus Pilot Commercial Deployment Project, which provides funding for large scale deployments of medium- and heavy-duty trucks and buses, as well as accompanying fueling infrastructure and supporting vehicle service and repair facility upgrades.

HVIP provides point-of-sale voucher discounts to purchasers of eligible vehicles. Under HVIP, a purchaser is defined as “the fleet that will purchase or lease the eligible vehicle and operate the vehicle for at least three years. Vehicles under common ownership or control that share a common Taxpayer identification number (TIN) or California Carrier Identification Number (CA #) are considered part of a single fleet. A purchaser is not a manufacturer, dealership, or leasing company that enters into any agreement with another party to operate the vehicle.” The HVIP program as currently implemented by ARB restricts receipt of an HVIP voucher to an applicant with one owner and one operator.

Peer-to-peer truck sharing allows businesses the opportunity to list and rent underutilized vehicles to peers. FluidTruck, this bill’s sponsor offers 24/7 access to trucks vans, and SUVs. According to the company’s website, the rental platform enables small and mid-sized businesses, as well as consumers, to rent commercial vehicles in only a few minutes with their mobile devices. Truck rentals could be utilized for a variety of circumstances such as moving households, running errands requiring large items, or for Amazon Flex drivers to make their deliveries.

Vehicles available under peer-to-peer truck sharing platforms can include independently purchased commercial vehicles or fleets. For example, in October 2020, Lightning Systems, a provider of electrified urban commercial fleets, announced that FluidTruck would incorporate 600 Lightning electric vehicles onto their platform, with availability starting in late 2020. These all-electric, zero-emission vehicles will be deployed in major urban areas across the United States.

FluidTruck cites HVIP’s one owner/one operator requirement as a barrier to participation for potential purchasers. They claim large companies with substantial vehicle fleets are able to make the financial investment in a zero-emission truck and can meet the one operator requirement. However, small- to medium-sized businesses cannot justify the investment without the opportunity to recoup some of that expense by renting the vehicle out when it would otherwise be sitting idle.

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

AB 992 will help California achieve its GHG reduction goals, reduce the use of high polluting vehicles for last mile deliveries, and improve the air quality for local communities and drivers by ensuring that small businesses and independent delivery truck drivers have access to a wide variety of zero-emission trucks. Peer-to-peer sharing platforms can help get more zero-emission trucks on the road. Purchasers who list their vehicles on a platform are able to take advantage of resource sharing of their investment, while making the vehicle broadly available to a diverse group of small and medium sized businesses. AB 992 will allow for a demonstration where users place their vehicle on a truck sharing platform, which will permit the vehicle to be used instead of sitting idle,



replacing vehicle miles traveled of a gasoline or diesel vehicle with a ZEV or hybrid vehicle.

- 3) **Related legislation.** AB 96 (O'Donnell), pending in the Assembly Transportation Committee and double-referred to this committee, amends the same section to extend the 20% commitment through 2026, establish a new 20% commitment for “near-zero” emission trucks, as defined.
- 4) **Double referral.** This bill was approved the Assembly Transportation Committee on April 5, 2021 by a vote of 14-0, on consent.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

FluidTruck (sponsor)

**Opposition**

None on file

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



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 354 (Cooper) – As Amended March 18, 2021

**SUBJECT:** Energy efficient appliance rebate program

**SUMMARY:** Requires the California Energy Commission (CEC), by July 1, 2022 and if the Legislature appropriates funding, to create a three-year appliance rebate program (Program) for low-income customers to purchase new energy star or other energy efficient appliances.

**EXISTING LAW:**

- 1) Requires the CEC to establish appliance efficiency standards based on a reasonable use pattern. The CEC may prescribe other cost-effective measures not preempted by federal labeling law. An appliance manufactured on or after the effective date of these standards cannot be offered for sale in California unless it complies with the standards.
- 2) Authorizes the CEC to adopt standards for appliances to facilitate the deployment of flexible demand technologies, based on feasible efficiencies and improvements that will enable appliance operations to be scheduled, shifted, or curtailed to reduce emissions of greenhouse gases (GHG) associated with electricity generation. Mandates that these flexible demand appliance standards be cost-effective.
- 3) Authorizes the CEC to adopt regulations establishing an administrative enforcement process for appliance efficiency violations and allows the CEC to assess civil money penalties for violations up to \$2,500 for each violation.
- 4) Establishes the Energy Savings Assistance Program, which requires electric and gas investor-owned utilities (IOUs) to provide weatherization assistance, and specifies that weatherization means attic insulation, caulking, weather-stripping, low-flow showerheads, water heater blankets, and door and building envelope repairs to reduce air infiltration for low-income customers. Specifies that weatherization may also include other building conservation measures, energy-efficient appliances, and energy education programs determined by the California Public Utilities Commission (CPUC) to be feasible and considering the cost-effectiveness of the measures as a whole and the policy of reducing energy-related hardships facing low-income households.
- 5) Requires publicly owned utilities (POUs) to establish a “nonbypassable” charge on local distribution service to fund investments in any: 1) cost-effective demand-side management service; 2) new investments in renewable energy resources and technologies; 3) research, development and demonstrations programs; and, 4) services for low-income customers including energy efficiency, education, weatherization, and rate discounts. A POU may choose which of these programs to fund.
- 6) Establishes the California Alternative Rates for Energy (CARE) program, an assistance program for low-income residential customers of IOUs with annual household incomes no greater than 200% of federal poverty guidelines which reflects discounts based on level of

need. CARE discounts cannot be less than 30% nor greater than 35% of the revenues that would have been produced for the same billed usage by non-CARE customers and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer.

- 7) Establishes a statewide target for doubling energy efficiency savings in electricity and gas final end uses of retail customers by January 1, 2030.

**THIS BILL:**

- 1) By July 1, 2022, requires the CEC to create a three-year Program to provide eligible residential customers of an electric or gas utility with monetary incentives to purchase new appliances that meet energy star, or similar energy efficiency, standards approved by CEC.
- 2) Specifies that customers with annual household incomes that do not exceed 200% of the federal poverty guideline are eligible for the Program.
- 3) Requires CEC to:
  - a) Establish a rebate level for each appliance product type;
  - b) Define how the rebates will be processed, including a digital option for rebate applications and delivery to customers;
  - c) Create a plan for recycling old, replaced appliances; and,
  - d) Determine energy efficiency requirements for those appliances that are eligible for rebates.
- 4) Requires CEC to determine the amount of the rebate, up to \$300.
- 5) Limits the number of rebates to three per customer over the term of the Program.
- 6) Specifies that eligible customers are eligible for an additional incentive of \$25 for recycling each replaced appliance.
- 7) Specifies that refrigerators, washers, dryers, dishwashers, ovens and cooktops, and other appliances that meet the energy consumption or energy efficiency thresholds, as determined by CEC, are eligible under the program.
- 8) Specifies that new gas appliances that meet energy efficiency standards are eligible under the Program.
- 9) Specifies that rebates are only applicable for appliances purchased for an eligible customer's primary residence.
- 10) Prohibits any increase in cost or rates to ratepayers.
- 11) Specifies that the Program becomes operative upon appropriation of funds by the Legislature, and sunsets the program on July 1, 2025.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

In order for California to continue on its path towards a sustainable future, Californians need to begin to modernize their homes. AB 354 will help Californians purchase energy efficient appliances that will not only help us reach our goals, but will help out working-families with their energy costs.

- 2) **Federal appliance rebate program.** In 2009, the United States Department of Energy (DOE) developed the State Energy Efficient Appliance Rebate Program (SEEARP) to spur economic activity and invest in long-term energy savings. SEEARP helped consumers replace older, inefficient appliances with new, efficient models. SEEARP provided almost \$300 million to support state-level consumer rebate programs for efficient appliances from December 1, 2009 to February 17, 2012.

Under SEEARP, DOE gave states the authority to choose which ENERGY STAR products qualified for their programs: boilers, central and room air conditioners, washers, dishwashers, freezers, furnaces, heat pumps, refrigerators, and water heaters. California selected all the listed products as eligible for the SEEARP funds. DOE program evaluations of SEEARP found that keeping the program simple, using a single application across any state and utility program, and offering additional incentives for recycling old appliances were beneficial.

The Biden Administration's recently announced "American Jobs Plan" proposes an Energy Efficiency and Clean Electricity Standard alongside energy efficiency updates targeted to affordable and public housing, community colleges, and child care facilities, which indicates there may be potential for future federal funding for energy efficiency programs.

- 3) **State energy efficiency programs.** The CPUC oversees energy efficiency programs administered by the electric and gas IOUs as well as third parties. From 2012 until 2015, the IOUs maintained a program called the Plug Load and Appliance (PLA) program. The PLA program offered rebates to customers for certain high efficiency residential appliances, consumer electronics, water heaters, pool pumps, insulation, and other high efficiency technologies. The PLA Program also had a subprogram, known as the Appliance Recycling program that provided incentives to recycle old and inefficient refrigerators and freezers.

For low-income customers, ESAP funds energy efficiency upgrades, at no cost to qualifying participants, in eligible low-income residential homes and multifamily housing. Unlike other energy efficiency programs, ESAP considers both costs and benefits including improved health, safety, and comfort rather than just cost effectiveness. ESAP includes replacing refrigerators, washers, furnaces, and water heaters, among other measures. In 2020, ESAP was authorized to nearly \$600 million, paid for by a public purpose program surcharge in IOU rates. ESAP reached approximately 85-100%, depending on the utility, of its 2020 statutory goal.

Some POU and community choice aggregators (CCAs) offer energy efficiency programs. CCAs and POU are subject to the statewide goal established in SB 350 (de León, Chapter 547, Statutes of 2015), which requires the CEC to set targets to double energy efficiency savings in the state by January 1, 2030. In 2018, POU spent more than \$218 million on energy efficiency programs, resulting in more than 638-gigawatt hours of net annual energy savings. By late 2019, two CCAs had energy efficiency programs using ratepayer dollars collected and distributed by the CPUC and others offer programs independently.

- 4) **ENERGY STAR.** ENERGY STAR is a federal program administered by the United States Environmental Protection Agency. The ENERGY STAR program provides energy efficiency information and tools for consumers, homeowners, and businesses. Through the program's rating of appliances and other plug-in loads, the ENERGY STAR label helps consumers identify energy efficient products. This tool is also used as the foundation for the CEC's benchmarking program. ENERGY STAR covers a broad range of appliances, from natural gas furnaces to high-efficiency heat pumps, as the program considers contributions to energy savings nationwide.

5) **Related legislation.**

AB 699 (Salas) establishes the Flexible Demand Appliances Rebate Program at the CEC, which provides rebates for qualified flexible demand appliances to qualifying residential ratepayers. This bill is also scheduled to be heard in this committee on April 28<sup>th</sup>.

- 6) **Double referral.** This bill was heard by the Assembly Utilities and Energy Committee on April 7<sup>th</sup> and passed with a vote of 15-0.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

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

Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 1431 (Frazier) – As Introduced February 19, 2021

**SUBJECT:** Forestry: forest carbon plan: state goals

**SUMMARY:** Establishes specified state goals for fuel treatment and vegetation management contained in the California Forest Carbon Plan (Plan). Requires, on or before January 1, 2023, the Natural Resources Agency (NRA) and the California Environmental Protection Agency (CalEPA) to submit a report to the appropriate policy and budget committees of the Legislature on the positions and resources needed to achieve the state goals.

**EXISTING LAW:**

- 1) Requires the Board of Forestry and Fire Protection (Board) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state [known as the State Responsibility Area (SRA)].
- 2) Requires The Department of Forestry and Fire Protection CAL FIRE to identify certain areas in the local responsibility area (LRA) as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Requires the Secretary of NRA to create a working group on expanding wood product markets that can utilize woody biomass, especially biomass removed from high hazard zones, as determined by CAL FIRE.
- 4) Requires the NRA, in consultation with the State Fire Marshal (SFM) and the Forest Management Task Force (FMTF), to review regional capacity of each county that contains a VHFHSZ.
- 5) Establishes a local assistance grant program at CAL FIRE to improve fire prevention in California and ensure that fire prevention activities happen year round.
- 6) Requires the Board to develop criteria and maintain a "Fire Risk Adapted Community" list of local agencies that meet best practices for local fire planning. Prioritizes local agencies on the list for CAL FIRE's local assistance fire prevention grants.
- 7) Requires, pursuant to SB 901 (Dodd), Chapter 626, Statutes of 2018, the following appropriations from the Greenhouse Gas Reduction Fund (GGRF) be made through the 2023-24 Fiscal Year to CAL FIRE:
  - a) \$165 million for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.
  - b) \$35 million to complete prescribed fire and other fuel reduction projects through proven forestry practices consistent with the recommendations of the Forest Carbon Plan,

including the operation of year-round prescribed fire crews and implementation of a research and monitoring program for climate change adaptation.

**THIS BILL:**

- 1) Makes various findings about wildfires and the Plan, including that the Plan has yet to be adequately implemented due to funding and workforce challenges, and the general lack of urgency to address California's significant forest and wildland management deficiencies.
- 2) Establishes as state goals for fuel treatment and vegetation management all of the following:
  - a) Increase forest restoration and fuel treatment from 17,500 acres to 60,000 acres per year by 2030;
  - b) Increase the area reforested annually by 25% above 2018 levels;
  - c) Increase vegetation management to 500,000 acres per year on nonfederal lands;
  - d) Urge the federal government to achieve similar treatment levels on federal lands;
  - e) Expand wood products manufacturing in the state;
  - f) Increase carbon storage through increased use of durable wood products in buildings;
  - g) Streamline the planning and permitting for forest restoration and forest health projects;
  - h) Reduce small landowners' financial barriers to land management;
  - i) Increase by 10% the acreage of forest land protected by conservation easements that include specified management objectives. Specifies that conservation easements are required to focus on areas that can effectively sequester and store resilient carbon while providing wildfire habitat, protecting watershed values, and supporting other forest ecosystem benefits.
  - j) Requires, on or before January 1, 2023, the NRA and CalEPA to submit a report to the appropriate policy and budget committees of the Legislature on the positions and resources needed to achieve the state goals.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

In 2018, a broad representation of local, state and federal agencies finalized the California Forest Carbon Plan to set goals for the treatment of California's forests to prevent and reduce greenhouse gas emissions from high severity wildfires while promoting carbon sequestration in forests and wildlands. The Plan is the result of several years of careful collaboration and includes vegetation management and fuels treatment strategies such as prescribed fire, mechanical thinning and woody biomass utilization, all of which have been widely



scientifically recognized to reduce greenhouse gas emissions associated with high severity wildfires.

While often cited as a roadmap for reducing emissions from California's devastating wildfires, the California Forest Carbon Plan has no statutory authority behind it and has not been nearly as effective as it could in helping California meet its greenhouse gas reduction goals. By codifying various goals of the California Forest Carbon Plan, AB 1431 would stress the urgency of reducing greenhouse gas emissions from wildfires while placing accountability on the agencies responsible for implementing programs and projects to meet those goals. AB 1431 would also allow the Legislature greater oversight by requiring NRA and CalEPA to report annually on the progress of meeting the goals outlined in the Plan.

- 2) **Background.** Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to public health, property, infrastructure, and ecosystems. In 2020, wildfires burned more than 4.1 million acres. The August Complex Fire in northern California, the largest fire in California's modern history, burned over one million acres. In total, wildfires caused 33 deaths and destroyed over 10,000 structures in 2020. The land area burned in 2020 more than doubled the previous record, roughly 1.8 million acres, which was set in 2018. Furthermore, seven of the state's deadliest fires have occurred since 2017, with over 100 fatalities in 2017 and 2018.

Fire has always been present in California landscapes, either ignited by lightning strikes or by Native American tribes to preserve certain useful plants and prevent larger fires. Low-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of plants and trees. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity.

A century of suppressing low-intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought has increased the size and severity of California's fires. Climate change has also contributed to wildfire risk by reducing humidity and precipitation and increasing temperatures.

The use of targeted mechanical vegetation management, prescribed fire, and managed wildfire reduces the accumulated high fuel loads, promoting healthier, more resilient forests, reducing the risk of high-severity wildfires.

SB 901 (Dodd), Chapter 626, Statutes of 2018, committed \$1 billion for CAL FIRE's Forest Health Grant Program and Fire Prevention Grant Program and dedicated fuel reduction crews over five years. The funds are meant to be used to do significant fuel reduction work near communities and in forested watersheds, and many projects will include a biomass utilization component. Approximately half of this commitment has already been spent.

On January 8, 2021, the Governor's Budget proposed \$1 billion to support the FMTF's Wildfire and Forest Resilience Action Plan; the plan included early action items and an extension of the SB 901 funding commitment for an additional five years, until Fiscal Year 2028-29. The wildfire early action expenditure plan contained in SB 85 (Committee on

Budget and Fiscal Review, 2021) appropriated \$536 million to 15 different state agencies for fire prevention activities.

3) **Forest Carbon Plan.** In May 2018, The Plan was released. According to the Plan:

Forested lands are... the largest land-based carbon sink with trees and underbrush drawing carbon from the atmosphere and storing it in their cellulosic structure and in forest soils. Growing evidence, however, suggests these lands will become a source of overall net GHG emissions if actions are not taken to enhance their health and resilience and to reduce the threats they face from wildfire, insects, disease, and a changing climate.

The Plan was written by the Forest Climate Action Team, which includes various state agencies, federal agencies, and local governments. The lead drafters of the Plan were CAL FIRE, NRA, and CalEPA. The Plan included various findings, proposed actions, and recommendations for implementation to “reverse historic adverse trends and firmly establish California’s forests as a more resilient and reliable long-term carbon sink, rather than a GHG and black carbon emission source.” Also in May of 2018, Governor Brown issued Executive Order B-52-18 to combat dangerous tree mortality, increase the ability of our forests to capture carbon and systematically improve forest management. The Executive Order was aligned with the various findings, proposed actions, and recommendations for implementation of the Plan.

Key elements of the Plan include:

- a) By 2020, increase the rate of forest restoration and fuels treatment, including prescribed fire, from the recent average of 17,500 acre/years to 35,000 acres per year;
- b) By 2030, further increase the rate of forest restoration and fuels treatment to 60,000 acres per year;
- c) By 2030, increase the area reforested annually by 25% above the current level;
- d) By 2025, expand areas of high priority habitat by 5% above current levels, as provided in the State Wildlife Action Plan;
- e) Ensure that timber operations conducted under the Forest Practice Act and Rules contribute to the achievement of healthy and resilient forests that are net sinks of carbon;
- f) Promote increasing the acreage of forest carbon projects and remove barriers to their implementation;
- g) Increase the rate of treatment to approximately 500,000 acres per year on non-federal lands to make an ecologically meaningful difference at a landscape scale;
- h) By 2020, on lands managed by the USDA Forest Service, increase health and resiliency treatments from the current approximately 250,000 acres per year to 500,000 acres per year;
- i) Expand wood products manufacturing in California;

- j) Increase the total volume of carbon stored through greater use of durable wood products;
  - k) By 2030, increase the acreage of forestland protected by conservation easements by 10% with a focus on areas that are threatened by development; and
  - l) By 2030, increase total urban tree canopy statewide by 10% above current levels.
- 4) **New Governor, New Plan.** The Plan was developed under Governor Brown, who also created the Governor’s Forest Management Task Force (FMTF). The FMTF continued its work under Governor Newsom. On January 8, 2021, the Governor’s FMTF released a comprehensive action plan entitled “California’s Wildfire and Forest Resilience Action Plan” (action plan) to reduce wildfire risk for vulnerable communities, improve the health of forests and wildlands, and accelerate action to combat climate change. Many of the goals contained in the action plan overlap, and in some cases conflict, with the goals of the Plan. One reason for the differences in the plans is because the 2020 wildfires grew even larger and more widespread than prior years, and therefore the level of action had to increase. The state may go from committing \$1 billion over five years pursuant to SB 901 to appropriating over \$1 billion in 2021. By codifying portions of the Plan this bill may undermine the more audacious goals outlined in the action plan. One example is the bill states a state goal to increase forest restoration and fuels treatment from 17,500 acres to 60,000 acres per year by 2030. However, the action plan states, “CAL FIRE has increased its forest thinning and prescribed fire activities from about 30,000 acres in 2016 to more than 50,000 acres in 2020.” The bill needs to reconcile the new plan with the old one to have goals that align.
- 5) **Amendments.** The author and committee *may wish to consider* making the following amendments:
- a) Remove problematic findings;
  - b) Specify state goals will also build on the action plan;
  - c) Adjust goals to be consistent with the action plan;
  - d) Add important goals contained in the Plan and action plan related to habitat and urban forestry;
  - e) Specify that vegetation management goals established by this bill are for activities that improve the fire resiliency of the landscape where they are conducted and reduce the fire spread, duration, and intensity, fuel ignitability, or ignition of tree crowns, as applicable; and,
  - f) Make other technical and clarifying changes.
- 6) **Related legislation.**
- SB 456 (Laird) requires, by January 1, 2022, the FMTF to develop a comprehensive implementation strategy to achieve the goals and key actions identified in the state’s “Wildfire and Forest Resilience Action Plan” issued by the task force in January 2021. This bill is scheduled to be heard in the Senate Natural Resources and Water Committee on April 27<sup>th</sup>.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of California Water Agencies  
Little Hoover Commission  
Rural County Representatives of California

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 962 (Kamlager) – As Introduced February 17, 2021

**SUBJECT:** California Beverage Container Recycling and Litter Reduction Act: reusable beverage containers

**SUMMARY:** Clarifies that reusable beverage containers can be included in the California Beverage Container Recycling and Litter Reduction Act (Bottle Bill).

**EXISTING LAW:** Establishes the Bottle Bill, which:

- 1) Requires beverage containers, as defined, sold in-state to have a California redemption value (CRV) of 5 cents for containers that hold fewer than 24 ounces and 10 cents for containers that hold 24 ounces or more. Requires beverage distributors to pay a redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) for every beverage container sold in the state.
- 2) Specifies that beverage containers include containers made from aluminum, glass, plastic, or bimetal that are sealed and used to contain beer, wine and distilled spirit coolers, carbonated drinks, noncarbonated soft drinks and sports drinks, fruit drinks, coffee and tea drinks, vegetable juice in containers of 16 ounces or less, and fruit juice in containers of less than 46 ounces.
- 3) Requires CalRecycle to establish a processing payment for a beverage container covered under the program that has a scrap value less than the cost of recycling, to be determined as specified, that is at least equal to the difference between the scrap value of the material and the sum of the cost of recycling and a reasonable financial return.
- 4) Requires CalRecycle to pay handling fees to supermarket sites, non-profit convenience zone recyclers, and rural region recyclers to provide an incentive for the redemption of empty beverage containers in a convenience zone.
- 5) Requires processors to take the actions necessary and approved by CalRecycle to “cancel” containers to render them unfit for redemption.

**THIS BILL:**

- 1) Defines “reusable beverage container” as a beverage container that has been used to contain a beverage, for which the applicable redemption payment has been paid, and that is returned whole and intact to a recycler or other certified entity designated by CalRecycle and capable of reuse as a beverage container.
- 2) Specifies that for reusable beverage containers, a processor approved by CalRecycle to handle the containers may satisfy the requirement to “cancel” the container by transferring the container to a washer approved by CalRecycle.

**FISCAL EFFECT:** Unknown

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

We have become addicted to single use plastic and the volume of plastic waste discarded by each one of us is embarrassing. AB 962 is a small step toward taking advantage of returnable glass technology to reduce our waste stream. This bill will encourage the use of returnable glass bottles, which in turn will reduce the usage of single plastic bottle containers.

- 2) **The Bottle Bill.** The Bottle Bill was established in 1986 to be a self-funded program that encourages consumers to recycle beverage containers and to prevent littering. The program accomplishes this goal by requiring consumers to pay a deposit for each eligible container purchased. Then the program guarantees consumers repayment of that deposit, the CRV, for each eligible container returned to a certified recycler. Statute includes two main goals for the program: (1) reducing litter; and, (2) achieving a recycling rate of 80% for eligible containers. Containers recycled through the Bottle Bill's certified recycling centers also provides a consistent, clean, uncontaminated stream of recycled materials with minimal processing.
- 3) **Eligible beverage containers.** Only certain containers containing certain beverages are part of the CRV program. Most containers made from glass, plastic, aluminum, and bimetal (consisting of one or more metals) are included. Containers for wine, spirits, milk, fruit juices over 46 ounces, vegetable juice over 16 ounces, and soy drinks are not part of the program. Container types that are not included in the CRV program are cartons, pouches, and any container that holds 64 ounces or more.
- 4) **Ways to redeem containers.** Consumers have four potential options to redeem containers:
  - a) Return the container to a "convenience zone" recycling center located within ½-mile radius of a supermarket. These are generally small centers that only accept beverage containers and receive handling fees from the Beverage Container Recycling Fund. During 2019-20 FY, CZ recyclers redeemed about 30% of beverage containers.
  - b) Return to "dealers," i.e., stores that sell CRV containers that accept them. In convenience zones without a convenience zone recycler, beverage dealers, primarily supermarkets, are required to either accept containers for redemption or pay CalRecycle an "in lieu" fee of \$100 per day. Few stores accept beverage containers for redemption.
  - c) Return the container to an "old line" recycling center, which refers to a recycler that does not receive handling fees and usually accepts large quantities of materials, frequently by truckload from municipal or commercial waste collection services. Traditional recyclers collect a little more than half of all CRV containers (58%).
  - d) Consumers can also forfeit their CRV and "donate" their containers to residential curbside recycling collection. In the 2019-20 FY, curbside programs collected about 12% of CRV containers. Curbside programs keep the CRV on these containers.
- 5) **Refillable or reusable.** The Bottle bill allows "refillable" beverage containers to be exempt from the program. Reuse is above recycling on the waste reduction hierarchy -- "reduce, reuse, recycle." This exemption was intended to encourage reuse by enabling manufacturers who used refillable

containers to continue the practice. In spite of this exemption, refillable containers have dropped from around 15% of glass beverage containers in 1986 to under 1,000 containers today.

Entities have looked into participating in the Bottle Bill program using refillable containers, which would give them access to the program's recycling infrastructure. However, statute requires that returned containers be "cancelled" to minimize the potential for fraud. If a container is not cancelled, there is the potential for it to be redeemed multiple times. CalRecycle regulations require that in order for a beverage container to be cancelled, it must be crushed. This requirement is effective at preventing fraud, but makes it impossible for refillable containers to participate in the program, essentially preventing the reuse of beverage containers.

Last November, a pilot program for reusable containers was launched in Sonoma County. The company operating the pilot intends to construct a bottle washing facility in the county, which could employ hundreds of residents. Until then, the program is relying on washing facilities located in Washington and Montana. According to the author, CalRecycle has allowed the pilot project to begin operations as long as the containers are shipped out of state for washing. This requirement is intended to reduce the potential for fraud; however, it also increases transportation costs, and associated air and greenhouse gas emissions, and hinders the development of bottle washing facilities, and their associated jobs, in California.

This bill establishes a new definition for reusable beverage containers to preserve the existing option for refillable containers to be excluded from the program, and clarifies that reusable containers may be cancelled by transferring them to bottle washer certified by CalRecycle. This will enable manufacturers to participate in the program while reducing waste by using reusable containers.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Silicon Valley  
 Alliance of Nurses for Healthy Environments  
 Azul  
 Ban SUP  
 California Interfaith Power & Light  
 California League of Conservation Voters  
 California Music & Culture Association  
 California Product Stewardship Council  
 California Reuse Collective  
 Californians Against Waste  
 CALPIRG  
 Center for Biological Diversity  
 Center for Oceanic Awareness, Research, & Education  
 City of Half Moon Bay  
 Conscious Container  
 Container Recycling Institute  
 County of Marin  
 Courage California

FACTS: Families Advocating for Chemical & Toxins Safety  
Friends Committee on Legislation of California  
Glass Packaging Institute  
Greentown Los Altos  
Heal the Bay  
Keego Technologies LLC  
LA Vie Wellness Inc.  
League to Save Lake Tahoe  
National Stewardship Action Council  
Natural Resources Defense Council  
Northern California Recycling Association  
Oceana  
Pier 23 Cafe Restaurant & Bar  
Plastic Oceans International  
Plastic Pollution Coalition  
Rainbow Grocery Cooperative, Inc.  
Recology  
Resource Renewal Institute  
Reusable Packaging Association  
Robin's Restaurant  
Save Our Shores  
Sea Hugger  
Seventh Generation Advisors  
SF Bar Owner Alliance  
Sierra Club California  
Sierra Nevada Brewing Company  
Silica  
Sonoma County Waste Management Agency  
Surfrider Foundation  
Sustain LA  
The 5 Gyres Institute  
The Center for Oceanic Awareness, Research, and Education  
The Nectary  
The Story of Stuff Project  
Upstream  
Vella Ventures  
Wisdom Supply Co.  
Wishtoyo Chumash Foundation  
Zero Waste Sonoma  
Zero Waste USA

**Opposition**

None on file

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



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 963 (Kamlager) – As Introduced February 17, 2021

**SUBJECT:** Baldwin Hills Conservancy: urban watersheds conservancy expansion

**SUMMARY:** Makes various and significant changes to the Baldwin Hills Conservancy (BHC) including renaming the BHC to the Baldwin Hills and Urban Watersheds Conservancy, expands the conservancy's territory to include the southern Ballona Creek Watershed and the Upper Dominguez Channel, expands the BHC's board, and eliminates the 2026 sunset date for BHC.

**EXISTING LAW:**

- 1) Established BHC in 2000 in the Natural Resources Agency (NRA) and authorizes it to acquire and manage public lands within the Baldwin Hills area, in the land area currently within the Kenneth Hahn State Recreation Area, the Baldwin Hills community, and the surrounding property.
- 2) Prohibits BHC from regulating land use and exercising the power of eminent domain.
- 3) Authorizes the BHC to fix and collect fees for the use of any land owned or controlled, or for any service provided, by BHC. Prohibits fees in excess of the cost of maintaining and operating the land or of providing the service for which the fee is charged.
- 4) Provides the BHC with the first right of refusal to acquire lands suitable for park and open space within its prescribed territory, and authorizes conservancy to accept private or public lands offered for recreational trails.
- 5) Specifies that the board of BHC consist of 13 voting members and 7 nonvoting members. The 13 voting members of the board include the Secretary of NRA, the Director of Parks and Recreation (DPR), the Director of Finance, the Director of the Los Angeles County Department of Parks, the member of the Los Angeles County Board of Supervisors within whose district the majority of the Baldwin Hills area is located, and 6 members of the public appointed by the Governor. The 7 nonvoting members are: the Secretary of the California Environmental Protection Agency; the Executive Officer of the State Coastal Conservancy; the Executive Officer of the State Lands Commission; an appointee of the Governor with experience in developing contaminated sites, commonly referred to as "brownfields;" the Executive Director of the Santa Monica Mountains Conservancy; the Director of the Culver City Human Services Department; and the Director of the Department of Conservation. Allows designees to serve for members of the board.
- 6) Requires the BHC to enter into a memorandum of understanding with DPR that would require the BHC and DPR to cooperate in the sharing of technical assistance, data, and information.
- 7) Sunsets the BHC on January 1, 2026.

**THIS BILL:**

- 1) Renames the BHC the Baldwin Hills and Urban Watersheds Conservancy.
- 2) Expands the conservancy's jurisdiction to include the southern Ballona Creek Watershed and the Upper Dominguez Channel.
- 3) Expands the members of the conservancy's board from 13 to 15 voting members and from 7 to 12 nonvoting members.
  - a) Adds the following voting members:
    - i) The mayor of the City of Los Angeles, or the mayor's designee;
    - ii) The mayor of the City of Culver City, or the mayor's designee;
    - iii) An appointee from the South Bay Cities Council of Governments;
  - b) Decreases the public member appointed by the Governor by one.
  - c) Adds the following nonvoting members:
    - i) The Director of the City of Los Angeles Recreation and Parks Department, or the director's designee;
    - ii) The Director of the City of Inglewood Parks, Recreation and Community Services Department, or the director's designee;
    - iii) The President of the Board of Airport Commissioners of Los Angeles World Airports, or the president's designee;
    - iv) The Director of the City of Los Angeles Public Works Department, or the director's designee, and;
    - v) The Director of Conservation, or the director's designee.
- 4) Deletes the following conservancy requirements:
  - a) Approve funded projects that advance the policies and proprieties set forth in the laws governing it;
  - b) Enter into a memorandum of understanding with DPR that would require the conservancy and DPR to cooperate in the sharing of technical assistance, data, and information; and
  - c) By May 1, 2002, approve the master plan and prioritize and implement both of the following:
    - i) The acquisition of additional recreational and open space and a plan for the management of lands under the jurisdiction of the conservancy, including additional or upgraded facilities and parks that may be necessary or desirable.
    - ii) The planned conveyance of lands acquired and restored, or lands acquired, restored, and developed, to DPR or to any other public agency once the acquisition and improvements have been finalized.
- 5) Requires the BHC to carry out projects and activities to further the purposes of the conservancy throughout the region and, in doing so, the board must make every effort to ensure that, over time, BHC funding and other efforts are spread equitably across each of the various sub regions.

- 6) Requires the conservancy to study the potential environmental and recreational uses of the Baldwin Hills, southern Ballona Creek Watershed, and Upper Dominguez Channel area.
- 7) Requires BHC, on or before January 1, 2023, to develop and adopt a proposed watershed and open-space plan for improvements in the conservancy territory.
- 8) Establishes the Baldwin Hills, Southern Ballona Creek Watershed, and Upper Dominguez Channel Urban Watershed Improvement Program to be administered by the conservancy for climate change adaptation improvements, to protect, conserve, and restore the health and resilience of the watersheds and communities of the region. Authorizes the conservancy in implementing this program to test new funding, policy, planning, and implementation approaches with the area covered by an initiative to test new ways of accomplishing the program objectives and goals of the program. Prohibits the program from being construed as requiring the Legislature to appropriate additional funds.
- 9) Eliminates BHC's sunset.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

The BHC is one of 10 conservancies created by the Legislature with the mission of preserving open space and habitat while facilitating public access to California's wilderness and wildlife.

The BHC achieves these goals through projects that preserve and restore wildlife habitat, improve watersheds, and provide low-impact recreational and educational uses. The BHC applies for funding from various sources to support projects throughout their territory, which covers western Los Angeles County, in the area surrounding the Baldwin Hills, and the Kenneth Hahn State Recreation Area.

BHC addresses climate impacts and improves quality of life by increasing access to nature, cleaning our water, and engaging communities directly.

While the BHC has successfully completed numerous projects within its territory, several neighboring and nearby communities in need have not had access to the same opportunities.

Expanding the BHC would provide additional resources for communities that have faced historic disinvestment.

- 2) **Conservancy.** BHC jurisdiction covers approximately 2 square miles and is the smallest of the state's 10 conservancies. BHC is located approximately 6 miles from downtown Los Angeles. There is significant oil production activity in the BHC's jurisdiction. BHC restores former oil production lands to open space and makes them available to the public as oil production ceases. The BHC achieves its goals through projects that preserve and restore

wildlife habitat, improve watersheds, and provide low-impact recreational and educational uses. The BHC applies for funding from various sources to support projects throughout their territory, which covers western Los Angeles County, in the area surrounding the Baldwin Hills and the Kenneth Hahn State Recreation Area.

- 3) **Is sunset elimination appropriate at this time?** BHC does not sunset until 2026; therefore, BHC will continue for five years even with its current sunset. BHC has shown progress toward achieving its mission and has worked well with local organizations and other state agencies. BHC provides open space and an educational component to communities that do not have many other opportunities to be in and learn about nature. BHC was subject to a Department of Finance (DOF) audit in 2008 and 2017, in which both found deficiencies. BHC responded to both audits and agreed to take several corrective actions to address the deficiencies found. BHC received an allocation of \$40 million from Proposition 40 (2002), \$10 million from Proposition 84 (2006), \$10 million from Proposition 1 (2014), and \$6 million from Proposition 68 (2018). The Proposition 1 funds are meant for water quality, water supply, and watershed protection and restoration projects. Another sunset review of BHC could allow the Legislature to scrutinize the spending of the bond funds allocated to BHC, the new board make up proposed by this bill, and the new jurisdiction and program created by this bill. As the bill moves forward, the author may wish to consider whether elimination of the sunset is necessary.
- 4) **Jurisdiction.** The Ballona Creek is a nine-mile long flood protection channel that drains the Los Angeles basin, from the Santa Monica Mountains on the north, the Harbor Freeway (110) on the east, and the Baldwin Hills on the south. The Ballona Creek Watershed totals about 130 square miles. Its land use consists of 64% residential, 8% commercial, 4% industrial, and 17% open space. This bill defines the Southern Ballona Creek Watershed as 40 miles of the 130-mile area, which includes part or all of Culver City, Inglewood, Los Angeles, and Santa Monica. This includes the area that is in the jurisdiction of the Santa Monica Bay Restoration Commission (SMBRC) and where it has an active project called the Ballona Creek Wetland Ecological Reserve. It is important that the BHC work collaboratively with SMBRC.

The Dominguez Channel Watershed is located within the south bay region of Los Angeles County and encompasses approximately 133 square miles of land and water. The area includes part or all of the Cities of Carson, Gardena, Hawthorne, Inglewood, Los Angeles, Lawndale, Manhattan Beach, Palos Verdes Estates, Redondo Beach, Rolling Hills, Rolling Hills Estates, San Pedro, Torrance, and Wilmington. Approximately 81% of the watershed or 93% of the land is developed. Residential development covers nearly 40% of the watershed, and another 41% is made up by industrial, commercial and transportation uses. With a population of nearly 1 million, considerable demands are made on infrastructure and services within the watershed. The Upper Dominguez Watershed is 33 miles of the 133 square mile area. AB 78 (O'Donnell, 2021) would expand the Rivers and Mountains Conservancy to the Dominguez Channel Watershed, which overlaps with the expansion proposed by this bill. Conservancies typically do not overlap jurisdiction, therefore, this could lead to confusion and projects that are at cross-purposes, especially because both conservancies have specified first-right of refusal for surplus lands suitable for park space. The authors of this bill and AB 78 should work together to ensure the bills are coordinated moving forward.

**5) Related/Previous legislation.**

AB 78 (O'Donnell) expands the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) to include the Dominguez Channel watershed and Santa Catalina Island. This bill is scheduled to be heard in the Assembly Appropriations Committee on April 28<sup>th</sup>.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Ballona Creek Renaissance  
California Conservation Corps Foundation  
City of El Segundo  
Climate Resolve  
County of Los Angeles Department of Parks and Recreation  
Los Angeles Conservation Corps  
Los Angeles County Bicycle Coalition  
Los Angeles Neighborhood Initiative  
Los Angeles Neighborhood Land Trust  
Natural Resources Defense Council  
North East Trees  
Partners of The Parkland  
Prevention Institute  
South Los Angeles Transit Empowerment Zone  
The Nature Conservancy  
Walk 'n Roller  
2 Individuals

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 322 (Salas) – As Amended April 12, 2021

**SUBJECT:** Energy: Electric Program Investment Charge program: biomass

**SUMMARY:** Requires the California Energy Commission (CEC) to consider, in the investment planning process for the Electric Program Investment Charge (EPIC) program, bioenergy projects for biomass conversion, as defined, using new and emerging technologies that maximize ratepayer and public benefits.

**EXISTING LAW:**

- 1) Establishes the EPIC fund, and mandates the Public Utilities Commission (PUC) to set the rates that the investor-owned utilities (IOUs) collect and transfer to the CEC to administer the eligible EPIC programs.
- 2) Defines “biomass conversion” as the production of heat, fuels, or electricity by the controlled combustion of, or the use of other noncombustion thermal conversion technologies on, the following materials: agricultural crop residues; bark, lawn, yard, and garden clippings; leaves, silvicultural residue, and tree and brush pruning; wood, wood chips, and wood waste; and nonrecyclable pulp or nonrecyclable paper materials.
- 3) Requires IOUs to collectively procure at least 250 megawatts (MW) of generated resources from bioenergy projects, and the PUC to allocate amongst the IOUs shares of the 250 MW from bioenergy derived from organic waste diversion, dairy and agricultural sources, and byproducts of forest management. Requires the PUC to encourage IOUs to develop programs and services that facilitate development of bioenergy and biogas. This program is known as the Bioenergy Market Adjusting Tariff (BioMAT).
- 4) Directs the CEC and the PUC to consider and, as appropriate, adopt policies and incentives to support the development and use in the state of renewable gas, including biomethane and biogas.
- 5) Requires the CEC to allocate EPIC funds for technology demonstration and deployment to projects in disadvantaged (25%) and low-income (10%) communities.

**THIS BILL** requires the CEC to consider, in the EPIC investment planning process, bioenergy projects for biomass conversion using new and emerging technologies that maximize ratepayer and public benefits.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** In 2011, the PUC established the EPIC fund and designated the CEC and California’s three major IOUs as administrators. The purpose of EPIC is to invest in research projects that “create and advance new energy solutions, foster regional innovation, and bring

ideas from the lab to the marketplace.” The guiding principles of EPIC projects are to promote greater reliability, lower costs, and increase safety, while advancing technologies critical to achieving the state’s environmental and energy goals. The CEC administers about \$162 million per year of EPIC funds, approximately 80% of the total program budget. The CEC has three silos to which it allocates EPIC funds: applied research and development, technology demonstration and deployment (TDD), and market facilitation.

In 2012, the PUC decided to set aside 20% of TDD funds (~\$26 million) for bioenergy projects in the three-year period of the first EPIC investment plan (2012-2014), citing the varied potential benefits of community-scale biomass conversion (e.g. forestry and fire management, environmental benefits, decreased greenhouse gas emissions). The PUC decision also stated that the allocation would be re-evaluated for subsequent investment plans, as “it [was] unclear why the Commission should continue indefinitely to offer electricity ratepayer subsidies to a particular type of facility or fuel that appears to continue to be expensive relative to other options.”

However, due to timing delays between the EPIC plan approval and the program’s beginning, the CEC did not establish the separate minimum for bioenergy, and instead awarded \$18 million to bioenergy projects through the competitive solicitation process for the 2015-2017 investment period. In doing so, they cited other recent sources for bioenergy funding, including cap and trade allowance revenue and the Department of Food and Agriculture’s Dairy Digester Research and Development and the Alternative Manure Management Program, totaling approximately \$70 million.

On November 14, 2020, the Joint Institute for Wood Products Innovation and the Board of Forestry and Fire Prevention released a set of recommendations to promote biomass utilization in California. The report includes a comprehensive list of market and regulatory challenges in bioenergy, and offers solutions for various state agencies. They identified the lack of EPIC funding as a potential solution, referencing the PUC decision to allocate 20% of program funds in the first investment plan. They state, “(a)dditional funding is needed to demonstrate the next generation of technologies, including biomass gasification combined with fuel cells, biomass energy with carbon capture and sequestration (CCS), biogas for energy storage, generation of hydrogen from forest biomass, and assessment of lifecycle carbon benefits of biomass gasification or pyrolysis with biochar production and use.”

2) **Author’s statement:**

Increasing the production of bioenergy is critical to reducing open burning, wildfire hazards, and landfilling of organic waste (as required by SB 1383, Lara, 2016), as well as meeting California’s clean energy goals. According to the Board of Forestry, more investment is needed to support new and innovative biomass projects that will create clean electrical generation by turning material like dead trees and agricultural waste, that often would be open burned, into renewable energy. AB 322 will help achieve this goal by directing the California Energy Commission to consider funding new biomass projects under the EPIC program. Investing in California’s biomass projects is crucial to meeting our climate goals while reducing waste, pollution, and invigorating the next generation of clean energy production in the state.

3) **Double referral.** This bill passed the Utilities and Energy Committee with amendments on April 7, 2021 by a vote of 13-0.



**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Advanced Power and Energy Program  
Aries Clean Energy  
Association of California Water Agencies  
Bioenergy Association of California  
Bloom Energy  
Brad Thompson Company  
California Biomass Energy Alliance  
California Hydrogen Business Council  
California Tahoe Alliance  
Capstone Turbine Corporation  
Fall River Resource Conservation District  
Green Hydrogen Coalition  
Hitachi Zosen Inova  
Los Angeles County Solid Waste Management Committee/Integrated Waste  
Management Task Force  
Northern Sonoma County Air Pollution Control District  
Pioneer Community Energy  
Pit Resource Conservation District  
Placer County Air Pollution Control District  
Resource Recovery Coalition of California  
Rural County Representatives of California  
San Joaquin Renewables  
San Joaquin Valley Air Pollution Control District  
Sempra Energy Utilities  
Sierra Business Council  
Wisewood Energy

**Opposition**

Center for Biological Diversity (prior version)  
Elders Climate Action, NorCal and SoCal Chapters (prior version)

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



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 699 (Salas) – As Amended April 13, 2021

**SUBJECT:** Public Utilities Commission: large electrical corporations: Flexible Demand Appliance Rebate Program

**SUMMARY:** Establishes the Flexible Demand Appliance Rebate Program (Program).

**EXISTING LAW:**

- 1) Requires the California Energy Commission (CEC) to establish appliance efficiency standards based on a reasonable use pattern. The CEC may prescribe other cost-effective measures not preempted by federal labeling law. An appliance manufactured on or after the effective date of these standards cannot be offered for sale in California unless it complies with the standards.
- 2) Authorizes the CEC to adopt standards for appliances to facilitate the deployment of flexible demand technologies, based on feasible efficiencies and improvements that will enable appliance operations to be scheduled, shifted, or curtailed to reduce emissions of greenhouse gases (GHG) associated with electricity generation. Mandates that these flexible demand appliance standards be cost-effective.
- 3) Authorizes the CEC to adopt regulations establishing an administrative enforcement process for appliance efficiency violations and allows the CEC to assess civil money penalties for violations up to \$2,500 for each violation.
- 4) Establishes the Energy Savings Assistance Program, which requires electric and gas IOUs to provide weatherization assistance, and specifies that weatherization means attic insulation, caulking, weather-stripping, low-flow showerheads, water heater blankets, and door and building envelope repairs to reduce air infiltration for low-income customers. Specifies that weatherization may also include other building conservation measures, energy-efficient appliances, and energy education programs determined by the California Public Utilities Commission (CPUC) to be feasible and considering the cost-effectiveness of the measures as a whole and the policy of reducing energy-related hardships facing low-income households.
- 5) Requires POUs to establish a “nonbypassable” charge on local distribution service to fund investments in any: 1) cost-effective demand-side management service; 2) new investments in renewable energy resources and technologies; 3) research, development and demonstrations programs; and, 4) services for low-income customers including energy efficiency, education, weatherization, and rate discounts. A POU may choose which of these programs to fund.
- 6) Establishes the California Alternative Rates for Energy (CARE) program, an assistance program for low-income residential customers of IOUs with annual household incomes no greater than 200% of federal poverty guidelines which reflects discounts based on level of need. CARE discounts cannot be less than 30% nor greater than 35% of the revenues that

would have been produced for the same billed usage by non-CARE customers and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer.

- 7) Requires the California Environmental Protection Agency to identify “disadvantaged communities” based on geographic, socioeconomic, public health, and environmental hazard criteria.

**THIS BILL:**

- 1) Upon the adoption of the flexible demand appliance standards, requires the CEC, in consultation with the CPUC, to publish lists of both of the following for purposes of the Program:
  - a) Flexible demand appliances that meet or exceed the standards adopted by CEC; and,
  - b) Load-management programs that are compatible with flexible demand appliances, including the name, location, and contact information for each load-management program, if applicable.
- 2) By July 30, 2023, and biennially thereafter, requires CEC to submit an assessment of the Program to the Legislature that includes:
  - a) The number of flexible demand appliances that received an incentive and the aggregate dollar value of the incentives;
  - b) The energy and bill reduction outcomes of the qualified ratepayers who received an incentive;
  - c) The Program’s costs;
  - d) The Program’s environmental benefits;
  - e) An evaluation of the Program’s expenditures, commitments, uncommitted balances, future demands, performance, and outcomes; and,
  - f) Programmatic recommendations to ensure the goals of the Program are met.
- 3) Establishes the Program as part of the Energy Savings Assistance Program to require large electrical corporations to administer the Program in its service territory to incentivize the deployment of qualified flexible demand appliances.
- 4) Requires the CPUC to consider the cost-effectiveness of the Program’s incentives and the policy of reducing the energy hardships experienced by low-income and disadvantaged households.
- 5) Specifies that the Program be available to qualified ratepayers and requires large electrical corporations to confirm eligibility of applicants.
- 6) Requires that the financial benefits of the qualified flexible demand appliance directly benefit the qualified ratepayer responsible for the electricity bill where the appliance is installed.

- 7) Requires that the Program authorizes incentive layering with other incentives for energy efficiency and demand response programs and technologies.
- 8) Requires large electrical corporations to provide outreach to qualified ratepayers.
- 9) Requires CPUC to require large electrical corporations to identify its carryover amount of unspent and uncommitted moneys from its Energy Savings Assistance Program budget as of December 31, 2020. Requires the CPUC to determine the appropriate portion of this amount to be allocated for purposes of the Program.
- 10) Prohibits CPUC from raising rates or imposing or increasing a charge for purposes of the bill. Specifies that the bill shall not result in any ratepayer paying an increased rate.
- 11) Requires CPUC to notify the appropriate policy committees of the Legislature when the available moneys are allocated.
- 12) Defines terms used in the bill, including:
  - a) “Eligible-load management program” as a residential load-management program that is compatible with qualified flexible demand appliances, encourages ratepayers to shift to electricity consumption during certain hours, and meets specified requirements;
  - b) “Large electrical corporation” as an electrical corporation with more than 100,000 service connections in California;
  - c) “Qualified flexible demand appliances” as appliances that have the capability to schedule, shift, or curtail the electrical demand of a large electrical corporation’s ratepayer through direct action by the ratepayer or through action by a third party, the large electrical corporation, or a grid-balancing authority, with the customer’s consent, and that meets or exceeds the flexible demand appliance standards; and,
  - d) “Qualified ratepayer” as a ratepayer that is served by a large electrical corporation and is eligible for the Energy Savings Assistance Program.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author’s statement:**

Having smart home devices helps working families save money on their electric bills, reduce emissions, and ease stress on the grid during peak demand hours. With energy costs and rolling blackouts increasing, particularly during natural disasters like wildfires, we need to ensure that all communities are able to access smart home devices. By getting these devices into more homes we can help families in underserved communities save money and relieve stress on the grid to prevent future blackouts.

- 2) **Demand response.** Demand management includes all measures that reduce energy demand, such as energy efficiency, demand response, or distributed energy resources. Demand response encourages electricity customers to reduce or shift their electricity usage in response

to a price signal, a financial incentive, an environmental condition, or a reliability signal. Flexible demand response is implemented across many customers in a way that saves customers money while minimizing customer inconvenience. Demand response programs can also include direct load control programs that provide the ability for power companies to cycle appliances like air conditioners and water heaters on and off during peak period demand in exchange for lower electric bills.

Flexible demand response can be implemented through existing technology and infrastructure. Smart metering is widely available in California. When smart meters are paired with time-of-use rates, customers can receive benefits by shifting appliance loads to off-peak times. Many appliances are capable of shifting to avoid peak load prices including pool pumps, space heaters, ventilation and air-conditioning equipment, refrigeration equipment, electric vehicle service equipment, electric clothes dryers, dishwashers, and electric hot water storage tank heaters.

Currently, California's three largest Investor-Owned Utilities (IOUs) offer traditional demand response programs. The IOUs' primary demand response pilot is the Demand Response Auction Mechanism (DRAM). The CPUC cited 4,000 low-income participants in 2016 – 32% of all DRAM enrollments for that year – and approximately 15,500 in 2017 – around 30% of all DRAM enrollments. IOUs also offer demand response programs outside the formalized DRAM process. For example, one air conditioning cycling program that sees high enrollment from customers in warm locations. The program awards customers with bill credits if they allow the IOU to install a small, smart thermostat so the IOU can manage their air conditioner during spikes in demand.

Demand response programs are generally target customer load shape (or usage over time) rather than income. Unlike energy efficiency upgrades, a customer's load shape determines whether they can reliably participate in a demand response program. Sometimes a customer's load shape is inflexible, such as a customer in a hot climate being unable to comfortably reduce their air conditioning load regardless of increased incentives. During the high heat events of summer 2020, demand response programs are believed to have mitigated the scope of the rotating outages.

- 3) **Energy efficiency programs.** The CPUC oversees an extensive portfolio of energy efficiency programs. For low-income customers, the Energy Savings Assistance Program (ESAP) funds, at no-cost to qualifying participants, energy efficiency upgrades in eligible low-income residential homes and multifamily housing. Unlike the other energy efficiency programs, ESAP is not constrained by a cost-effective requirement, and instead considers both costs and benefits including improved health, safety, and comfort.

AB 793 (Quirk, Chapter 589, Statutes of 2015) directed the CPUC to require electric IOUs to develop and implement educational plans and incentive programs for customers to control their electricity use and acquire energy management technology. As part of these efforts, ESAP incorporated smart thermostat installation as a qualifying technology in 2019. Through the end of 2018, the IOUs reported over \$14 million in rebates for qualifying technologies, including thermostats, home area networks, and smart power strips, serving 84,570 customers. In 2019, a total of 122,000 measures were installed resulting in 13,200 megawatt hours of savings.

SB 49 (Skinner, Chapter 697, Statutes of 2019) requires CEC to evaluate any proposed flexible demand appliance standards for technical feasibility, cost-effectiveness, cybersecurity, grid reliability, consumer consent, and ease of use. CEC must also propose regulations that provide a process to comply with and enforce the flexible demand appliance standards, including potential labeling requirements. CEC is developing the standards, which are expected to be in effect by late 2023. A formal rulemaking is set to open at the end of this year. Under SB 49, CEC is also required to consult with the CPUC and load-serving entities to better align the flexible demand appliance standards, once promulgated, with existing demand response programs.

- 4) **Suggested amendment.** The *committee may wish to amend the bill* to correct a drafting error.
- 5) **Related legislation.** AB 354 (Cooper) requires the California Energy Commission (CEC), by July 1, 2022 and upon appropriation, to create a three-year appliance rebate program (Program) for low-income customers to purchase new energy star or other energy efficient appliances. This bill is also scheduled to be heard in this committee on April 28<sup>th</sup>.
- 6) **Double referral.** This bill was heard by the Assembly Utilities and Energy Committee on April 7<sup>th</sup> and passed with a vote of 12-0.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Efficiency + Demand Management Council  
Center for Sustainable Energy  
ecobee  
Enersponse  
Google  
Leap  
OhmConnect, Inc.  
Olivine  
Rising Sun Center for Opportunity  
The Climate Center  
Zen Ecosystems

##### **Opposition**

None on file

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





Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 713 (Cristina Garcia) – As Amended April 12, 2021

**SUBJECT:** State Air Resources Board: greenhouse gas emissions scoping plan: comprehensive health analysis

**SUMMARY:** Requires the Air Resources Board (ARB) to conduct a comprehensive health analysis (CHA), as specified, in conjunction with each update to the AB 32 Scoping Plan.

**EXISTING LAW:**

- 1) Requires, pursuant to the California Global Warming Solutions Act [AB 32 (Núñez), Chapter 488, Statutes of 2006], ARB 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.
- 2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 3) Requires ARB to prepare and approve a scoping plan, on or before January 1, 2009, and at least once every five years thereafter, for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs.

**THIS BILL:**

- 1) Requires ARB to conduct a CHA in conjunction with the development of each update of the scoping plan, including the update to be adopted in 2022, and integrate the health analysis into the development of the elements of the scoping plan and their prioritization within the scoping plan. Requires ARB to collaborate with the Department of Public Health (DPH) and the Office of Environmental Health Hazard Assessment (OEHHA) and other agencies as appropriate.
- 2) Requires the CHA to include a framework to provide an overview of the breadth of health impacts and health benefits that may accrue from the actions in the scoping plan and the pathways through which various policy actions may result in health impacts or health benefits, including pathways through which actions may result in worsening or improving health inequities. Requires this framework to include consideration of specified key factors regarding health disparities and inequities.
- 3) Requires the CHA to provide at a minimum a qualitative assessment of the potential health and health equity impacts, including health risks and health benefits of each of the actions recommended in the scoping plan across all sectors included in the scoping plan, based on the pathways identified in the framework. Requires this analysis to examine the full range of health impacts, outcomes, and benefits that might foreseeably be associated with implementation of actions recommended in the scoping plan, including those associated with

changes in the physical, social, and economic environments and conditions in which people live, work, learn, and play. Requires the analysis to include a qualitative assessment of the relative magnitude of impacts associated with various GHG reduction strategies to inform ARB which strategies will have the greatest health and health equity benefits or risks, or both.

- 4) Requires, where the qualitative assessment identifies the potential for nontrivial health impacts, more quantitative assessment to be conducted to the extent feasible, to better understand the magnitude of impacts, and to provide quantitative effect measurements or projections where possible.
- 5) Requires ARB to identify specific areas in which tools and methodologies are currently unavailable to provide credible quantitative analysis of health impacts and to identify strategies to fill those gaps.
- 6) Requires ARB to afford the public and impacted communities opportunities to provide meaningful input into and comment on all aspects of the CHA, including through biannual public workshops, incorporation of draft health analysis in draft scoping plan documents, and in an annual report to its board.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** AB 32 requires ARB to develop and adopt a scoping plan every five years to chart a path to meet the state's long-term GHG emissions reductions targets. The most recent scoping plan, adopted in 2017, directed ARB staff to work with DPH, OEHHA, and other state agencies to establish a timeline and an action plan to better integrate health analysis broadly into the design and implementation of the state's climate change programs with the goal of maximizing health benefits. There was a brief stakeholder process in 2018, but not much has been done on this directive since then. With the next scoping plan update anticipated in 2022, this bill requires ARB to integrate a CHA into the scoping plan starting next year.

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

A recent Harvard study states that those who suffer from cumulative impacts in their communities suffer the worst outcomes with COVID. If we require ARB to consider health impacts when developing policy for the state, this ensures that the health of those that live in the most heavily impacted communities will increase over time. ARB will be updating the Scoping Plan over the next year and now is the perfect time to include health metrics. Ultimately, this bill and the work that ARB would undertake if it passes, would be about creating healthier communities in California.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

1000 Grandmothers for Future Generations  
350 Silicon Valley

Active San Gabriel Valley  
Alliance of Nurses for Healthy Environments  
American Lung Association, California  
California Alliance of Nurses for Healthy Environments  
California Bicycle Coalition  
California Health Care Climate Alliance  
California Releaf  
Center for Climate Change and Health  
Center for Community Action and Environmental Justice  
Central California Asthma Collaborative  
Climate Health Now  
Climate Plan  
Coalition for Clean Air  
Elders Climate Action, NorCal and SoCal Chapters  
Environmental Defense Fund  
Human Impact Partners  
Medical Students for a Sustainable Future  
Mothers Out Front California  
Physicians for Social Responsibility, Sacramento Chapter  
Physicians for Social Responsibility, San Francisco Bay Area Chapter  
Prevention Institute  
Public Health Advocates  
Public Health Institute  
Safe Routes Partnership  
Sunrise Bay Area  
The Climate Center

**Opposition**

None on file

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



Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 579 (Flora) – As Amended March 25, 2021

**SUBJECT:** Fire prevention: purchases of personal protective equipment: Department of Forestry and Fire Protection

**SUMMARY:** Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to purchase personal protective equipment (PPE) from the Prison Industry Authority (PIA) or private entities, based on CAL FIRE’s needs and assessment of quality and value.

**EXISTING LAW:**

- 1) Requires state agencies to purchase products and services from PIA at the prices fixed by the Authority.
- 2) Requires state agencies to make “maximum utilization” of the products provided by PIA and to consult with PIA to develop new products and adapt existing products to meet their needs.
- 3) Among other things, requires CAL FIRE to carry out specified duties relating to the prevention and control of wildfires in the state, including in the areas of the state in which the financial responsibility for preventing and suppressing fires is primarily the responsibility of the state.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author’s statement:**

AB 579 authorizes CAL FIRE to purchase PPE from the PIA or private vendors in adherence to Cal OSHA and NFPA standards. This additional accessibility to PPE for CAL FIRE firefighters will allow for firefighters to have the equipment needed to reduce the number of job-caused injuries and illnesses sustained by firefighters due to inadequate PPE.

- 2) **Background.** Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to public health, property, infrastructure, and ecosystems. In 2020, wildfires burned more than 4.1 million acres. The August Complex Fire in northern California, the largest fire in California’s modern history, burned over one million acres. In total, wildfires caused 33 deaths and destroyed over 10,000 structures in 2020. The land area burned in 2020 more than doubled the previous record, roughly 1.8 million acres, which was set in 2018. Furthermore, seven of the state’s deadliest fires have occurred since 2017, with over 100 fatalities in 2017 and 2018.

Firefighters rely heavily on their clothing and equipment. They are often working for weeks at a time during emergencies where their daily tasks involve heavy physical exertion. Their clothing has to stand up to extreme environments and needs to fit well and provide durability.

According to the author's office, firefighters are currently dissatisfied with their PPE, purchased from PIA, and would benefit from being able to purchase equipment from private vendors who can supply higher quality PPE. According to a survey of firefighters regarding their satisfaction with single-layer pants, 62% are unsatisfied to very unsatisfied with the waist fit, 60% are unsatisfied to very unsatisfied with the stitching, and 53% are unsatisfied to very unsatisfied with the durability. Only 0.06% report being satisfied with the durability of their pants.

CAL FIRE is subject to the state's purchasing rules, which require it to order PPE from the PIA. CAL FIRE may request a waiver to use a private vendor, but the request is subject to PIA approval. This bill would allow CAL FIRE to purchase PPE from private vendors based on its needs and assessment of quality and value.

**REGISTERED SUPPORT / OPPOSITION:****Support**

CAL FIRE Local 2881  
California Professional Firefighters

**Opposition**

None on file

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

Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 792 (Flora) – As Introduced February 16, 2021

**SUBJECT:** Forestry: prescribed burning agreements

**SUMMARY:** Expands the lands where the Department of Forestry and Fire Protection (CAL FIRE), through a burning agreement, is fully responsible for prescribed burns initiated at the their request, with the consent of the landowner, for training or other purposes beyond lands owned by nonprofits and public agencies.

**EXISTING LAW:**

- 1) Requires the Board of Forestry and Fire Protection (Board) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state [known as the State Responsibility Area (SRA)].
- 2) Requires CAL FIRE to identify certain areas in the local responsibility area (LRA) as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Declares compliance with a CAL FIRE burn permit constitutes prima facie evidence of due diligence.
- 4) Authorizes a person with a CAL FIRE burn permit to use fire to abate a fire hazard.
- 5) Declares that historically, CAL FIRE conducted prescribed burns only utilizing its own personnel and therefore was liable for any damages resulting from the burn. However, to reach the statewide prescribed burn goals identified in the "California Forest Carbon Plan: Managing our Forest Landscapes in a Changing Climate," to limit the threat of catastrophic wildfire, and to improve forest health, CAL FIRE may have a smaller role in individual prescribed burns with a cooperator taking more control.
- 6) Authorizes the director of CAL FIRE to enter into an agreement, including a grant agreement, for prescribed burning or other hazardous fuel reduction that is consistent with specified laws and regulations with any person to conduct prescribed burning operations and joint prescribed burning operations that serve the public interest and are beneficial to the state.
- 7) Establishes a process for CAL FIRE to determine the maximum amount of liability for a prescribed burn conducted as part of a burning agreement. Limits the maximum percentage of liability for the person contracting with CAL FIRE to 75%.
- 8) Requires, on or before January 1, 2021, the SFM to develop a curriculum for, or amend into an existing curriculum, a certification program for fire bosses for both CAL FIRE and private prescribed fire users.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

AB 792 would create new opportunities for CALFIRE and private landowners to engage collaboratively to mitigate the risk of wildfires.

This bill would provide CALFIRE with more opportunities to reach prescribed burn goals while ensuring that private landowners are not held to a higher standard or greater liability than nonprofits or state agencies.

- 2) **Background.** Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to public health, property, infrastructure, and ecosystems. In 2020, wildfires burned more than 4.1 million acres. The August Complex Fire in northern California, the largest fire in California's modern history, burned over one million acres. In total, wildfires caused 33 deaths and destroyed over 10,000 structures in 2020. The land area burned in 2020 more than doubled the previous record, roughly 1.8 million acres, which was set in 2018. Furthermore, seven of the state's deadliest fires have occurred since 2017, with over 100 fatalities in 2017 and 2018.

Fire has always been present in California landscapes either occurring by lightning strikes or used by Native American tribes to preserve certain useful plants and prevent larger fires. Low-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of plants and trees. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity.

A century of suppressing low-intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought has increased the size and severity of California's fires. Climate change has also contributed to wildfire risk by reducing humidity and precipitation and increasing temperatures.

The use of targeted mechanical vegetation management, prescribed fire, and managed wildfire reduces the accumulated high fuel loads, promoting healthier, more resilient forests, reducing the risk of high-severity wildfires.

SB 901 (Dodd), Chapter 626, Statutes of 2018, committed \$1 billion for CAL FIRE's Forest Health Grant Program and Fire Prevention Grant Program and dedicated fuel reduction crews over the next five years. The funds are meant to be used to do significant fuel reduction work near communities and in forested watersheds, and many projects will include a biomass utilization component. Approximately half of this commitment has already been spent.

On January 8, 2021, the Governor's Budget proposed \$1 billion to support the Forest Management Task Force's Wildfire and Forest Resilience Action Plan; the plan included early action items and an extension of the SB 901 funding commitment for five years. SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million in early action funding, which was more than the \$323 million the Governor requested.



- 3) **Cultural and Prescribed fire.** For thousands of years, Native American tribes used fire to manage the landscape in California. These cultural burns were used to renew food, medical, and cultural resources, to create habitat for wildlife, and to reduce the risk of larger fires. As native peoples were forcibly removed from their land, the practice of cultural burning was largely eliminated. In addition to depriving native peoples of land sovereignty, access to resources, and the right to practice traditional cultural activities, fire suppression policies also contributed to the overstocked and highly flammable forest conditions that result in destructive wildfires today.

Prescribed and managed fire are types of vegetation management where low-intensity fires are either intentionally lit or allowed to burn in specified weather conditions and in a way that is consistent with a preapproved plan (known as a burn plan) to treat a specified area. The prescribed burn eliminates hazardous surface fuels and achieves other important ecological outcomes. Prescribed burns increase short-term air pollution and greenhouse gas (GHG) emissions in order to mitigate the risk of larger fires with significantly higher air and GHG emissions in the future. In combination with other forest management practices such as forest thinning and vegetation clearing, prescribed fire can contribute to the health of California's forests and reduce the occurrence of catastrophic wildfires.

Prescribed burns reduce the risk of catastrophic wildfires primarily by reducing fuel loads in forested areas. Fire suppression has led to an accumulation of dense underbrush and dead and decaying trees on the forest floor, exacerbated by the recent drought that resulted in the death of over 140 million trees and tree mortality from infestations of bark beetles. Furthermore, the elimination of low-intensity fires, in combination with logging practices that removed old growth trees, have led to an increased density of trees and also reduced overall tree size. Consequently, fires have more fuel to burn hotter and are able to spread faster in the denser canopies. Prescribed fire, carefully planned on days with low-risk weather conditions and monitored by professionals, can incrementally remove the debris on the forest floor, reduce the density of forest stands, and therefore reduce the severity of future wildfires.

Despite widespread acknowledgement in the scientific community of the utility of the practice, a 2019 study found that implementation of prescribed burning as a forest management practice has not increased over recent decades. SB 1260 (Jackson), Chapter 624, Statutes of 2018, took important steps towards increasing the pace and scale of prescribed fire by authorizing CAL FIRE to enter into burning agreements where they limit the liability of their partners, having CAL FIRE certify burn bosses, and creating a program to assist air districts in reviewing and approving air quality burn permits. However, CAL FIRE's burn boss curriculum is still pending regulatory approval, and therefore no burning agreements have been entered into yet.

- 4) **Related legislation.**

AB 575 (Fong) requires a private entity engaging in a prescribed burning activity that is supervised by a person certified as a burn boss to be liable for damages to a third party only if the prescribed burning activity was carried out in a grossly negligent manner. This bill is awaiting hearing in the Assembly Judiciary Committee.

AB 642 (Friedman) is an omnibus fire prevention bill that makes various changes to support cultural and prescribed fire, including the creation of a Cultural Burning Liaison at CAL

FIRE, and requires a proposal for creating a prescribed fire training center in California. The bill passed out of this committee on a 9-0 vote and is awaiting hearing in the Assembly Appropriations Committee.

SB 332 (Dodd) specifies that certified burn bosses and property owners where the certified burn boss conducted the prescribed fire are not liable for any damage or injury to property or persons that is caused by a prescribed burn unless the prescribed burn was conducted in a grossly negligent manner. This bill is awaiting hearing in the Senate Judiciary Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Forest Foundation  
California Forestry Association  
Humboldt and Mendocino Redwood Company  
Rural County Representatives of California  
Wine Institute

**Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 926 (Mathis) – As Amended March 8, 2021

**SUBJECT:** Fire prevention: local assistance grant program: projects: report

**SUMMARY:** Expands the definition of fire prevention activities to include removal of hazardous dead trees, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors for purposes of the Department of Forestry and Fire Protection's (CAL FIRE) local fire prevention grant program. Modifies CAL FIRE's local assistance grant programs to add additional considerations when awarding grants.

**EXISTING LAW:**

- 1) Requires the Board of Forestry and Fire Protection (Board) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state [known as the State Responsibility Area (SRA)].
- 2) Requires CAL FIRE to identify certain areas in the local responsibility area (LRA) as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Requires the Natural Resources Agency (NRA), in consultation with the State Fire Marshal (SFM) and the Forest Management Task Force (FMTF), to review regional capacity of each county that contains a VHFHSZ.
- 4) Defines "fire prevention activities" to mean those activities that reduce the risk of wildfire in California, including, but not limited to, mechanical vegetation management, grazing, prescribed burns, creation of defensible space, and retrofitting of structures to increase fire resistance.
- 5) Establishes a local fire prevention grant program at CAL FIRE to improve fire prevention in California and ensure that fire prevention activities happen year round.
- 6) Requires, on or before January 31, 2022, the Director of CAL FIRE to hold a public workshop to do all of the following:
  - a) Review activities funded by the local prevention grant program and program outcomes, and discuss and recommend possible improvements to the program;
  - b) Identify new sources and methods of financing the fire prevention activities; and,
  - c) Review new activities or methods of fire prevention that could protect life and property including, but not limited to, the prevention of high wind grass fires.
- 7) Requires, on or before July 1, 2022, CAL FIRE to report a summary of the findings of the public workshop to the appropriate policy committees of the Legislature.

- 8) Requires the Board to develop criteria and maintain a "Fire Risk Adapted Community" list of local agencies that meet best practices for local fire planning. Prioritizes local agencies on the list for CAL FIRE's local assistance fire prevention grants.
- 9) Requires, pursuant to SB 901 (Dodd), Chapter 626, Statutes of 2018, the following appropriations from the Greenhouse Gas Reduction Fund (GGRF) be made through the 2023-24 fiscal year to CAL FIRE:
  - a) \$165 million for healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires.
  - b) \$35 million to complete prescribed fire and other fuel reduction projects through proven forestry practices consistent with the recommendations of the Forest Carbon Plan, including the operation of year-round prescribed fire crews and implementation of a research and monitoring program for climate change adaptation.

**THIS BILL:**

- 1) Expands the definition of fire prevention activities to include removal of hazardous dead trees, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors.
- 2) Specifies CAL FIRE can prioritize multiyear efforts or projects that have completed or nearly completed their environmental review.
- 3) Authorizes CAL FIRE to evaluate the wildfire risk within the proposed project area when awarding local fire prevention grants.
- 4) Authorizes CAL FIRE to consider the socioeconomic characteristics of communities that the various education and mitigation projects are intended to protect when awarding local fire prevention grants.
- 5) Requires CAL FIRE to include in a report about their local fire prevention grant program specified information related to the outcomes of projects.

**FISCAL EFFECT:** Unknown**COMMENTS:****1) Author's statement:**

The need for effective and long term wildfire protection, prevention and mitigation measures are now more vital than ever for California. In the last decade, California has seen 9 of the 10 largest fires in the State's history, as well as 16 of the 20 most destructive fires, which have destroyed an estimated 42,418 structures. Whilst the Department of Forestry and Fire Protection's local assistance grant program provides an essential mechanism and framework for wildfire protection and prevention, there are necessary improvements that must be made. AB 926 will improve the program by expanding upon and clarifying which

measures are classified as fire prevention activities, the program's reporting, and the criteria used when awarding local assistance grants.

- 2) **Background.** Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to public health, property, infrastructure, and ecosystems. In 2020, wildfires burned more than 4.1 million acres. The August Complex Fire in northern California, the largest fire in California's modern history, burned over one million acres. In total, wildfires caused 33 deaths and destroyed over 10,000 structures in 2020. The land area burned in 2020 more than doubled the previous record, roughly 1.8 million acres, which was set in 2018. Furthermore, seven of the state's deadliest fires have occurred since 2017, with over 100 fatalities in 2017 and 2018.

Fire has always been present in California landscapes either occurring by lightning strikes or used by Native American tribes to preserve certain useful plants and prevent larger fires. Low-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of plants and trees. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity.

A century of suppressing low-intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought has increased the size and severity of California's fires. Climate change has also contributed to wildfire risk by reducing humidity and precipitation and increasing temperatures.

The use of targeted mechanical vegetation management, prescribed fire, and managed wildfire reduces the accumulated high fuel loads, promoting healthier, more resilient forests, reducing the risk of high-severity wildfires.

SB 901 (Dodd), Chapter 626, Statutes of 2018, committed \$1 billion for CAL FIRE's Forest Health Grant Program and Fire Prevention Grant Program and dedicated fuel reduction crews over the next five years. The funds are meant to be used to do significant fuel reduction work near communities and in forested watersheds, and many projects will include a biomass utilization component. Approximately half of this commitment has already been spent.

On January 8, 2021, the Governor's Budget proposes \$1 billion to support the FMTF's Wildfire and Forest Resilience Action Plan; the plan includes early action items and an extension of the SB 901 funding commitment for five years. SB 85 (Committee on Budget and Fiscal Review), Chapter 14, Statutes of 2021, appropriated \$536 million in early action funding, which was more than the \$323 million the Governor requested.

- 3) **Fire Prevention.** California's local fire prevention grant program was originally developed as part of the SRA Fee. Once the SRA Fee was suspended the local fire prevention grant program began receiving GGRF funding. AB 1956 (Limon), Chapter 632, Statutes of 2018, codified the local fire prevention grant program and authorized a 25% advanced payments for the grants. CAL FIRE states the grant program aims to reduce the risk of wildland fires to habitable structures and communities, while maximizing carbon sequestration in healthy wildland habitat and minimizing the uncontrolled release of emissions emitted by wildfires. The local fire prevention grant program has awarded \$168 million from Fiscal Year 2016-17 through Fiscal Year 2019-20. SB 85 appropriated \$123 million to CAL FIRE's local fire prevention grant program. Most of the changes this bill makes to CAL FIRE's local fire

prevention grant program are consistent with the existing grant program. However, the bill does expand the definition of fire prevention activities to mean the creation of ingress and egress corridors. Currently, the local Fire Prevention grant program funds modification of vegetation adjacent to roads to provide for safer ingress and egress of evacuating residents and responding emergency personnel, but does not fund road construction. Depending how this modification is interpreted it could expand what grants CAL FIRE awards related to ingress and egress. Adequate ingress and egress is important to safely evacuate residents and allow fire suppression equipment and personnel adequate access to engage in suppression activities.

#### 4) **Related legislation.**

AB 9 (Wood) establishes in the Department of Conservation the Regional Forest and Fire Capacity Program to support regional leadership to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire-adapted communities by improving watershed health, forest health, community wildfire preparedness, and fire resilience. This bill passed out of this committee on an 11-0 vote and is awaiting hearing in the Local Government Committee.

AB 1255 requires, on or before July 1, 2023, the NRA, in collaboration or consultation with specified state agencies, to develop a guidance document that describes goals, approaches, opportunities, and best practices in each region of the state for ecologically appropriate, habitat-specific fire risk reduction. Requires specified consultation with counties related to CAL FIRE's local fire prevention grant program. This bill passed out of this committee on an 8-1 vote and is awaiting hearing in the Assembly Appropriations Committee.

SB 63 (Stern) makes multiple changes in state law to enhance fire prevention efforts by CAL FIRE, including, among other things, improved vegetation management and expanding the area where fire safety building standards apply. This bill is awaiting hearing in the Senate Housing Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Association of California Water Agencies  
 California Building Industry Association  
 California Forestry Association  
 Humboldt and Mendocino Redwood Companies  
 Midpeninsula Regional Open Space District  
 Rural County Representatives of California  
 Wine Institute

##### **Opposition**

None on file

**Analysis Prepared by:** Michael Jarred / NAT. RES. /

Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 1395 (Muratsuchi) – As Amended April 20, 2021

**SUBJECT:** Greenhouse gases: carbon neutrality

**SUMMARY:** Declares the policy of the state to achieve “carbon neutrality” as soon as possible, but no later than 2045, and to achieve and maintain net negative greenhouse gas (GHG) emissions thereafter. Requires the Air Resources Board (ARB) to work with relevant state agencies to “(e)nsure that by 2045 a minimum of 90 percent of gross GHG emissions are to be achieved only through emission reductions” and to prioritize the use of “nature-based solutions” in California to achieve carbon neutrality.

**EXISTING LAW:**

- 1) Requires, pursuant to the California Global Warming Solutions Act [AB 32 (Núñez), Chapter 488, Statutes of 2006], 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.
- 2) Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030 [SB 32 (Pavley), Chapter 249, Statutes of 2016].
- 3) Establishes, by Executive Order (EO), a GHG emissions reduction target of 80% below 1990 levels by 2050 [EO S-3-05, Governor Schwarzenegger, June 1, 2005].
- 4) Establishes, by EO, a statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative GHG emissions thereafter [EO B-55-18, Governor Brown, September 10, 2018].
- 5) Requires ARB to prepare and approve a scoping plan, on or before January 1, 2009, and at least once every five years thereafter, for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs.

**THIS BILL:**

- 1) Declares the policy of the state to achieve carbon neutrality as soon as possible, but no later than 2045, and to achieve and maintain net negative greenhouse gas emissions thereafter. States that this goal is in addition to the statewide GHG emissions reduction target established by SB 32.
- 2) Requires ARB to work with relevant state agencies to do all of the following:
  - a) Ensure that updates to the scoping plan identify and recommend measures to achieve the carbon neutrality policy goal.

- b) Ensure that by 2045 a minimum of 90% of gross greenhouse gas emissions subject to AB 32 are to be achieved only through emission reductions. The remaining 10 percent of gross greenhouse gas emission reductions may be accomplished through the use of carbon dioxide (CO<sub>2</sub>) removal strategies.
  - c) Prioritize the use of nature-based solutions in California to achieve carbon neutrality.
  - d) Establish criteria, pursuant to specified requirements, for the use of technology-based solutions for purposes of achieving carbon neutrality and maintaining net negative GHG emissions thereafter.
- 3) Requires state agencies, in working toward the carbon neutrality policy goal, to do all of the following:
- a) Engage the support, participation, and partnership of universities, businesses, investors, and communities, as appropriate, to achieve carbon neutrality.
  - b) Seek to support the health and economic resiliency of urban and rural communities, particularly low-income and disadvantaged communities.
  - c) Support climate adaptation and biodiversity, including by protecting the state's water supply, water quality, and native plants and animals.
- 4) Defines the following terms:
- a) "Carbon dioxide removal" means the process of removing CO<sub>2</sub> from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. CO<sub>2</sub> removal includes nature-based and technology-based solutions.
  - b) "Carbon neutrality" means gross emissions of GHGs to the atmosphere are balanced by removals of GHGs over a specified period of time.
  - c) "Nature-based solutions" means CO<sub>2</sub> removal solutions that enhance biological sinks of CO<sub>2</sub>.
  - d) "Net negative greenhouse gas emissions" occurs when removals of GHG emissions from the atmosphere exceed gross emissions of GHGs.
  - e) "Technology-based solutions" means CO<sub>2</sub> removal solutions that actively pull CO<sub>2</sub> out of the atmosphere, such as direct air capture or electricity generation with carbon capture and sequestration.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** The latest Intergovernmental Panel on Climate Change (IPCC) report on global warming concludes that to avoid exceeding 1.5°C we must not only stop all GHG emissions, but also urgently deploy negative emissions technologies to remove the GHGs already in the atmosphere. Executive Order B-55-18, issued by Governor Brown in



September 2018, mandates that California achieve carbon neutrality by 2045 and maintain net negative emissions thereafter.

ARB's report titled "Achieving Carbon Neutrality in California" highlights that carbon neutrality will necessitate the use of both gross emission reductions strategies and negative emission strategies. The relative contribution these categories of strategies will have implications on air quality and other potential health and community impacts, and encompass different risks in achieving the state's climate mandates.

Negative emissions strategies that utilize natural and working lands will also play a pivotal role in addressing climate change. Natural and working lands sequester carbon dioxide in forests, soils, and oceans. These lands act as carbon sinks and can be enhanced through land and ecosystem management practices. Likewise, natural and working lands can also represent a source of GHG emissions, due to land use changes such as deforestation and wildfires. Reducing GHG emissions from, and increasing sequestration on, natural and working lands is crucial in the state's long-term climate change strategy toward achieving carbon neutrality.

This bill aims to ensure that negative emissions strategies cannot replace aggressive strategies to reduce GHG emissions and to set the broad statewide policies on the use of negative emission strategies. The bill requires ARB to work with relevant state agencies to develop a framework for implementation and accounting procedures that tracks progress toward achieving carbon neutrality, set and manage targets and accounting for CO<sub>2</sub> removal strategies separately from existing and future GHG emissions direct reduction targets, and ensure that all policies and programs undertaken to achieve carbon neutrality are permanent and support the health and economic resiliency of communities.

2) **Author's statement:**

California has been a leader against the fight against climate change but despite our advancements in our climate policies, we still face challenges such as pollution and wildfires. Further, the state is falling short to meet our 2030 climate goals despite our leadership in renewable energy and electricity vehicles. If California is set to meet its goals to reduce GHG emissions by 80% below 1990 levels by 2050, and achieve carbon neutrality by 2045, California needs a comprehensive climate strategy that directly decreases gross emissions, while simultaneously increasing carbon dioxide removal. This bill provides clarity surrounding what achieving carbon neutrality means and which strategies could be most effective in achieving this that prioritizes improving air quality supporting the health and economic resiliency of all communities, use of natural working lands, and appropriate technology adoption to help the state achieve our state's climate goals.

- 3) **Codifying the EO, and then some.** The Legislature has yet to approve a carbon neutrality goal or GHG emission reduction target beyond the 40% reduction required by 2030. This bill codifies EO B-55-18 regarding carbon neutrality and apparently is intended to establish a 90% GHG reduction target. The former provision is clear enough – it is essentially the same as the language in the EO. The latter provision, on page 4, lines 4-8 of the bill, reads as follows:

*(ARB shall) (e)nsure that by 2045 a minimum of 90 percent of gross greenhouse gas emissions subject to this division are to be achieved only through emission reductions. The remaining 10 percent of gross greenhouse gas emission reductions may be accomplished through the use of carbon dioxide removal strategies.*

The effect of this provision is unclear. Apparently, the author's intent is to establish a 90% by 2045 GHG emissions reduction target. This would be more ambitious than the 80% by 2050 target in Governor Schwarzenegger's 2005 EO, which has been acknowledged by ARB in scoping plans, but never really implemented in any substantive way.

Compare the wording of the "90% by 2045" target in this bill with the "1990 levels by 2020" target in AB 32 (HSC Section 38550):

*...(ARB shall) determine what the statewide greenhouse gas emissions level was in 1990, and approve in a public hearing, a statewide greenhouse gas emissions limit that is equivalent to that level, to be achieved by 2020.*

And the "40% by 2030" target in SB 32 (HSC Section 38566):

*...(ARB) shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31, 2030.*

If the intent is to establish a 2045 target requiring anthropogenic GHG emissions to be reduced 90% below 1990 levels, *the author and the committee may wish to consider amending the bill as follows:*

*(2) Ensure that by 2045 ~~a minimum of, statewide anthropogenic greenhouse gas emissions are reduced to at least 90 percent of gross greenhouse gas emissions subject to this division are to be achieved only through emission reductions. The remaining 10 percent of gross greenhouse gas emission reductions may be accomplished through the use of carbon dioxide removal strategies~~ below the statewide greenhouse gas emissions limit established pursuant to Section 38550.*

- 4) **Apples and oranges – carbon (i.e., CO<sub>2</sub>) neutrality vs. GHG.** "Carbon neutrality" is not yet defined in California statute. This bill establishes a definition, but the proposed definition mixes carbon neutrality and GHG and is not consistent with the prevailing use of the term "carbon neutrality." For example, the IPCC defines "carbon neutrality" as "net zero CO<sub>2</sub> emissions," which is described as follows (<https://www.ipcc.ch/sr15/chapter/glossary/>):

*Net zero CO<sub>2</sub> emissions are achieved when anthropogenic CO<sub>2</sub> emissions are balanced globally by anthropogenic CO<sub>2</sub> removals over a specified period. Net zero CO<sub>2</sub> emissions are also referred to as carbon neutrality.*

This is distinct from the IPCC's description of "net zero emissions":

*Net zero emissions are achieved when anthropogenic emissions of (GHGs) to the atmosphere are balanced by anthropogenic removals over a specified period. Where multiple (GHGs) are involved, the quantification of net zero emissions depends on the climate metric chosen to compare emissions of different gases (such as global warming*

*potential, global temperature change potential, and others, as well as the chosen time horizon).*

AB 32 defines GHG as follows (HSC Section 38505):

*(g) “Greenhouse gas” or “greenhouse gases” includes all of the following gases:*

- (1) Carbon dioxide.*
- (2) Methane.*
- (3) Nitrous oxide.*
- (4) Hydrofluorocarbons.*
- (5) Perfluorocarbons.*
- (6) Sulfur hexafluoride.*
- (7) Nitrogen trifluoride.*

This bill defines carbon neutrality as “gross emissions of (GHGs) to the atmosphere are balanced by removals of (GHGs) over a specified period of time.” *The author and the committee may wish to consider amending this definition so that it’s clear whether the bill is about achieving net zero CO<sub>2</sub> emissions (i.e., carbon neutrality) or net zero GHG emissions (i.e., GHG neutrality).*

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

350 Sacramento  
Elders Climate Action, NorCal and SoCal Chapters  
Environmental Defense Fund  
Marin Clean Energy  
Natural Resources Defense Council  
Resources Legacy Fund  
The Nature Conservancy

### **Opposition**

Agricultural Energy Consumers Association  
California Chamber of Commerce  
California Farm Bureau Federation  
California Fuels and Convenience Alliance  
California League of Food Producers  
California Manufacturers and Technology Association  
Calpine  
Sempra Energy Utilities  
State Building and Construction Trades Council of California  
Western States Petroleum Association

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



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

AB 1453 (Muratsuchi) – As Introduced February 19, 2021

**SUBJECT:** Environmental justice: Just Transition Advisory Commission: Just Transition Plan

**SUMMARY:** Establishes the Just Transition Advisory Commission (Commission) and tasks the Commission with developing a Just Transition Plan (Plan.)

**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 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. Requires ARB to ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by 2030.
- 2) 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. Establishes the Greenhouse Gas Reduction Fund (GGRF) and requires all moneys, except for fines and penalties, collected by ARB from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited in the GGRF and available for appropriation by the Legislature.
- 3) Establishes the GGRF Investment Plan and Communities Revitalization Act to set procedures for the investment of GHG allowance auction revenues. Authorizes a range of GHG reduction investments and establishes several policy objectives:
  - a) Maximize economic, environmental, and public health benefits;
  - b) Foster job creation;
  - c) Complement efforts to improve air quality;
  - d) Direct investment toward the most disadvantaged communities and households in the state;
  - e) Provide opportunities for businesses, public agencies, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce GHG emissions; and,
  - f) Lessen the impacts and effects of climate change on the state's communities, economy, and environment.
- 4) Establishes the Labor and Workforce Development Agency (LWDA) to serve California workers and businesses by improving access to employment and training programs, enforcing California labor laws to protect workers and create an even playing field for

employers, and administering benefits that include workers' compensation, unemployment insurance, and disability insurance and paid family leave.

- 5) Requires the California Workforce Development Board to publish a report outlining recommendations on workforce development and training to help communities adapt to the economic and labor-market changes resulting from California's transition to a carbon neutral economy.
- 6) Establishes the Transformative Climate Communities Program (TCC) to be administered by the Strategic Growth Council. Requires the TCC to fund the development and implementation of neighborhood-level transformative climate community plans that include multiple, coordinated greenhouse gas emissions reduction projects that provide local economic, environmental, and health benefits to disadvantaged communities.

**THIS BILL:**

- 1) Establishes the Commission consisting of 13 members:
  - a) The Secretary of the LWDA;
  - b) The Secretary of the Natural Resources Agency;
  - c) The Chair of the Air Resources Board;
  - d) A representative from the Independent System Operator;
  - e) A representative from state building and construction unions;
  - f) A representative from a nonprofit environmental organization;
  - g) A representative from an environmental justice organization;
  - h) A representative from universities or community colleges with expertise in climate change;
  - i) A representative from universities or community colleges with expertise in energy sectors and energy workforce development;
  - j) A member appointed by the Governor;
  - k) A member appointed by the Senate Committee on Rules; and,
  - l) A member appointed by the Speaker of the Assembly.
- 2) Requires the LWDA to convene the Commission on or before July 1, 2022.
- 3) By January 1, 2024, requires the Commission to develop and adopt, through a public process, a Just Transition Plan (Plan) containing recommendations to transition the state's economy to a climate-resilient and low-carbon economy that maximizes the benefits of climate actions while minimizing burdens to workers, especially workers in the fossil fuel industry, and their

communities, especially communities that face disproportionate burdens from pollution. Requires the Plan to include:

- a) Identification of legal, social, and economic barriers to realizing the goals of a just transition;
  - b) Identification of laws and regulations that could be used to overcome those barriers; and,
  - c) Recommendations on additional statutory and regulatory changes that are needed to overcome those barriers.
- 4) By September 1, 2022, requires the Commission to conduct its first public meeting to receive public input on the development of the Plan.
  - 5) Requires that the Plan be submitted to the Legislature by January 1, 2024.
  - 6) Sunsets the bill's provisions on January 1, 2028.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

1) **Author's statement:**

California is committed to ensuring that the benefits of a statewide transition to clean, renewable energy are shared not only globally through its efforts to reduce greenhouse gas emissions by promoting clean, renewable energy, but also locally through its creation of local jobs, including union jobs, as well as through energy-related projects that promote public health and reduce air, water, and noise pollution in communities that historically have been disproportionately impacted by oil and natural gas extraction and refining operations.

Therefore, it is the intent of the Legislature to reaffirm its commitment to the above goals by creating a Just Transition Commission to bring stakeholders together to create a roadmap on how to pursue the State's agenda to fight climate change while at the same time ensuring that the benefits of a statewide transition to clean, renewable energy are shared locally through the creation of local union and other middle-class jobs as well as to promote environmental justice by protecting communities that have historically suffered the most pollution impacts.

- 2) **AB 32.** The Global Warming Solutions Act (AB 32) requires ARB to adopt a statewide GHG emissions limit equivalent to 1990 levels by 2020 and adopt regulations, including market-based compliance mechanisms, to achieve maximum technologically feasible and cost-effective GHG emission reductions.

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

- 3) **GGRF.** The 2014-15 Budget Act allocated GGRF revenues for the 2014-15 fiscal year and established a long-term plan for the allocation of GGRF revenues beginning in fiscal year 2015-16. Thirty-five percent of GGRF is continuously appropriated for investments in transit, affordable housing, and sustainable communities. Twenty-five percent is continuously appropriated to continue the construction of the high-speed rail project. The remaining 40% is subject to annual appropriation by the Legislature for investments in programs that include low-carbon transportation, energy efficiency and renewable energy, and natural resources and waste diversion.

The Administration's 2020 annual report to the Legislature on cap and trade investments includes an analysis of funds spent within and benefiting "priority populations," which the report defines as disadvantaged and low-income communities and low-income households. According to the report, 57% of the overall funding benefited priority communities.

Auction proceeds have fluctuated significantly since they began in 2011, from a low of \$257 million in Fiscal Year 2012-13 to a high of over \$3.2 billion in Fiscal Year 2018-19. The most recent quarter generated nearly \$697 million.

In 2018, ARB updated its funding guidelines to require additional reporting of co-benefits and job benefits from GGRF expenditures. According to the 2020 annual report to the Legislature, GGRF investments awarded in 2019 are expected to support 10,500 jobs.

- 4) **State reports and recommendations.** Last June, the California Workforce Development Board (Board) released *Putting California On the High Road: A Jobs and Climate Action Plan For 2020*. The report addresses workforce interventions to ensure that the transition to a carbon-neutral economy creates high-quality jobs, prepares workers with the skills needed to adapt to and master new zero- and low-emission technologies, broadens career opportunities for workers from disadvantaged communities, and supports workers whose jobs may be at risk. The report includes recommendations "for just transition" to assist the state in planning for the protection and support of workers at risk of declining opportunities in the fossil fuel industry. The Governor's Executive Order N-79-20 directs the state to take a number of actions to combat the climate crisis, including requiring the LWDA and the Office of Planning and Research, in consultation with the Department of Finance and other state agencies to develop, by July 15, 2021, and expeditiously implement a Just Transition Roadmap, consistent with the recommendations of the Board's report.

In February, the Bureau of State Audits released an audit report, *California Air Resources Board: Improved Program Measurement Would Help California Work More Strategically to Meet Its Climate Change Goals*. The report identified a number of areas that ARB can improve upon, including that ARB has not done enough to measure the economic benefits and job creation in disadvantaged and low- and moderate-income communities. The audit also finds that ARB has been slow to measure the jobs created by its programs or the benefits of job-training in spite of its funding guidelines that require programs to report the outcomes of the job training.

- 5) **Related legislation.**

AB 680 (Burke) establishes the California Just Transition Act, which requires the LWDA to update, by July 1, 2023, the funding guidelines for administering agencies to ensure that all



applicants to grant programs funded by the GGRF meet fair and responsible employer standards and provide inclusive procurement policies. This bill is also scheduled to be heard in this committee on April 28<sup>th</sup>.

- 6) **Double referral.** This bill was heard by the Assembly Labor and Employment Committee on April 8th and passed with a vote of 5-0.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Elders Climate Action, NorCal and SoCal Chapters

**Opposition**

None on file

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



Date of Hearing: April 28, 2021

**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

Luz Rivas, Chair

SB 7 (Atkins) – As Amended February 18, 2021

**SENATE VOTE:** 34-0

**SUBJECT:** Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2021

**SUMMARY:** Reenacts and revises the expedited California Environmental Quality Act (CEQA) administrative and judicial review procedures established by the Jobs and Economic Improvement Through Environmental Leadership Act [AB 900 (Buchanan), Chapter 354, Statutes of 2011] for “environmental leadership development projects” (ELDPs), as defined. Also expands AB 900 eligibility to include smaller housing projects. Urgency measure.

**EXISTING LAW:**

- 1) Pursuant to CEQA, requires a lead agency with the principal responsibility for carrying out or approving a proposed discretionary project to evaluate the environmental effects of its action and prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR). If an initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. CEQA authorizes judicial review of the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval. The courts are required to give CEQA actions preference over all other civil actions.
- 2) Pursuant to AB 900, which sunset January 1, 2021, established procedures for expedited administrative and judicial review (i.e., limiting public comments, requiring preparation of the record concurrently with the administrative process, and requiring the courts to resolve lawsuits challenging CEQA or other approvals within 270 days from the date the certified record is filed with the court, to the extent feasible) for ELDPs certified by the Governor and meeting specified conditions, including Leadership in Energy and Environmental Design (LEED) gold-certified infill site projects, clean renewable energy projects, and clean energy manufacturing projects.
  - a) Defined ELDP as a CEQA project that is one of the following:
    - i) A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as LEED gold or better by the United States Green Building Council and, where applicable, that achieves a 15% greater standard for transportation efficiency than for comparable projects.
      - (1) Required that these projects be located on an infill site.

- (2) Required a project that is within a metropolitan planning organization for which a sustainable communities strategy (SCS) or alternative planning strategy (APS) is in effect, to be consistent with specified policies in either the SCS or APS.
- ii) A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.
  - iii) A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.
- b) Authorized a person proposing to construct an ELDP to apply to the Governor for certification that the ELDP is eligible for streamlining. Required the person to supply evidence and materials that the Governor deems necessary to make a decision on the application. Required any evidence or materials be made available to the public at least 15 days before the Governor certifies a project pursuant to AB 900.
  - c) Authorized the Governor to certify an ELDP if the Governor finds the project met all of the following conditions:
    - i) The project will result in a minimum investment of \$100 million in California upon completion of construction.
    - ii) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, and helps reduce unemployment.
      - (1) Requires contractors and subcontractors to pay to all construction workers employed in the execution of the project at least the general prevailing rate of per diem wages.
      - (2) Provides that this obligation may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to relevant provisions of the Labor Code, unless all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages and provides for enforcement through an arbitration procedure.
    - iii) The project does not result in any net additional greenhouse gas (GHG) emissions, including emissions from employee transportation, as determined by the Air Resources Board (ARB).
    - iv) A multifamily residential project provides unbundled parking, such that private vehicle parking spaces are priced and rented or purchased separately from dwelling units, except for units subject to affordability restrictions in law that prescribe rent or sale prices, where the cost of parking spaces cannot be unbundled from the cost of dwelling units.
    - v) The project applicant has entered into a binding and enforceable agreement that all mitigation measures required under CEQA shall be conditions of approval of the

- project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.
- vi) The project applicant agrees to pay the costs of the Court of Appeal in hearing and deciding any case, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council.
  - vii) The project applicant agrees to pay the costs of preparing the administrative record for the project concurrent with review and consideration of the project pursuant to CEQA, in a form and manner specified by the lead agency for the project.
- d) Required the Governor, prior to certifying a project, to make a determination that each of the conditions specified above has been met. These findings are not subject to judicial review.
  - e) If the Governor determined that an ELDP is eligible for streamlining, required the Governor to submit that determination, and any supporting information, to the Joint Legislative Budget Committee (JLBC) for review and concurrence or non-concurrence.
  - f) Required the JLBC to concur or non-concur in writing within 30 days of receiving the Governor's determination.
  - g) Deemed the ELDP certified if the JLBC fails to concur or non-concur on a determination by the Governor within 30 days of the submittal.
  - h) Authorized the Governor to issue guidelines regarding application and certification of projects pursuant to AB 900. These guidelines are not subject to the rulemaking provisions of the Administrative Procedure Act.
  - i) Required the Judicial Council to adopt a rule of court to establish procedures that require resolution, to the extent feasible, within 270 days, including any appeals, of a lawsuit challenging the certification of the EIR or any project approvals for a certified ELDP.
  - j) Prohibited AB 900 from applying to an ELDP if the applicant fails to notify a lead agency prior to the release of the draft EIR for public comment.
  - k) Required the draft and final EIR to include a specified notice in no less than 12-point type regarding the draft and final EIR being subject to AB 900.
  - l) Provided that the provisions of AB 900 are severable.
  - m) Provided that nothing in AB 900 affects the duty of any party to comply with CEQA, except as otherwise provided in AB 900.
  - n) Prohibited AB 900 from applying to a project if the Governor does not certify the project prior to January 1, 2020.

- o) Provided that certification of the ELDP expires and is no longer valid if the lead agency fails to approve the project prior to January 1, 2021.

**THIS BILL:**

- 1) Reenacts AB 900 with the following deadlines:
  - a) ELDP must be certified by the Governor before January 1, 2024.
  - b) ELDP must be approved by the lead agency before January 1, 2025.
  - c) AB 900 chapter sunsets January 1, 2026.
- 2) Extends eligibility to housing projects that will result in a minimum investment of \$15 million, but less than \$100 million, provided at least 15% of the project is affordable to lower income households and the project is not used as a short-term rental.
- 3) Adds additional construction labor requirements to the existing prevailing wage/project labor agreement requirements, requiring eligible projects to use a "skilled and trained" workforce for all construction work.
- 4) Requires project applicants to pay the costs of the trial court, in addition to the court of appeal, in hearing and deciding any case.
- 5) Clarifies that the 270-day judicial review deadline includes appeals to the court of appeal or Supreme Court.
- 6) Specifies procedures for the quantification and mitigation of GHG emissions for eligible projects, except for housing projects from \$15-100 million. Requires the baseline for GHG emissions be established based upon the physical conditions at the project site at the time the application is submitted. Prioritizes on-site and local direct GHG emissions reductions over offsets.
- 7) Authorizes OPR to charge an applicant fee.
- 8) Authorizes the Governor, before a lead agency's approval of an ELDP, to certify a project alternative if the alternative also complies with AB 900's statutory conditions at the time of the Governor's original certification.
- 9) Provides that an ELDP certified by the Governor under the former AB 900 before January 1, 2020, and that is approved by a lead agency on or before January 1, 2022, shall be entitled to the benefits of, and shall comply with, the requirements set forth in the former AB 900 chapter as it read on January 1, 2020.
- 10) Is an urgency statute.

**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. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

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

In 2011, AB 900 and SB 292 (Padilla), Chapter 353, Statutes of 2011, established expedited CEQA judicial review procedures for a limited number of projects. For AB 900, it was large-scale projects meeting extraordinary environmental standards and providing significant jobs and investment. For SB 292, it was a proposed downtown Los Angeles football stadium and convention center project achieving specified traffic and air quality mitigations. For these eligible projects, the bills provided for original jurisdiction by the Court of Appeal and a compressed schedule requiring the court to render a decision on any lawsuit within 175 days. This promised to reduce the existing judicial review timeline by 100 days or more, while creating new burdens for the courts and litigants to meet the compressed schedule. AB 900's provision granting original jurisdiction to the Court of Appeal was invalidated in 2013 by a decision in Alameda Superior Court in *Planning and Conservation League v. State of California*. AB 900 was subsequently revised to restore jurisdiction to superior courts and require resolution of lawsuits within 270 days, to the extent feasible.

From 2012-2020, 17 projects were certified under AB 900:

- McCoy Solar Energy Project in Riverside County.
- Apple Campus 2 in Cupertino.
- Soitec Solar Energy Project in San Diego County.
- 8150 Sunset Boulevard, a mixed-use commercial and residential project in Hollywood.
- Event Center and Mixed-Use Development at Mission Bay Blocks (i.e., Warriors arena) in San Francisco.

- Qualcomm Stadium Reconstruction Project in San Diego.
- 6701 Sunset/Crossroads, a mixed-use residential, hotel, and commercial project in Hollywood.
- Yucca-Argyle Project, a mixed-use residential, hotel, and commercial project in Hollywood.
- 10 Van Ness Avenue, a mixed-use commercial/residential redevelopment project in San Francisco.
- 1045 Olive Street Project, a mixed-use commercial/residential redevelopment project in downtown Los Angeles.
- Hollywood Center Project, a mixed-use project in Hollywood.
- Potrero Power Station Mixed-use Project in San Francisco.
- 3333 California Street Project, a mixed-use commercial/residential redevelopment project in San Francisco.
- Hollywood & Wilcox Mixed-Use Project, a residential/retail/office project in Hollywood.
- Balboa Reservoir, a mixed-income housing/retail project in San Francisco.
- Downtown West Mixed Use Plan, an office/retail/hotel/events/housing/utility project in San Jose.
- California Northstate University Medical Center Project, a hospital/medical office project in Elk Grove.

2) **Senate review of ELDPs.** In April 2019, the Senate Office of Research (SOR) published a review of ELDPs certified under AB 900 (<https://sor.senate.ca.gov/environmentalquality>).

One key finding from the report is that the benefits of achieving zero-net additional GHG emissions and the transportation efficiency requirements, as well as the benefits from jobs and housing creation, are largely unknown and uncertain. The unknown benefits from jobs and housing creation are simply due to not having any requirements for the project developers to report these statistics. However, the uncertainty from the GHG emissions and transportation efficiency requirements is primarily due to the problematic use of a baseline to measure current existing conditions. The report found that ELDPs appear to have much discretion in choosing various assumptions to determine their baselines and a lack of guidance and ambiguity presents verification challenges during the certification process. To resolve this issue, the SOR report provided recommendations for the Legislature to consider that would eliminate the use of a baseline and provide more robust upfront and locally-specific environmental benefits. These options included requiring upfront traffic and air pollution impact fees, a vehicle miles traveled threshold, and site-specific clean energy requirements.

To date, two ELDPs, the Warriors arena and 8150 Sunset Boulevard projects (as well as Sacramento's Golden One Center project subject to similar procedures) have been challenged in court and received expedited judicial review. Although the shortened judicial review timeline of 270 days was not always met for these projects, the SOR report found that these projects have moved through the litigation process much faster than normal timelines. The ELDPs have likely received a significant streamlining benefit largely due to the concurrent preparation of the administrative record, as well as the judges' deference to meeting the timeline and establishing streamlined court procedures. Additionally, the report found that all of the petitioners for the three ELDP CEQA cases stated that the shortened judicial review



timeline did not adversely affect their ability to present their issues before the court. Recommendations from the SOR report related to the expedited judicial review process includes extending and clarifying the 270-day timeline and reducing adverse impacts on lead agencies when concurrently preparing the administrative record by extending some requirements.

- 3) **Is AB 900 keeping pace with environmental leadership on GHG mitigation and clean air?** Following the enactment of AB 32 in 2006, SB 97 was enacted in 2007 to confirm the requirement to address environmental impacts of GHG emissions under CEQA and require the adoption of CEQA Guidelines for the mitigation of GHG emissions or the effects of GHG emissions, including effects associated with transportation or energy consumption. SB 97 requires the CEQA Guidelines to be periodically updated to incorporate new information or criteria established by ARB pursuant to AB 32.

Under CEQA Guidelines adopted pursuant to SB 97, a project's GHG emissions can be reduced by "off-site measures, including offsets that are not otherwise required" and "measures that sequester greenhouse gases." The CEQA Guidelines allow projects to reduce GHG emissions by relying on voluntary market offsets that are not otherwise required as well as other offsite and sequestration measures that result in GHG reductions.

When it was enacted in 2011, AB 900 required projects to achieve GHG neutrality, without specifying how. In practice, the AB 900 projects have relied heavily on voluntary offsets. Meanwhile, California's climate policy has focused increasingly on achieving local clean air co-benefits and reducing the reliance on offsets. In 2017, the Legislature's extension of the cap-and-trade program, AB 398, included a reduction in total amount of offsets that may be used for compliance, coupled with a requirement that at least half of offsets result in environmental benefits within California. A companion measure, AB 617, focused on improving local air quality by updating pollution controls at large industrial facilities in the cap-and-trade program and implementing community-based emission reduction programs in the most pollution-burdened communities.

Over the same time period, CEQA practice has demonstrated the feasibility of GHG mitigation plans that incorporate significant on-site and local direct GHG reduction measures, rather than relying entirely on offsets to mitigate projects' GHG emissions. For example, Newhall Ranch, a large project of over 20,000 homes and related development in Los Angeles County near Santa Clarita, was approved in 2017 with the developer's commitment to "achieve zero net GHG emissions using feasible and reliable emission-reduction actions related to the land development project, the implementation of direct measures to reduce GHG emissions onsite, and the procurement of GHG offsets." To achieve net zero GHG, 13 mitigation measures were adopted for Newhall Ranch, including on-site, off-site and offsets. In total, approximately 55% of the GHG reductions are from on-site and local direct reduction measures, with the balance from offset projects, including some located in California.

In 2018, the Legislature passed AB 734 (Bonta) and AB 987 (Kamlager) to provide expedited judicial review for the Oakland A's and Los Angeles Clippers projects respectively. AB 734 and AB 987 required at least 50% of GHG mitigation from on-site and local direct GHG reduction measures, and limited the use of offsets to 50% of GHG mitigation.

This bill replaces AB 900's "GHG neutral, as determined by ARB" standard with improved procedures for the quantification and mitigation of GHG emissions for eligible projects, except for housing projects from \$15-100 million. The bill requires the baseline for GHG emissions be established based upon the physical conditions at the project site at the time the application is submitted and prioritizes on-site and local direct GHG emissions reductions over offsets.

- 4) **AB 900's real world performance.** Of the 17 projects certified in eight years of AB 900, only two projects have been built to date, and neither includes housing.

The two completed projects are the Apple Campus in Cupertino and the Golden State Warriors arena (Chase Center) in San Francisco. These two projects took different approaches to "environmental leadership" and mitigating project GHG emissions.

The Apple project, a large, ring-shaped office building, was designed and built consistent with Apple's corporate sustainability goals. The zero-net-energy building reduced GHG compared to the prior office buildings. Apple further committed to extraordinary measures to encourage employees to use bicycles, transit, and electric vehicles to reduce vehicle emissions. Construction emissions were offset by committing to purchase 100% renewable energy.

The Warriors project deducted the baseline GHG emissions from its prior arena in Oakland to reduce its GHG mitigation obligation, then committed to mitigate remaining GHG emissions by purchasing voluntary offsets. (This is consistent with the approach proposed by many other AB 900 projects.)

Though the Chase Center was certified by the Governor in 2015 and opened in August 2019, the Warriors first offset purchase was not executed until March 26, 2020. To offset its construction emissions, the Warriors purchased offsets sourced from the Hernando County Landfill in Florida at a cost of \$3.50/ton. The total cost of offsetting construction emissions for the \$1.4 billion Chase Center was \$39,869. The cost of a single courtside season ticket in the 18,064-seat Chase Center is \$52,800.

- 5) **Prior legislation.** This bill is substantially similar to SB 995 (Atkins), as amended and approved by this committee on August 6, 2020 by a vote of 8-1. Though SB 995 passed the Assembly on August 31, 2020 by a vote of 62-4, it was not passed by the Senate before sine die adjournment of the 2019-2020 session.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Bay Area Council  
California Association of Realtors  
California Labor Federation, AFL-CIO  
California Professional Firefighters  
California State Association of Electrical Workers  
California Yimby  
City of Lafayette  
City of San Jose

Council of Infill Builders  
County of San Diego Supervisor Nathan Fletcher, District 4  
Facebook  
Google  
Harridge Development Group  
Hollywood Chamber of Commerce  
International Brotherhood of Boilermakers, Western States Section  
Joint Venture Silicon Valley Network  
San Diego's Building and Construction Trades  
San Diego City Council President Pro Tem Stephen Whitburn  
San Diego County Local 30 Unite Here  
San Diego Economic Development Corporation  
San Diego Regional Chamber of Commerce  
San Francisco Bay Area Planning and Research Association (SPUR)  
San Jose Downtown Association  
Schneider Electric  
Silicon Valley at Home  
Silicon Valley Leadership Group  
Southern California Association of Governments  
State Building and Construction Trades Council of California  
TechNet  
Valley Industry and Commerce Association  
Zillow Group

**Opposition**

City of Beverly Hills  
City of Cupertino (unless amended)  
Judicial Council of California  
StopTheMillenniumHollywood.com  
Sustainable Tamalmonite

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